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16 Attorneys for Plaintiff MICHAEL GEORGE MCCANN,
17 individually and on behalf of all others similarly situated

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF SAN JOAQUIN**

20 MICHAEL GEORGE MCCANN, individually
21 and on behalf of himself and all others similarly
22 situated,

23 Plaintiff,

24 v.

25 REPUBLIC SERVICES, INC., a Delaware
26 Corporation; DELTA CONTAINER
27 CORPORATION, a California Corporation; and
28 DOES 1-50, inclusive,

Defendants.

Case No. STK-CV-UOE-2021-8294

ASSIGNED FOR ALL PURPOSES TO:
Honorable Blanca A. Banuelos, Dept. 10B

**DECLARATION OF JAMES HAWKINS IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES**

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I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff MICHAEL GEORGE MCCANN (hereinafter referred to as “Plaintiff” or “Class Representative”), who commenced this class and PAGA action on behalf of the Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached to the class notice as **Exhibit A** is a true and correct copy of the Notice Of Class Action Settlement (“Class Notice”).

3. Plaintiff filed a class complaint with the Court on September 2, 2021. Then, on March 15, 2022, Plaintiff filed the operative Complaint (which included an amendment to the Complaint) against Defendants, alleging class and representative PAGA claims. Plaintiff’s Complaint alleged the following class claims: 1) failure to pay wages including overtime; 2) failure to provide meal periods; 3) failure to provide rest periods; 4) failure to pay timely wages; 5) failure to provide accurate itemized wage statements; 6) unfair business practices; 7) Civil Penalties under the Private Attorney General Act (“PAGA”) based on the above alleged violations.

4. Plaintiff gave written notice to Defendants and the LWDA by sending his LWDA notice letter on September 7, 2021 (“PAGA Notice”) alleging Defendants violated Labor Code §§ sections 200-203, 510, 512, 558, 226, 226.3, 226.7, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, and the IWC Wage Orders.

5. On September 21, 2023, Plaintiff and Defendants participated in mediation before Lisa Klerman, Esq. Though the case did not settle at mediation, the parties accepted a mediator’s proposal on September 27, 2023. In preparation for the mediation Defendants provided Class Counsel with hire and term dates for all employees, time and payroll records and relevant policies

2. Attached hereto as **Exhibit 1** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached to the class notice as **Exhibit A** is a true and correct copy of the Notice Of Class Action Settlement (“Class Notice”).

4. Plaintiff gave written notice to Defendants and the LWDA by sending his LWDA notice letter on September 7, 2021 (“PAGA Notice”) alleging Defendants violated Labor Code §§ sections 200-203, 510, 512, 558, 226, 226.3, 226.7, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, and the IWC Wage Orders.

5. On September 21, 2023, Plaintiff and Defendants participated in mediation before Lisa Klerman, Esq. Though the case did not settle at mediation, the parties accepted a mediator's proposal on September 27, 2023. In preparation for the mediation Defendants provided Class Counsel with hire and term dates for all employees, time and payroll records and relevant policies

1 for Class Members during the Class Period. In preparation for the mediation Defendants provided
2 Class Counsel with hire and term dates for all employees, time and payroll records for
3 approximately 75 class members, and relevant policies for Class Members during the Class
4 Period. Defendants deny Plaintiff's claims and allegations and contend that the Action is not
5 suitable for class certification or manageable as a class or representative action. In short,
6 Defendants provided discovery sufficient to enable the Plaintiff and Class Counsel to rigorously
7 evaluate the strengths and risks of the case and perform an analysis of the potential damages
8 arising from the claims made in this case. As a result of settlement efforts, the Parties agreed to
9 settle this matter for the Gross Settlement Amount of \$295,000.00 for approximately 120 class
10 members and the terms of which are fully memorialized in the Settlement Agreement. At all times,
11 the Parties' negotiations were adversarial and non-collusive.

12 6. The "Class Members" are defined as all persons who have been employed by
13 Defendants as Non-Exempt Employees or equivalent positions however titled in the state of
14 California during the Class Period, December 28, 2018, through the date the Court enters the
15 Preliminary Approval Order. An escalator clause has been agreed to protect the integrity of the
16 settlement.

17 7. "Settlement Class" consists of all non-exempt employees who worked for Delta
18 Container Corporation in California (the "Company"), during the Class Period (April 10, 2019
19 through the date of preliminary approval of the Settlement Agreement). There are approximately
20 120 Class Members.

21 8. Plaintiff's Counsel conducted a thorough investigation into the factual and legal
22 issues implicated by Plaintiff's claims and was able to objectively assess the settlement's
23 reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiff's Counsel to
24 discuss the factual bases for pursuing their actions against Defendants for Labor Code violations.
25 Plaintiff was intimately familiar with Defendants' labor policies and practices, and over the course
26 of multiple interviews, knowledgeably summarized those policies and practices to Plaintiff's
27 Counsel. During those conversations, Plaintiff's Counsel explained how the policies and practices
28 were instituted and provided valuable insight into how they gave rise to the alleged Labor Code

1 violations. Further, formal business records for Mr. McCann were requested and received and
2 reviewed. Based on these interviews with Plaintiff, and review of records, Plaintiff's Counsel
3 determined that there were legally sufficient grounds for pursuing the Actions against Defendants
4 and in preparation for drafting the complaints, Plaintiff's Counsel conducted their own independent
5 preliminary investigations into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a
6 careful examination of Plaintiff's personnel files and associated records.

7 9. In summary, Plaintiff's Counsel performed a thorough investigation into the
8 claims at issue, which included: (1) determining Plaintiff's suitability as private attorneys general
9 and subsequent class representative through interviews, background investigations, and analyses of
10 their employment files and related records; (2) evaluating all of Plaintiff's potential representative
11 claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of
12 the positions, and the type of employer; (4) analyzing employees' time and wage records and driver
13 manifest; (5) reviewing Defendants' employment policies and practices; (6) researching settlements
14 in similar cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating
15 Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and (9)
16 participating in the mediation.

17 10. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
18 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in
19 the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class
20 Members in light of all known facts and circumstances, including the risk of significant delay and
21 uncertainty associated with litigation, and various defenses asserted by Defendants.

22 11. Since the filing of the complaint, the Parties have exchanged extensive
23 formal discovery and engaged in numerous discussions regarding the factual and legal issues
24 surrounding this case. Throughout the litigation, Defendants produced thousands of pages of
25 information and thousands of lines of data in both electronic and pdf formats, including policies,
26 handbooks, relevant policies, and payroll and time records. Defendants also provided Plaintiff's
27 personnel file, and information regarding the number of employees holding these positions during
28 the relevant time period. Defendants also provided substantial information concerning the total

1 number of potential class members, the payroll data at issue, and the applicable hourly rates,
2 workweeks and pay periods, and other summary data related to the alleged class. The Parties have
3 conducted themselves in informed, good faith arms-length negotiations after conducting informal
4 discovery and exchanging extensive evidence and information about the claims and defenses of
5 this lawsuit, and engaging in pre-mediation discussions, telephone conferences, and
6 correspondence all aimed at settling their dispute.

7 12. As a result of the mediation, the Parties agreed to settle this matter for a Gross
8 Settlement Amount (“GSA”) of \$295,000.00. Plaintiff’s counsel balanced the terms of the
9 proposed Settlement against the risk of litigation and probable outcome at the class certification
10 stage, and if any Class were certified, at trial. Based on their own respective independent
11 investigations and evaluations, and after taking into account the sharply disputed factual and legal
12 issues involved in this matter, the risks attending further prosecution of the case, and the monetary
13 benefits received under the Settlement despite the questionable nature of the claims, Plaintiff’s
14 counsel is of the opinion that Settlement for the consideration and on the terms set forth in the
15 Settlement Agreement is fair, reasonable and adequate and is in the best interests of Plaintiff and
16 the Class. Counsel for the Parties investigated the applicable law as applied to the facts
17 discovered regarding the claims of Plaintiff, Defendants’ defenses thereto and the damages
18 claimed by Plaintiff on behalf of the Settlement Class.

19 13. I believe that the consideration and terms set forth in the Settlement Agreement are
20 fair, reasonable, and adequate and are in the best interests of the Settlement Classes in light of all
21 known facts and circumstances, including the various defenses asserted by Defendants, and
22 numerous potential appellate issues. In addition, the prospect of a potential adverse summary
23 judgment ruling, as well as the uncertainty of class certification, the difficulties of complex
24 litigation, the lengthy process of establishing specific damages and various possible delays and
25 appeals, were also carefully considered in agreeing to the proposed Settlement.

26 14. The GSA includes, without limitation, (1) attorneys’ fees in the amount of
27 \$98,333.33 (“Attorneys’ Fees and Costs Award”) and reimbursement of reasonable litigation costs
28 and expenses in the amount of up to \$25,000.00 to Class Counsel; (2) Class Representative’s

1 incentive award to Plaintiff in the amount of up to \$5,000.00 (“Service Payment”); (3) fees and
2 expenses of administration of the Settlement to the Settlement Administrator in an amount not to
3 exceed \$10,000.00 (“Settlement Administration Costs”); (4) \$30,000.00 (“PAGA Payment”) with
4 twenty-five percent (25%) share of the PAGA Penalties to be a part of the Net Settlement Sum
5 that will be distributed to Class Members in the PAGA Group in the amount of \$7,500.00; (5) the
6 seventy-five percent (75%) share of PAGA Penalties in the amount of \$22,500.00 to the California
7 Labor and Workforce Development Agency (“LWDA”); and the remainder to of the Net
8 Settlement Amount to the Settlement Class Members. **The Entire Total Settlement Amount will**
9 **be paid to all Class Members who do not opt out of the Settlement Class, and without the**
10 **need to submit claims for payment.** After deductions, the Net Settlement Amount (“NSA”) is
11 estimated to be approximately **\$126,666.67**. The Class Members are to be paid based from the
12 NSA on a pro rata basis based upon the weeks each class member worked in comparison to the
13 total work weeks worked by all Class Members.

14 15. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff
15 involved both in not prevailing on one or more of the causes of action or theories alleged in the
16 operative Complaints and in non-certification, and if successful, Defendants dispute the ability of
17 Plaintiff to certify a class in this case. Defendants also argued it maintained lawful written
18 policies that were provided to the class members and enforced those policies. Yet, despite the
19 defenses proffered by Defendants, the proposed Settlement commits Defendants to pay each Class
20 Member a portion of the NSA. The amount to be paid to the Classes is fair, adequate and
21 reasonable given the significant risk to Plaintiff and the Class in continuing with the litigation and
22 not prevailing on their claims at class certification or at trial or not being paid anything even if trial
23 was successful.

24 16. The Parties investigated relevant law as applied to the facts of the case, potential
25 defenses, and damages claimed by Plaintiff on behalf of himself and the Class. Informal
26 discovery largely focused on Plaintiff’s allegations of Defendants’: failure to pay minimum and
27 overtime wages, failure to provide meal periods, failure to provide rest periods, failure to provide
28 accurate itemized wage statements, and unfair competition under Cal. Bus. & Prof. Code

¶¶17200, et seq. Information and data exchanges included significant sampling of Class Members' dates of employment, hourly rates time records, payroll records, and arbitration agreements. The parties conducted their own evaluations of the potential recoveries based on the claims alleged in the Action and the defenses at play.

17. Although Plaintiff's Counsel believe the class claims are strong, Plaintiff's Counsel also recognize that if the litigation had continued, they may well have encountered significant legal and factual hurdles that could have prevented the Class from obtaining any recovery. To be sure, a number of cases have found wage and hours actions to be especially amenable to class resolution. However, some courts have gone the other way, finding that some of the very claims at issue here—especially meal period and rest period violations—were not suitable for class adjudication because they raised too many individualized issues. *See Duran v. US. Bank National Association*, 59 Cal. 4th 1, 31 (2014) (reversing a verdict from a class trial); *Ali v. U.S.A. Cab Ltd.*, 176 Cal. App. 4th 1333, 1341 (2009) (affirming denial of certification because employees' declarations attesting to having taken meal and rest periods demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.*, 2013 U.S. Dist. LEXIS 137792, at *30-41 (C.D. Cal. Sept. 20, 2013) (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist. LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to certify meal and rest period classes based on employer's practice of understaffing and overworking employees); *Gonzalez v. Officemax NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal. Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*, 249 F.R.D.580, 587-88 (C.D. Cal. 2008) (denying certification of driver meal and rest period claims based on the predominance of individual issues); *Kenny v. Supercuts, Inc.*, 252 F.R.D. 64 I, 645 (N.D. Cal. 2008) (denying certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.*, 245 F.R.D. 453, 467-68 (S.D. Cal. 2007) (declining to certify class action because individual issues predominated when different employee stations provided different practices with respect to meal periods).

18. Some courts have denied certification even when an employer's policies are unlawful

1 on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 2013 U.S. Dist. LEXIS 7868, *35-41
2 (C.D. Cal. Jan. 17, 2013), the court denied certification even though the plaintiff submitted evidence
3 of a facially unlawful policy regarding rest breaks. The *Ordonez* court concluded that the
4 predominance and superiority elements were not met based on the employer's presentation of
5 anecdotal evidence of lawful compliance notwithstanding the unlawful policy. *Id.* at *38-40. And it
6 should be underscored that that claims which are amendable to certification can be disposed of by
7 motion for summary judgment. *See Loudy v. Eden Med. Ctr.*, 2013 U.S. Dist. LEXIS 122873, **36-
8 53 (N.D. Cal. Aug. 28, 2013) (granting summary judgment on wage statement claim because
9 plaintiff could not show injury due to defects and that incorrect wage information is not willful).

10 19. As the above examples illustrate, the prospect of certifying a wage and hour action
11 is always uncertain, and the risk of being denied class certification militates in favor of settlement.
12 A denial of class certification effectively forecloses continued litigation, as neither the individual
13 nor his or her attorney will have any incentive to proceed with an individual case when such small
14 claims are at stake. *See In re Baycol Cases I & II*, 51 Cal. 4th 751, 758 (2011) (explaining that a
15 dismissal of class claims is effectively the "death knell" of the case, despite survival of individual
16 claims). In other words, for cases where individual damages are relatively small, denial of class
17 certification results in a near-complete loss for Plaintiff as well as no recovery for the employees,
18 who are shut out of the action. Thus, if the putative Class had not been certified, the value of
19 Plaintiff's case would have been reduced to a fraction of the value of this Settlement; indeed,
20 Defendants would likely have offered no money to settle the class-wide claims if certification had
21 been denied.

22 20. Finally, early resolutions save time and money that would otherwise go to litigation.
23 Parties' resources, as well as the Court's, will be further taxed by continued litigation. And if this
24 action had settled following additional litigation, the settlement amount would likely have taken into
25 account the additional costs incurred, and there may have been less available for Class Members.
26 Cost savings is one reason why California policy strongly favors early settlement. *See Nemy v.*
27 *Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value placed on
28 settlements and observing that "[s]ettlement is perhaps most efficient the earlier the

1 settlement comes in the litigation continuum."). This concern also supports settlement.

2 21. Further, beyond the risk of an adverse ruling on the merits or certification, Class
3 Counsel considered the fact that continued litigation would likely take years and would be
4 extremely expensive given the breadth and complexity of the claims. In this case, post-trial and
5 appellate proceedings are likely to occur, which will surely drag the case far into the future even
6 with a positive trial result. When facing a distant and unsure resolution of the allegations in this
7 action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly
8 litigation in favor of more immediate benefits to the Class was a consideration favoring settlement.
9 Given these realities, it is highly likely that the future expense of this litigation, and its likely
10 duration if the settlement is not approved, would be significant and weigh heavily in favor of
11 approval of this settlement.

12 22. The GSA is well within the acceptable range of reasonableness for the
13 claims of the Settlement Class Members. After analysis and review of Defendants' time and pay
14 record production and other payroll data, Class counsel estimates the overall value of the class
15 claims between **\$1,696,866** on the high side to **\$1,048,886** on the low side depending on whether
16 Plaintiff prevails at the class certification stage and at trial and survive any appeals and win on all
17 claims and be awarded maximum damages for call class members and certain assumptions and
18 extrapolations were confirmed with further discovery. This amount could realistically be reduced
19 further to account for the risks of continued litigation and not prevailing on one or more claims
20 and the Court not awarding penalties based upon Defendants' good faith arguments.

21 23. The data revealed an estimated 10,184 workweeks during the class period and
22 approximately 5,861 pay periods during the PAGA Period. The meal period claim was valued at
23 approximately between **\$163,279 to \$648,386** based upon an hourly rate of approximately \$27.35
24 and approximately 5,970 late meal periods, 1,698 shifts with no record of a meal break and
25 approximately 22,192 meals recorded at exactly 30 minutes in length. As a result of the
26 apparently complaint rest break policy, the rest break claim was valued at approximate 10% of the
27 meal break claim resulting in a value of anywhere between approximately **\$16,327 and \$64,838**.
28 The failure to pay wages for off the clock work at 5 to 10 minutes per shift was valued at

1 approximately \$2.27 X 50,179 possible shifts results in approximately **\$114,361** to **\$228,723** in
2 possible unpaid wages. The value of the unpaid overtime wages due to an inaccurate regular rate
3 was valued at **\$8,443**. The unpaid sick time at the regular rate was valued at **\$1,449**. Defendants
4 also potentially owe class members **\$191,977** in waiting time penalties (for a total of 23 termed
5 employees). The value of the LC 226 claim was valued at **\$260,000.00** for approximately 65
6 employees in the statutory period. Defendants also potentially owe class members **\$293,050** in
7 PAGA penalties (5,861 pay periods x reasonable \$50 penalty). As a result, the GSA of
8 \$295,000.00 represents a reasonable recovery and approximately 17% to 30% of the overall
9 potential value. This recovery could easily be much higher if at trial PAGA penalties were
10 reduced or damages for certain pay periods or workweeks could not be proven for certain
11 individuals. For instance, the penalties account for almost 50% or \$745,027 of the overall
12 possible recovery. This could potentially be reduced by a trier of fact for good faith arguments. As
13 a result, the proposed GSA is within the “ballpark of reasonableness” and should be approved.
14 Counsel for Plaintiff believe that this is a fair and reasonable Settlement in light of the
15 complexities of the case, the state of the law and uncertainties of class certification and litigation,
16 the policies and practices Defendants has had in place or implemented during the purported
17 liability period, and the benefit to be recovered for the Class. Given the risks inherent in litigation,
18 this settlement is fair, adequate, and reasonable and is in the best interests of the Settlement Class,
19 and should be preliminarily approved.

20 24. Based on the estimated Net Settlement Amount of \$126,666.67 provides on
21 average workweek value of \$12.43. As a result, each Settlement Class Member will receive
22 approximately **\$1,055.55** per Class Member. The lowest payment is estimated to be
23 approximately \$12.43 for someone who worked only one workweek and the estimated highest
24 payment is approximately \$2,486 for someone who works since the beginning of the period
25 through 2024. To the extent any amount for Attorneys’ Fees, Costs, Claims Administration Costs
26 or Incentives are not awarded, the difference in those amounts will be added to the NSA. This is a
27 guaranteed amount of money paid to Settlement Class Members now, rather than the continued
28 risk of further litigation and receiving no money sometime in the far future and after trial and

1 appeals.

2 25. The PAGA members who worked during the PAGA period will be paid a PAGA
3 Payment based upon a pro rata share of the number of pay periods each PAGA member worked
4 compared to the total pay periods worked by all PAGA group members during the PAGA period
5 of March 14, 2021, through the Preliminary Approval Date. As a result, there are at least 65
6 PAGA members who will each receive approximately \$1.27 per PAGA member for the PAGA
7 Penalties.

8 26. The Class Representative has provided extensive supporting documents and
9 assisted Class Counsel in developing information necessary to litigate and settle this case.
10 Plaintiff also conducted record review and consultation with counsel in preparation for mediation,
11 and to assist in evaluating and proving the claims. The settlement provides for a Payment to be
12 paid to the Class Representative in the amount of \$5,000.00 subject to Court approval. The
13 purpose is to compensate the Class Representatives an additional incentive payment, taking into
14 consideration the risks, time, effort and expenses incurred in coming forward to provide invaluable
15 information and negotiate and litigate this matter on behalf of all Settlement Class Members who
16 otherwise, would probably not file their own individual claims to recover what may be relatively
17 low damages. Further, the Payment of \$5,000.00 as an Service Payment to the Class
18 Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has
19 taken and benefits conferred upon the Settlement Class.

20 27. Class certification, as requested by the Parties for the purposes of the settlement
21 only, should be granted because Plaintiff allege that the proposed Settlement Class Members'
22 claims all stem from the same alleged conduct, i.e., that Defendants violated California law
23 because their: failure to pay minimum and overtime wages, failure to provide meal periods, failure
24 to provide rest periods, and failure to provide accurate itemized wage statements. Under all these
25 specific circumstances, the commonality requirement for class certification is satisfied. The
26 typicality requirement for certification is also met as it is alleged that the Class Representatives
27 and the proposed Settlement Class were subjected to similar violations based upon similar
28 conduct, policies and practices of the Defendants regardless of their duties.

1 28. The adequacy requirement for certification is also met. The Class Representative
2 and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The
3 Class Representative will receive a reasonable award for the time and effort spent assisting Class
4 counsel with factual issues surrounding the case. Other than this specific payment to the Class
5 Representative, all of the Settlement Class Members will receive a proportionate share of the
6 NSA, as detailed above provided they do not exclude themselves. Further, all PAGA Members
7 during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is
8 no conflict of interest between the Class Representative and the Settlement Class Members.
9 Further, the NSA will be fairly distributed among Participating Class Members, and no
10 “settlement allocation” questions will be raised.

11 29. Common questions of law and fact predominate over individual questions and
12 class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the
13 proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class
14 Members share a common nucleus of facts and potential legal remedies, and since all of the
15 Settlement Class Members and the Class Representative seek compensation for unpaid wages and
16 other civil and statutory penalties from Defendants for the allegations described in the Complaints.
17 Common questions about compensation or lack thereof for work performed by Settlement Class
18 Members and the Settlement Class Members’ potential legal remedies are identical. The
19 alternative method of resolution is individual claims for relatively small amounts of damages, but
20 individual cases would be uneconomical for potential Plaintiff because the cost of litigation dwarfs
21 potential recovery. Therefore, a class action is the preferred method of resolution.

22 30. The class notice plan here calls for the Settlement APEX Class Administration, to
23 mail a Notice of Class Action settlement to all known and reasonably ascertainable Settlement
24 Class Members based on Defendants’ records. Further, the Settlement Administrator will conduct
25 a skip-trace and use all reasonable efforts to locate Settlement Class Members and will re-mail all
26 returned envelopes with forwarding addresses. The notice is consistent with the class certification
27 notices approved by numerous state and federal courts, and is the best notice practicable under
28 circumstances of this case. The proposed Settlement Class Members are

ascertainable because all of the Settlement Class Members have worked for Defendants during the Class Periods and can be identified through Defendants' records.

31. The Notice also fulfills the neutrality requirement. It summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner, and is accurate, objective, and understandable to Settlement Class Members, as is required under prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of liability by Defendants and recognizes the Court has not ruled on the merits. It also states the final settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement Class Members on how to object or exclude themselves from the Settlement. Therefore, Settlement Class Members will have the option to participate or exclude themselves simply by mailing a request to exclude themselves. The Settlement Class consists of non-exempt employees who speak English. Thus, the Notice of Class Action is drafted in a manner that is likely to be readily understood by the Settlement Class. Accordingly, the Notice complies with the standards of fairness, completeness and neutrality required of a Notice of Class Action Settlement. The Notice therefore is neutral, objective and understandable.

32. I have a great deal of experience in wage and hour class action litigation. I have obtained certification of several classes, I have been approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others. Although not an all inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages for meal period and rest periods and resultant penalties. Class Notice pending.

b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for misclassification of insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the State of California. Certification granted. Plaintiff's counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds

1 fully distributed.

2 c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-
3 04554. Wage and Hour Class Action case seeking past wages for “off the clock”,
4 overtime and meal and rest break violations for production workers in the State of
5 California. Plaintiff’s Counsel appointed as Lead Counsel. Case settled, Final
6 Approval granted, no objections and funds fully distributed.

7 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
8 Wage and Hour Class Action case seeking past wages for meal and rest period
9 violations for retail employees in the State of California. Plaintiff’s counsel appointed
10 co-lead counsel. Case settled, Final Approval granted, no objections and funds fully
11 distributed.

12 e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No.
13 SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and
14 rest period violations for retail employees in the State of California. Plaintiff’s
15 Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no
16 objections and funds fully distributed.

17 f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County
18 Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past
19 wages for overtime, meal and rest break violations for driver employees in the State of
20 California. Settlement for “binding arbitration.” Arbitration Award for Plaintiff Class.
21 Arbitration Award confirmed. Plaintiff’s counsel, lead trial counsel and class counsel.

22 g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior
23 Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for
24 overtime, meal and rest breaks violations for production employees in the State of
25 California. Plaintiff’s counsel appointed as lead counsel. Case settled, Final Approval
26 granted, no objections and funds fully distributed.

27 h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County
28 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past

1 wages for overtime, meal and rest break violations for production employees in the
2 State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled,
3 Final Approval granted, no objections and funds fully distributed.

4 i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293.
5 Wage and Hour Class Action seeking past wages for unlawful deductions, meal and
6 rest break violations for restaurant employees in the State of California. Plaintiff's
7 counsel appointed as lead counsel. Case settled, Final Approval granted and funds
8 fully distributed.

9 j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case
10 No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal
11 and rest break violations for security officers in the State of California. Plaintiff's
12 counsel appointed as co-lead counsel. Case settled, Final Approval granted, no
13 objections and funds fully distributed.

14 k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
15 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
16 seeking past wages for meal and rest break violations for security officers employed by
17 Defendants in the State of California. Plaintiff's counsel and co-counsel. Case settled,
18 Final Approval granted and funds fully distributed.

19 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court,
20 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime,
21 meal and rest break violations for housekeepers employed by Defendants in the State
22 of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final
23 Approval granted, no objections and funds fully distributed.

24 m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
25 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and
26 rest period violations for non-exempt employees employed by Defendants in the state
27 of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has
28 petitioned the Court for Lead Counsel.

1 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
2 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages
3 for field and branch employees of Defendants in the State of California. Plaintiff's
4 counsel appointed as lead counsel. Case settled and awaiting Final Approval.

5 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
6 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
7 employees of Defendants in the State of California. Plaintiff's counsel appointed as
8 lead counsel. Case settled, Final Approval granted, no objections and funds fully
9 distributed.

10 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
11 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
12 break violations for security guards employed by Defendants in the State of California.
13 Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no
14 objections and funds fully distributed.

15 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior
16 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and
17 rest break violations for production employees employed by Defendants in the State of
18 California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval
19 granted, no objections and funds fully distributed.

20 r. *McMurray v. Dave and Busters, Inc., et al.*, Orange County Superior Court, Case
21 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest
22 break violations for restaurant employees employed by Defendants in the State of
23 California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
24 Approval granted, no objections and funds fully distributed.

25 s. *Osuna v. DFG Restaurants, Inc., et al.*, Los Angeles Superior Court, Case No. BC
26 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
27 classification of managers employed by Defendants, DBA Carl's Jrs. in the State of
28 California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final

1 Approval granted, no objections and funds fully distributed.

2 t. Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No.
3 CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest
4 break violations for retail employees employed by Defendants in the State of
5 California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval
6 granted, no objections and funds fully distributed.

7 u. Willems v. Diedrich Coffee, Inc., et al., Orange County Superior Court, Case No.
8 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-
9 classification of managers employed by Defendants in the State of California.
10 Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no
11 objections and funds fully distributed.

12 v. Davila, et al. v. Beckman Coulter, Inc., et al., Orange County Superior Court, Case
13 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal
14 and rest break violations for production workers employed by Defendants in the State
15 of California. Plaintiff's counsel appointed lead counsel. Case settled; final approval
16 granted; no objections and funds fully distributed.

17 w. Perez v. Naked Juice Company of Glendora, Inc., Los Angeles Superior Court,
18 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
19 meal and rest period violations for production employees employed by Defendants in
20 the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
21 Approval granted, no objections and funds fully distributed.

22 33. Here, the Parties' agreement to pay Class Counsel Fees of one third of the GSA
23 is reasonable. My firm and I have been the only counsel to represent Plaintiff and the Settlement
24 Class in this matter, and we have borne the entire risk and cost of this litigation on a pure
25 contingency fee basis. The legal issues raised drew significantly upon my experience and the
26 extensive review and analysis of documents and information by me and others at my firm. In a
27 complex action such as this, the proposed attorneys' fees are, at the very least, on the low side of
28 the market rate for contingency fees.

1 34. At this juncture, with the addition of more hours due to the administration of the
2 the Settlement by Class Counsel, administration of the Settlement, and preparation for final
3 approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final
4 approval hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard
5 concurrently with the motion for final approval in accordance with the terms of the settlement
6 agreement.

7 35. Despite the complexity of the case, Class Counsel has, through the investment of
8 substantial effort and the resources of my law firm been able to secure an outstanding settlement
9 on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual
10 obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been
11 required to establish a significant amount of witness testimony, pattern and practice evidence,
12 statistical evidence, sampling evidence, expert testimony, and other evidence in order to present
13 their case both at the class certification stage and trial. Defendants vigorously contested liability,
14 the amount of claimed damages, and the propriety of class certification, and would have continued
15 to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate
16 and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is
17 confirmed by all known facts and circumstances, including the risk of significant delay and
18 uncertainty associated with litigation, the various defenses asserted by Defendants, and numerous
19 potential appellate issues.

20 I declare under penalty of perjury that the foregoing is true and correct. Executed on
21 January 2, 2025 at Irvine, California.

22 
23 _____
24 James R. Hawkins

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EXHIBIT 1

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Attorneys for Defendants
REPUBLIC SERVICES, INC., AND DELTA
CONTAINER CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

MICHAEL GEORGE MCCANN, individually
and on behalf of himself and all others similarly
situated,

Plaintiff,

v.

REPUBLIC SERVICES, INC., a Delaware
Corporation; DELTA CONTAINER
CORPORATION, a California Corporation; and
DOES 1-50, inclusive,

Defendants.

Case No. STK-CV-UOE-2021-8294

CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS

This Class Action and PAGA Settlement Agreement and Release of Claims is entered into by and between Plaintiff MICHAEL GEORGE MCCANN (“Plaintiff”), individually and on behalf of all others similarly situated, and REPUBLIC SERVICES, INC. and DELTA CONTAINER CORPORATION’s (collectively, “Defendants”), and is approved by their respective counsels of record, subject to the terms and conditions hereof and the Court’s approval.

A. Definitions

As used herein, for the purposes of this Settlement Agreement only, the following terms shall be defined as set forth below:

1. “Action” or “Lawsuit” mean and refer to the case entitled *Michael George McCann v. Republic Services, Inc., et al.*, San Joaquin Superior Court, Case No. STK-CV-UOE-2021-8294.
2. “Settlement Agreement” means this Class Action and PAGA Settlement Agreement and Release of Claims.
3. “Aggrieved Employees” means all non-exempt employees who worked for Delta Container Corporation in California (the “Company”) at any time during the PAGA Period.
4. “Class Counsel” refers to James Hawkins APLC.
5. “Class Data” mean a complete list that Defendants will diligently and in good faith compile from its records and provide to the Settlement Administrator on spreadsheets and shall include the Settlement Class Members’ full names; last known addresses; Social Security Numbers; and either the total Pay Periods Worked during the PAGA Period for each Aggrieved Employee and the total Weeks Worked during the Class Period for each Settlement Class Member, or the start and end date of employment for each Aggrieved Employee and each Settlement Class Member.
6. “Class Period” is deemed to be any time during the period of April 10, 2019 through the Preliminary Approval Date.
7. “Class Representative” or “Plaintiff” means and refers to MICHAEL GEORGE MCCANN.
8. “Complaint” refers to the operative Complaint in the Action, alleging Class Claims and

representative PAGA Claims.

9. “Court” or “Judge” means the Superior Court of California, County of San Joaquin.

10. “Defendants” refers to Republic Services, Inc., and Delta Container Corporation

11. “Defendants’ Counsel” or “Defense Counsel” refers to Littler Mendelson, P.C.

12. “Effective Date” means the date when all of the following events have occurred (“Effective Date”): (i) this Settlement Agreement has been executed by Plaintiff and Defendants; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been sent to the Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt out of the Settlement; (iv) the Court has held a formal fairness hearing and entered the Court’s Final Order and Judgment; and (v) the later of the following events: (A) when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; i.e., within 60 calendar days after entry of the Order and Judgment; (B) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) when any appeal, writ or other appellate proceeding has upheld the Court’s Final Order and Judgment with no right to pursue further remedies or relief.

13. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Settlement Agreement on substantially the terms provided herein or as the same may be modified by subsequent written agreement of the Parties.

14. “Final Settlement Class” means, collectively, all Participating Class Members who have not opted out of the Settlement Class by submitting timely, valid Requests for Exclusion.

15. “Gross Settlement Amount” shall have the meaning ascribed to it in Paragraph 49(a) below.

16. “Individual Settlement Payment(s)” shall have the meaning ascribed to it in Paragraph 49(c) below.

17. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 49(b) below.

18. “Notice” means the notice of class action and PAGA settlement that will be sent to the Settlement Class Members and Aggrieved Employees.

19. “Notice Response Deadline” is sixty (60) calendar days from the date the Notice is mailed to the Settlement Class Members and Aggrieved Employees.

20. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Settlement Agreement with respect to the Released Class Claims, pursuant to Paragraph 72(c) below.

21. “PAGA” means the California Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

22. “PAGA Penalties” means the total amount of civil penalties that the Parties have agreed will be paid from the Gross Settlement Amount to settle the PAGA Claims, allocated Twenty Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00) to the California Labor and Workforce Development Agency (“LWDA”) in accordance with PAGA, and Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for the individual PAGA payments to Aggrieved Employees, as set forth further below in Paragraph 49(h).

23. “PAGA Period” is deemed to be any time during the period of March 14, 2021, through the Preliminary Approval Date.

24. “PAGA Released Claims” by the Aggrieved Employees upon Final Approval of the settlement means the PAGA claims that Plaintiff alleged or could have alleged against the Released Parties, on behalf of the Aggrieved Employees and the State of California, based on the facts stated in the Complaint and in the relevant LWDA notice letter or that could have been asserted based on those facts, including all PAGA claims seeking civil penalties premised upon: 1) failure to pay wages including overtime; 2) failure to provide meal periods; 3) failure to provide rest periods; 4) failure to pay timely wages; 5) failure to provide accurate itemized wage statements; (6) unfair business

practices (California Business & Professions Code, § 17200 *et seq.*), and (7) and all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* based on the facts or claims alleged in the LWDA Notice and the Complaint.

25. “Participating Class Member” means any and all Settlement Class Members who are deemed to participate, who will receive an Individual Settlement Payment, and who do not opt-out by submitting a timely, valid Request for Exclusion.

26. “Parties” mean Plaintiff and Defendants, collectively.

27. “Pay Period(s) Worked” means all pay periods during the PAGA Period in which an Aggrieved Employee was employed in California as a nonexempt employee and worked at least one pay period.

28. “Preliminary Approval Date” means the date the Court preliminarily approves this Settlement Agreement, and any exhibits thereto, and enters the Preliminary Approval Order.

29. “Preliminary Approval Order” means the judicial Order to be entered by the Court, upon the application or motion of the Plaintiff, preliminarily approving this settlement and providing for the issuance of the Notice to the Settlement Class and Aggrieved Employees, an opportunity for Settlement Class Members to opt-out of the Settlement, an opportunity to submit timely objections to the Settlement, and setting a hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees and costs.

30. “QSF” means the Qualified Settlement Fund set up by the Settlement Administrator for the benefit of the Final Settlement Class and Aggrieved Employees, and from which the settlement payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue Code Sec. 468.

31. “Released Class Claims” or “Class Claims” by the Participating Class Members upon Final Approval of the settlement will include the claims stated in the Complaint or those claims which could have been asserted in the Complaint based upon the facts in the Complaint, including: 1) failure to pay wages including overtime; 2) failure to provide meal periods; 3) failure to provide rest periods;

4) failure to pay timely wages; 5) failure to provide accurate itemized wage statements; (6) failure to pay all wages due upon termination of employment; (7) unfair business practices (California Business & Professions Code, § 17200 et seq.), and (8) and all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* based on the facts or claims alleged in the LWDA Notice and the Complaint; and (9) all related claims for conversion, liquidated damages, punitive damages, penalties, statutory penalties based on the preceding released claims.

32. “Released Parties” means Defendants and their past and present officers, directors, shareholders, members, partners, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective parent corporations, subsidiaries, divisions, affiliates, attorneys, predecessors, successors and assigns.

33. “Release” shall mean (1) the release and discharge of the Released Class Claims by Plaintiff and all Participating Class Members, and (2) the release and discharge of the PAGA Released Claims by Plaintiff, the State of California, and all of the Aggrieved Employees. The *res judicata* effect of the judgment will be the same as that of the Release of the Released Class Claims and PAGA Released Claims.

34. “Request for Exclusion” means and refers to a valid and timely request for exclusion from the settlement of the Released Class Claims, which may be submitted by any Settlement Class Member, other than Plaintiff, pursuant to Paragraph 72(a) below.

35. “Service Payment” means, as set forth further in Paragraph 49(e) below, the amount approved by the Court to be paid from the Gross Settlement Amount to the Class Representative, Michael McCann, in addition to Michael McCann’s Individual Settlement Payment as a Participating Class Member and Aggrieved Employee.

36. “Settlement Administrator” means and refers to APEX Class Action Administration, the third-party class action settlement administrator agreed to by the Parties, that will provide the Notice to the Settlement Class and Aggrieved Employees and distribute the settlement amounts as described in this Settlement Agreement.

37. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this settlement, including, but not limited to, printing, distributing, and tracking documents for this settlement, tax reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property due diligence, reporting and remittance obligations, distributing the Gross Settlement Amount, and providing necessary reports and declarations, as requested by the Parties.

38. “Settlement Class” consists of all non-exempt employees who worked for Delta Container Corporation in California (the “Company”), during the Class Period (April 10, 2019 through the date of preliminary approval of the Settlement Agreement).

39. “Settlement Class Member(s)” or “Class Member(s)” refers to individual members of the Settlement Class.

40. “Work Week(s)” or “Week(s) Worked” means all calendar weeks in which the Settlement Class Member was employed in California as a nonexempt employee and worked at least one work week.

B. General Terms

41. Plaintiff filed a class complaint with the Court on September 2, 2021. Then, on March 15, 2022, Plaintiff filed the operative Complaint (which included an amendment to the Complaint) against Defendants, alleging class and representative PAGA claims. Plaintiff’s Complaint alleged the following class claims: 1) failure to pay wages including overtime; 2) failure to provide meal periods; 3) failure to provide rest periods; 4) failure to pay timely wages; 5) failure to provide accurate itemized wage statements; 6) unfair business practices; 7) Civil Penalties under the Private Attorney General Act (“PAGA”) based on the above alleged violations.

42. Plaintiff gave written notice to Defendants and the LWDA by sending his LWDA notice letter on September 7, 2021 (“PAGA Notice”) alleging Defendants violated Labor Code §§ sections 200-203, 510, 512, 558, 226, 226.3, 226.7, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, and the IWC Wage Orders. A copy of Plaintiff’s PAGA Notice is attached to this Settlement

Agreement as Exhibit A.

43. Defendants deny Plaintiff's claims and allegations and contend that the Action is not suitable for class certification or manageable as a class or representative action.

44. The Class Representative believes he can proceed with his representative and class claims, that the Action is meritorious, and that class certification is appropriate.

45. The Parties have conducted a thorough investigation into the facts of the Action. This includes conducting an extensive exchange of informal discovery, including Defendants' written policies and practices and confirmation regarding the uniform payroll and timekeeping practices for Settlement Class Members. Class Counsel is both knowledgeable about and has done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Class. Class Counsel has diligently pursued an investigation of the Class Members' claims against Defendants. Based on the foregoing data and on their own independent investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendants, and numerous potential appellate issues.

46. On September 21, 2023, Plaintiff and Defendants participated in mediation before Lisa Klerman, Esq., a well-respected wage and hour mediator. Though the case did not settle at mediation, the parties accepted a mediator's proposal on September 27, 2023.

47. The Parties agree that neither the Parties' settlement, this Settlement Agreement, nor the acts to be performed or judgments to be entered pursuant to the terms of the settlement and this Settlement Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation of any statute or law or liability on the claims or allegations in the Action.

48. Stipulation to Class Certification and Representative Treatment. For settlement purposes only, Defendants will stipulate that the Settlement Class Members described herein who do

not submit a timely Request for Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the Aggrieved Employees are appropriate for representative treatment. Defendants' stipulation to certification and representative treatment for settlement purposes only is not an admission that class action certification and/or representative treatment is proper, not admissible in this or any other action except for the sole purpose of enforcing this Settlement Agreement, and not deemed as a waiver to any additional defenses against class or representative action treatment. Should, for whatever reason, the Court fail to issue either Preliminary Approval or Final Approval, the Parties' stipulation to class certification and representative treatment as part of the settlement shall become null and void *ab initio* and shall have no bearing on and shall not be admissible in connection with the issue of whether or not certification and/or representative treatment would be appropriate in a non-settlement context. Defendants expressly reserve their rights and declare that Defendants would continue to oppose class certification, representative treatment, and the substantive merits of the case should the Court decline to issue Final Approval. Plaintiff expressly reserves his rights and declares that he will continue to pursue class certification, representative treatment, and a trial should the Court decline to issue Final Approval.

C. Terms of Settlement

49. The financial terms of the Settlement are as follows:

(a) Gross Settlement Amount: The Parties agree to settle this Action for Two Hundred Ninety Five Dollars and Zero Cents (\$295,000.00) ("the Gross Settlement Amount"). The Gross Settlement Amount is the maximum amount that will be paid, and includes Individual Settlement Payments, Attorneys' Fees and Costs Award, the Service Payment to the Class Representative, all Settlement Administration Costs, PAGA Penalties, and interest. Defendants shall separately pay the employer's share of applicable payroll tax obligations due on the wage portions of the Individual Settlement Payments, which shall be reported through the Settlement Administrator. As of August 5, 2023, Defendant estimated there are approximately 10,184 workweeks worked by putative class members. In the event the total workweeks on the final class list as of preliminary

1 approval is more than 15% larger, at the option of the Defendant, the Defendant shall either increase
2 the Gross Settlement Amount pro rata, with a 15% grace margin (i.e. if the numbers increase by 17%,
3 the Gross Settlement Amount shall increase by 2%), or elect to limit the date for determining class
4 membership so as to limit the class size to a maximum of no more than 15% of the estimated class.

5 (b) Net Settlement Amount: The “Net Settlement Amount” is defined as the Gross
6 Settlement Amount less the court-approved Attorneys’ Fees and Costs Award, the court-approved
7 Service Payment to the Class Representative, the court-approved Settlement Administration Costs,
8 and PAGA Penalties. If the Court reduces the Attorneys’ Fees and Costs Award, Service Payment to
9 the Class Representative, and/or Settlement Administration Costs, and/or either increases or decreases
10 the amount allocated to the PAGA Penalties, the Net Settlement Amount shall be increased or
11 decreased accordingly.

12 (c) Individual Settlement Payments: Individual Settlement Payments for the
13 Settlement Class will be calculated and apportioned from the Net Settlement Amount based on the
14 number of Weeks Worked by a Settlement Class Member during the Class Period. Each specific
15 Individual Settlement Payment will be calculated by: (a) dividing the Net Settlement Amount by the
16 total number of Weeks Worked by all Participating Class Members during the Class Period, and (b)
17 multiplying the result by each Participating Class Members’ Weeks Worked. The entire Net
18 Settlement Amount will be disbursed to all Participating Class Members. If there are any valid and
19 timely Requests for Exclusion, the Settlement Administrator shall proportionally increase the
20 Individual Settlement Payment for each Participating Class Member according to the number of
21 Weeks Worked, so that the amount actually distributed to Participating Class Members equals one
22 hundred percent (100%) of the Net Settlement Amount.

23 (d) Allocation of Individual Settlement Payments: The Individual Settlement
24 Payments will be allocated based on the allegations in the Action as follows: one-third (1/3) will be
25 allocated as wages subject to withholding of all applicable local, state and federal taxes; and the
26 remaining two-thirds (2/3) will be allocated between interest and penalties (pursuant to, e.g., California
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1 Labor Code §§ 203, 210, 226, 2699) from which no taxes will be withheld. The Settlement
2 Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2
3 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the
4 penalties and interest allocations.

5 (e) Service Payment to Class Representative: The amount, if any, awarded to the
6 Class Representative as a Service Payment will be set by the Court in its discretion, not to exceed Five
7 Thousand Dollars and Zero Cents (\$5,000.00), in exchange for the services Plaintiff performed on
8 behalf of the Class (including taking steps to support the settlement) and for entering into the general
9 and expansive release discussed hereinafter. Defendants agree not to oppose this Service Payment
10 request if Plaintiff does not request exclusion from the Settlement Class and does not take any action,
11 directly or indirectly, to undercut this settlement. The Service Payment to Plaintiff will be paid out of
12 the Gross Settlement Amount. The Class Representative will be issued IRS Form 1099 in connection
13 with this payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes
14 on this Service Payment. The Parties agree that any amount awarded as the Service Payment to
15 Plaintiff less than the requested amount shall not be a basis for Class Counsel to void this Settlement
16 Agreement or to appeal this aspect of the Court's ruling. Should the Court approve a lesser amount
17 for the Service Payment, the difference shall be added to the Net Settlement Amount to be distributed
18 to Participating Class Members.

19 (f) Attorneys' Fees and Costs Award: Defendants agree to not oppose a request
20 by Class Counsel to the Court for an award of attorneys' fees of not more than one-third (1/3) of the
21 Gross Settlement Amount (Two Hundred Ninety Five Thousand and Zero Cents (\$295,000.00)), plus
22 reasonable litigation costs not to exceed Twenty Five Thousand Dollars and Zero Cents (\$25,000 .00)
23 ("Attorneys' Fees and Cost Award"), subject to Court approval. The Attorneys' Fees and Cost Award
24 shall be paid from the Gross Settlement Amount, and Defendants shall have no further obligation to
25 pay any attorneys' fees, costs, or expenses to Class Counsel. Should the Court approve a lesser amount
26 than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to

1 be distributed to Participating Class Members. The Parties agree that any amount awarded as
2 attorneys' fees and costs to Class Counsel less than the requested amount shall not be a basis for Class
3 Counsel to rescind or otherwise void this Settlement Agreement. The Settlement Administrator shall
4 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded
5 by the Court.

6 (g) Settlement Administration Costs: The fees and other charges of the Settlement
7 Administrator will be paid from the Gross Settlement Amount, not to exceed \$10,000.00 unless
8 approved by all Parties and the Court.

9 (h) PAGA Penalties: The Parties agree that Thirty Thousand Dollars and Zero
10 Cents (\$30,000.00) is allocated to PAGA Penalties and is to be paid from the Gross Settlement
11 Amount, subject to the Court's approval. Twenty Two Thousand Five Hundred Dollars and Zero
12 Cents (\$22,500.00) of the PAGA Penalties shall be paid to the LWDA in satisfaction of civil penalties
13 under the Private Attorney General Act of 2004 ("PAGA") Seven Thousand Five Hundred Dollars
14 and Zero Cents (\$7,500.00) of the PAGA Penalties will be paid to the Aggrieved Employees based
15 upon the number of Pay Periods Worked by each Aggrieved Employee during the PAGA Period,
16 which will be treated entirely as civil penalties and reported as required on an IRS Form 1099. Class
17 Counsel shall give proper notice to the LWDA of the settlement.

18 (i) Tax Liability: Class Counsel, Defendants, and Defendants' counsel make no
19 representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder, and
20 Plaintiff, Settlement Class Members, and Aggrieved Employees are not relying on any statement or
21 representation by Class Counsel, Defendants, or Defendants' counsel in this regard. Plaintiff,
22 Participating Class Members, and Aggrieved Employees understand and agree that they will be solely
23 responsible for the payment of any taxes and penalties assessed on their respective Settlement
24 Amounts described herein. The amount of federal income tax withholding will be based upon a flat
25 withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2)
26 as amended or supplemented. Income tax withholding will also be made pursuant to applicable state
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1 and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at
2 the times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and consistent
3 with this Settlement Agreement. If the Code, the regulations promulgated thereunder, or other
4 applicable tax law, are changed after the date of this Settlement Agreement, the processes set forth in
5 this Section of this Settlement Agreement may be modified in a manner to bring Defendants into
6 compliance with any such changes. Plaintiff, Participating Class Members, and Aggrieved Employees
7 understand and agree that they will be solely responsible for the payment of any taxes and penalties
8 assessed on their respective payments described herein and will hold Defendants harmless from and
9 against any claims resulting from treatment of such payments as non-taxable damages.

10 (j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS SETTLEMENT
11 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND
12 EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE
13 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT
14 (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN
15 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
16 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY
17 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
18 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY
19 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
20 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN,
21 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
22 CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT ENTERED INTO
23 THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION OF ANY
24 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS
25 NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
26 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
2 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS
3 THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES
4 (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
5 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
6 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
7 CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

8 50. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
9 Participating Class Members under this Settlement Agreement, as well as any other payments made
10 pursuant to this Settlement Agreement, shall not be utilized to calculate any additional benefits under
11 any benefit plans to which any Participating Class Members may be eligible, including, but not limited
12 to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase or other types of equity plans,
13 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
14 intention that this settlement will not affect any rights, contributions, or amounts to which any
15 Participating Class Members may be entitled under any benefit plans. The Parties agree that the
16 amounts paid pursuant to this settlement are not for days or hours worked, and shall not be included
17 toward any regular rate of pay calculation, or any benefit vesting or accrual purpose.

18 51. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no
19 circumstances will any portion of the Gross Settlement Amount revert to Defendants. Participating
20 Class Members will not have to make a claim in order to receive an Individual Settlement Payment,
21 and Aggrieved Employees will not have to make a claim in order to receive their share of PAGA
22 Penalties. Distributions, in the form of Individual Settlement Payments, will be made directly to each
23 Participating Class Member and Aggrieved Employee. The Settlement Administrator shall be
24 responsible for accurately and timely reporting and remittance obligations with respect to unclaimed
25 funds as a result of a Participating Class Member or Aggrieved Employee not cashing an Individual
26 Settlement Payment by the check cashing deadline, as set forth herein.

52. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

D. Release by Plaintiff, Participating Class Members, and Aggrieved Employees

53. Upon entry of the Final Approval Order, and except as to such rights or claims as may be created by this Settlement Agreement, the Participating Class Members will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Period. It is the intent of the Parties that the Final Approval Order and judgment entered by the Court shall have full equitable and collateral estoppel and *res judicata* effect and be final and binding upon Participating Class Members regarding the Released Class Claims.

54. Each Participating Class Member will be deemed to have made the foregoing Release as if by manually signing it.

55. Upon entry of the Final Approval Order and Defendants' funding of the entire Gross Settlement Amount, Plaintiff, standing in the shoes of the Labor Commissioner/LWDA, and on behalf of the State of California and all Aggrieved Employees, will forever completely release and discharge the Released Parties from the PAGA Released Claims for the PAGA Period. It is the intent of the Parties that the Final Approval Order and judgment entered by the Court shall have full equitable and collateral estoppel and *res judicata* effect and be final and binding upon Aggrieved Employees regarding the PAGA Released Claims.

56. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

57. Plaintiff and Defendants intend that the settlement described in this Settlement Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims. The Class Members shall be so notified in the Notice. This paragraph only applies to Participating Class Members and, thus, does not apply to any Class Member who timely and validly

submits a Request for Exclusion.

58. Plaintiff and Defendants also intend that the settlement described in this Settlement Agreement will release and preclude any further PAGA claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other PAGA action of any kind, by each and all of the Aggrieved Employees to obtain a recovery based on, arising out of, and/or related to any and all of the PAGA Released Claims. The Aggrieved Employees shall be so notified in the Notice and Class Counsel shall provide appropriate notice to the LWDA of this Settlement Agreement prior to the filing of the Motion for Preliminary Approval. Aggrieved Employees shall receive their portion of the PAGA Settlement and shall be deemed to have released the PAGA Claims even if they opt out of the Class Settlement.

59. Class Representative, on behalf of himself and the Participating Class Members, acknowledges and agrees that the claims, including claims for unpaid wages and untimely payment of wages are disputed, and that the payments set forth herein constitute payment of all sums allegedly due to them. Class Representative, on behalf of himself and the Participating Class Members, acknowledges and agrees that California Labor Code § 206.5 is not applicable to the Parties hereto. California Labor Code § 206.5 provides in pertinent part as follows:

An employer shall not require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.

E. Release by Class Representative

60. As a material inducement to Defendants to enter into this Settlement Agreement and in consideration of the Service Payment, and in addition to the Class Representative's release of the Released Class Claims and PAGA Released Claims, Class Representative does hereby, for himself and for his respective spouses, domestic partners, marital community, children, estates, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and assigns forever and completely release and discharge and

1 covenants not to sue the Released Parties with respect to any and all claims, demands, liens,
2 agreements, contracts, covenants, actions, suits, causes of action, wages, obligations, debts, liquidated
3 damages, penalties, interest, costs, expenses, attorneys' fees, damages, judgments, orders and
4 liabilities of whatever kind or nature in law, equity or otherwise, whether now known or unknown,
5 suspected or unsuspected, concealed or hidden, which Plaintiff now owns or holds or has at any time
6 heretofore owned or held as against said Released Parties, or any of them. Such released claims
7 include specifically, but not exclusively and without limiting the generality of the foregoing, any and
8 all claims, demands, agreements, obligations and causes of action, known or unknown, suspected or
9 unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon,
10 or relating to Class Representative's employment with Defendants or the remuneration for or
11 termination of such employment, as alleged in the operative Complaint, arising out of or in any way
12 connected with any transactions, occurrences, acts or omissions set forth, or facts alleged, in any and
13 all charges, complaints, claims or pleadings filed by Class Representative against any Released Party
14 prior to the date hereof with any city, county, state or federal agency, commission, office or tribunal
15 whatsoever; or arising out of or in any way connected with any transactions, occurrences, acts or
16 omissions occurring prior to the date hereof, including specifically without limiting the generality of
17 the foregoing any claim under Title VII of the Civil Rights Act of 1964, the Age Discrimination in
18 Employment Act (29 U.S.C. Section 621 *et seq.*), the Americans with Disabilities Act, the Employee
19 Retirement Income Security Act, the National Labor Relations Act, the Fair Labor Standards Act, the
20 Family and Medical Leave Act, the California Constitution, the California Labor Code, the California
21 Civil Code, the California Government Code, the California Business & Professions Code, the
22 California Family Rights Act, the California Fair Employment and Housing Act, the California
23 Industrial Welfare Commission Wage Orders, or any other federal, state, or local statute or regulation
24 (collectively, the "Class Representative's Claims").

25 61. Class Representative agrees that there is a risk that any injury that he may have suffered
26 by reason of the Released Parties' relationship with him might not now be known, and there is a further

1 risk that said injuries, whether known or unknown at the date of this Settlement Agreement, might
2 possibly become progressively worse, and that as a result thereof further damages may be sustained.
3 Nevertheless, Class Representative agrees to forever and fully release and discharge the Released
4 Parties, and understands that by the execution of this Settlement Agreement no further claims for any
5 such injuries that existed at the time of the execution of this Settlement Agreement may ever be
6 asserted by Class Representative with respect to claims arising in the time period from the beginning
7 of time to the execution of this Settlement Agreement.

8 62. Class Representative expressly waives and relinquishes all rights and benefits afforded
9 by Section 1542 of the Civil Code of the State of California and does so understanding and
10 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of the
11 State of California states:

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

18 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full
19 and complete release and discharge of all parties, Class Representative and Class Counsel expressly
20 acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all
21 claims that Class Representative knew of, as well as all claims that he does not know or suspect to
22 exist in his favor against the Released Parties, or any of them, for the time period from the beginning
23 of time to the execution of this Settlement Agreement, and that this Settlement Agreement
24 contemplates the extinguishment of any such Class Representative's claims. Notwithstanding the
25 above, the general release by Class Representative shall not extend to claims for workers'
26 compensation benefits, claims for unemployment benefits, or other claims that may not be released by

1 law.

2 63. Class Representative represents and warrants that he has not filed and will not file any
3 other lawsuit, administrative claim or action, arbitration, demand, or other action of any kind against
4 Defendants or the Released Parties. Class Representative represents and warrants that, the only
5 pending claims against Defendants or the Released Parties are included in this Action. However, the
6 Parties agree that nothing in this paragraph shall prevent or prohibit Plaintiff from filing any other
7 lawsuit, administrative claim or action, arbitration, demand, or other action of any kind against
8 Defendants or the Released Parties for workers' compensation benefits, claims for unemployment
9 benefits, or other claims that may not be released by law.

10 **F. Interim Stay of Proceedings**

11 64. Pending completion of all of the prerequisites necessary to effectuate this Settlement,
12 the Parties agree, subject to Court's approval, to a stay of all proceedings in the Action except such as
13 are necessary to effectuate this settlement.

14 **G. Notice Process**

15 65. Appointment of Settlement Administrator. The Parties have agreed to the appointment
16 of the Settlement Administrator to perform the duties of a settlement administrator, including mailing
17 the Notice, using standard devices to obtain forwarding addresses, independently reviewing and
18 verifying documentation associated with any claims or opt-out requests, resolving any disputes
19 regarding the calculation or application of the formula for determining the Individual Settlement
20 Payments, drafting and mailing the settlement checks to Participating Class Members, and Aggrieved
21 Employees, issuing W-2 and 1099 Tax Forms, performing unclaimed funds due diligence, reporting
22 and performing remittance obligations, and performing such other tasks as set forth herein or as the
23 Parties mutually agree or that the Court orders.

24 66. Disputes Regarding Settlement Administration. Any and all disputes relating to
25 administration of this settlement by the Settlement Administrator (except for disputes regarding Class
26 Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the
27

1 terms and conditions of this Settlement Agreement, until Plaintiff and Defendants notify the Court that
2 all payments and obligations contemplated by this Settlement Agreement have been fully carried out.
3 Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve
4 the dispute without the necessity of Court intervention. The Settlement Administrator shall also be
5 responsible for issuing to Plaintiff, Participating Class Members, Aggrieved Employees, and Class
6 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant
7 to this Settlement Agreement. The Settlement Administrator shall also be responsible for setting up
8 all necessary tax accounts and forwarding all payroll taxes and penalties to the appropriate government
9 authorities.

10 67. Class Data. Within fourteen (14) business days after entry of the Preliminary Approval
11 Order, Defendants shall provide the Class Data to the Settlement Administrator. The Settlement
12 Administrator will run a check of the Class Members' addresses against those on file with the U.S.
13 Postal Service's National Change of Address Database. The Class Data provided to the Settlement
14 Administrator will remain confidential, shall be used solely to administer the Settlement, and it will
15 not be used or disclosed to anyone (including Class Counsel), except as required by applicable tax
16 authorities, pursuant to Defendants' express written consent, or by order of the Court. Although Class
17 Counsel will not be provided with the list of Class Data, nothing herein shall prevent Class Counsel
18 from communicating with Class Members regarding the Action and settlement.

19 68. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
20 Administrator to the Settlement Class Members, by first class mail, in English, within ten (10) calendar
21 days following the Settlement Administrator's receipt of the Class Data. The Settlement
22 Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses of
23 Settlement Class Members if any envelopes are returned.

24 69. Returned Notices of Settlement. The Settlement Administrator will take steps to ensure
25 that the Notice is received by all Settlement Class Members, including utilization of the National
26 Change of Address Database maintained by the United States Postal Service to review the accuracy

of and, if possible, update a mailing address. Notices of Settlement will be re-mailed to any Settlement Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The re-mailed Notice shall be identical to the original Notice, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) calendar days after the remailing of the Notice.

70. Disputes Regarding Information on Notices of Settlement. Class Members are deemed to participate in the Settlement, unless they timely opt-out, and Aggrieved Employees may not opt-out of the PAGA Released Claims. The Notice will inform Class Members of his/her estimated Individual Settlement Payment and the number of Weeks Worked during the Class Period and Pay Periods Worked during the PAGA Period. Class Members may dispute their Weeks Worked and/or Pay Periods Worked if they feel they should be credited with more than represented on the Notice by timely submitting evidence to the Settlement Administrator. Defendants' records will be presumed determinative absent reliable evidence to rebut Defendants' records, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Weeks Worked and estimated Individual Settlement Payment. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. Class Members will have until the Notice Response Deadline to dispute Weeks Worked and/or Pay Periods Worked, object or opt-out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Weeks Worked and/or Pay Periods Worked for any Settlement Class Member, then the Settlement Administrator will recalculate the Participating Class Members' Individual Settlement Payments; accordingly, in no event will Defendants be required to increase the Gross Settlement Amount.

71. Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the Parties, at least twenty-five (25) calendar days prior to the Final Approval Hearing, a declaration

of due diligence and proof of mailing with regard to the mailing of the Notices of Settlement.

72. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the provisions in the Settlement related to the Released Class Claims, and the ability to opt-out or request exclusion from the Settlement with respect to the Released Class Claims. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Settlement with respect to the Released Class Claims in accordance with the following guidelines:

(a) Requests for Exclusion from Participating in the Settlement Class. Any Settlement Class Member, other than Plaintiff, may request to be excluded from the Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE
MICHAEL GEORGE MCCANN V. REPUBLIC SERVICES, INC. ET AL.
LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE
SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE
CLASS ACTION PORTION OF THIS LAWSUIT."

To be valid, any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address set forth in the Notice. Any such Request must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Settlement Agreement with respect to the Released Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this Settlement Agreement for the Released Class Claims; and (iii) will not be

bound by this Settlement Agreement, or the judgment, with respect to the Released Class Claims. Any Aggrieved Employee who requests timely exclusion will still be subject to the PAGA Released Claims to the fullest extent permitted by law and shall be sent his or her share of PAGA Penalties.

(b) Binding Effect on Participating Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for all purposes under this Settlement Agreement; (ii) will be bound by the terms and conditions of this Settlement Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement of the Released Class Claims. Any Settlement Class Member, other than Plaintiff, may object to the terms of this Settlement Agreement, except as to the PAGA Released Claims. To object, a Settlement Class Member shall do one of the following: (1) inform the Settlement Administrator, in writing, of his or her objection which must be postmarked by the Notice Response Deadline at the address set forth in the Notice. Such objection shall include the objecting Settlement Class Member's full name, address, telephone number, last four digits of the social security number or date of birth, signature, and dates of employment, in addition to the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by counsel, the name and address of his or her counsel. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) calendar days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence and file with the Court prior to the Final Approval Hearing; or (2) appear at the final approval hearing to state his or her objection and provide the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof. Any Participating Class Member who files an

1 objection remains eligible to receive monetary compensation from the settlement. Plaintiff and
2 Defendants shall not be responsible for any fees, costs, or expenses incurred by any Class Member
3 and/or his or her counsel related to any objections to the settlement. Submitting an objection does not
4 preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a
5 party of record by timely and properly intervening or filing a motion to vacate the judgment under
6 California Code of Civil Procedure § 663. Settlement Class Members and Aggrieved Employees may
7 not object to or opt-out of the Settlement with respect to the PAGA Released Claims.

8 (d) Failure to Object. Any Settlement Class Member who desires to object to the
9 Released Class Claims in the Settlement but fails to timely submit a written objection or in person
10 objection at the Final Approval Hearing waives any right to object and will be foreclosed from making
11 any objection to this Settlement. Any Settlement Class Member who does not timely and properly
12 become a party of record by intervening or filing a motion to vacate the judgment waives any and all
13 rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate
14 proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code
15 of Civil Procedure § 473, and extraordinary writs.

16 (e) Responses to Objections. Counsel for the Parties may file a response to any
17 objections submitted by objecting Settlement Class Members at least five (5) court days before the
18 date of the Final Approval Hearing.

19 (f) Settlement Class Members will have until the Notice Response Deadline to
20 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
21 Administrator shall disclose jointly to Class Counsel and Defendants' counsel what objections or
22 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class
23 Counsel or Defense Counsel.

24 (g) Defective Submissions. If a Settlement Class Member's Request for Exclusion
25 or objection is defective as to the requirements listed herein, that Settlement Class Member will be
26 given an opportunity to cure the defect(s). The Settlement Administrator will mail the Settlement
27

1 Class Member a cure letter within three (3) business days of receiving the defective submission to
2 advise the Settlement Class Member that his or her submission is defective and that the defect must
3 be cured to render the Request for Exclusion or objection valid. The Settlement Class Member will
4 have the later of (i) the Notice Response Deadline or (ii) fifteen (15) calendar days from the date of
5 the cure letter to postmark or fax a revised Request for Exclusion or objection. If the revised Request
6 for Exclusion or objection is not postmarked or received by fax within that period, it will be deemed
7 untimely and disregarded.

8 (h) Right to Rescission: If 5% or more of the Class Members opt-out, Defendants
9 shall have the right to rescind and void the Settlement.

10 73. Funding of the Settlement Amount. Defendants shall make a one-time deposit into the
11 QSF of the Gross Settlement Amount, no later than thirty (30) calendar days after the Effective Date.
12 Once Defendants have complied with their obligation set forth in this paragraph, it shall be deemed to
13 have satisfied all of the terms and conditions of this Settlement Agreement, shall be entitled to all the
14 protections afforded it under this Settlement Agreement, and shall have no further obligations under
15 this Settlement Agreement, regardless of what occurs with respect to the further administration of the
16 Settlement. The Settlement Administrator (and not Defendant) shall issue the applicable W-2s and
17 IRS Form 1099 reflecting all payments to the Class Members.

18 74. Distribution of Funds. No later than ten (10) calendar days after the deposit of the
19 payment into the QSF, the Settlement Administrator will mail the Individual Settlement Payments to
20 the Participating Class Members, the payment to Class Counsel for the Attorneys' Fees and Costs
21 Award, any Service Payment to the Class Representative, the payment to the LWDA for PAGA
22 Penalties, the payments to Aggrieved Employees for PAGA Penalties, and will pay itself the
23 Settlement Administration Costs.

24 75. Deadline for Cashing Settlement Checks. Participating Class Members and Aggrieved
25 Employees shall have one hundred eighty (180) calendar days after mailing by the Settlement
26 Administrator to cash each settlement check. If any Participating Class Member's or Aggrieved
27

Employee's check is not cashed within that period, the check will be void and a stop-payment will be issued, and the Settlement Administrator shall issue the unclaimed funds to the California State Controller's Office in the name of the Class Member or Aggrieved Employee. The release will be binding upon all Participating Class Members and Aggrieved Employees who do not cash their checks within the one hundred eighty (180) calendar days period. In the event that any settlement check is returned to the Settlement Administrator within one hundred eighty (180) calendar days of mailing, the Settlement Administrator will, within five (5) business days of receipt of the returned settlement check, perform a skip trace to locate the individual, and notify Defense Counsel and Class Counsel of the results. If a new address is located by these means, the Administrator will have ten (10) business days to re-issue the check. Neither Defendant, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Participating Class Member or Aggrieved Employee notifies the Settlement Administrator that he or she believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check in question has not been negotiated prior to the stop payment order, the Settlement Administrator will issue a replacement check.

76. No person shall have any claim against Defendants or the Released Parties, Defendants' Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on mailings, distributions, payments or reports made in accordance with or pursuant to this Settlement Agreement. This provision does not, however, prevent a Party from seeking enforcement of this Settlement Agreement.

77. Without prejudice to any other remedies, the Settlement Administrator shall agree to be responsible for any breach of its obligations (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

H. Duties of the Parties Prior to the Court's Approval

78. Promptly after execution of this Settlement Agreement, Plaintiff will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order accomplishing the following:

(a) Scheduling the Final Approval Hearing on the issue of whether this Settlement should be finally approved as fair, reasonable and adequate as to the Class Members and Aggrieved Employees and a hearing on fees, costs and the Service Payment;

(b) Approving as to form and content of the proposed Notice;

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members and Aggrieved Employees;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class solely for purposes of this Settlement.

79. Reallocation of Settlement Proceeds. In the event the Court fails, on its first hearing, to approve this Settlement Agreement because the amount of the PAGA Penalties is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within this Settlement Agreement, in order to try to achieve Final Approval of this Settlement Agreement upon any subsequent Court hearings.

I. Duties of the Parties Following Court's Final Approval

80. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representative, and the payment to the Settlement Administrator for costs of administering the settlement; and

(c) Entering judgment approving settlement, thereby permanently barring all

Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties and permanently barring all Aggrieved Employees and the LWDA from prosecuting any PAGA Released Claims against any of the Released Parties.

81. Final Judgment. The Settlement Administrator shall give the Participating Class Members and Aggrieved Employees notice of the entry of Final Judgment on a postcard or letter that will be included with the Individual Settlement Payments.

J. Voiding this Settlement Agreement

82. All Parties, signatories, and their counsel shall not encourage opt-outs or objections to this Settlement Agreement. The Parties specifically agree not to solicit opt-outs, directly or indirectly, through any means.

83. If the settlement is voided or fails for any reason, Plaintiff and Defendants will have no further obligations under the settlement, including any obligation by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

84. If the settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendants and Plaintiff, unless otherwise specified in this Settlement Agreement.

K. Other Terms

85. Waiver. The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

86. Full and Complete Defense. This Settlement Agreement may be pleaded by any Released Party as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted or attempted, asserting any Released Class Claim or PAGA Released Claim.

87. Injunction Against Duplicative Claims. Upon Preliminary Approval of the Settlement Agreement, all Settlement Class Members who do not opt out of the Settlement Class shall be enjoined

1 from filing, joining, or becoming a party, member or representative in any actions, claims, complaints,
2 or proceedings in any state or federal court on an individual, representative, collective or class action
3 basis, or with the California Department of Industrial Relations' Division of Labor Standards
4 Enforcement ("DLSE") or the United States Department of Labor ("DOL"), or from initiating any
5 other proceedings, regarding any of the Released Claims. Any related pending actions, claims,
6 complaints, or proceedings in any state or federal court or with the DLSE or DOL, shall be stayed until
7 the Settlement Class Members have had an opportunity to decide to participate, object or file a Request
8 for Exclusion from this settlement. In addition, upon Preliminary Approval of the Settlement
9 Agreement, all Settlement Class Members (regardless of whether they opt-out) shall be enjoined from
10 filing, joining, or becoming a party, member or representative in any actions, claims, complaints, or
11 proceedings in any state or federal court on an individual, representative, collective or class action
12 basis, or with the California Department of Industrial Relations' Division of Labor Standards
13 Enforcement ("DLSE") or the United States Department of Labor ("DOL"), or from initiating any
14 other proceedings, regarding any of the Release defined hereinabove to the extent such actions, claims,
15 complaints, or proceedings are based on the PAGA Released Claims released via this Settlement
16 Agreement.

17 88. Parties' Authority. The signatories hereto represent that they are fully authorized to
18 enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.
19 The signatories hereto further represent that the Parties to this Settlement Agreement are represented
20 by competent counsel, and they have had an opportunity to consult with counsel prior to authorizing
21 its execution.

22 89. No Publicity. The Parties will not publicize the settlement or disclose it to third parties,
23 except as required or necessary to effectuate its terms and comply with law, including the payment of
24 taxes. Specifically, Plaintiff and Plaintiff's counsel shall not publicize the settlement on their websites,
25 in advertising/marketing materials or on social media. The Parties and their counsel agree that they
26 will not issue any press releases or initiate any contact with the media about the fact, amount, or terms

of the settlement. If counsel for any party receives an inquiry about the settlement from the media, counsel may respond only after the motion for preliminary approval of the settlement has been filed and only by confirming the accurate terms of the settlement. Nothing in this provision shall prevent Defendants from making any required disclosure.

90. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the Court's preliminary and final approval of the settlement, and the final entry of judgment. Class Counsel shall provide Defendants' Counsel with copies of the Preliminary Approval Motion and Final Approval Motion for review at least five (5) court days prior to the filing deadline.

91. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Settlement Agreement.

92. No Admission. Defendants deny any and all liability to Plaintiff, any Settlement Class Member, and/or any Aggrieved Employee in this Action, as to any and all causes of action that were asserted or that might have been asserted in this Action. Nonetheless, Defendants wish to settle and compromise the matters at issue in the Complaint to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendants also has taken into account the uncertainty and risks inherent in litigation, and without conceding any infirmity in the defenses that they have asserted or could assert against Plaintiff, has determined that it is desirable and

beneficial that Plaintiff's claims be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

93. Inadmissibility of this Settlement Agreement. Whether or not the Court issues the Final Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices, and motions for preliminary and final approval, shall, pursuant to California Evidence Code § 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only and if, for any reason the settlement is not approved, the stipulation will have no force or effect.

94. Notices. Unless otherwise specifically provided herein, all notices, demands, or other communications pursuant to this Settlement Agreement shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

To the Settlement Class Members and Aggrieved Employees:

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Gregory Mauro, Esq. (#222239)
Michael Calvo, Esq. (#314986)
Lauren Falk, Esq. (#316893)
Ava Issary, Esq. (#342252)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com

Email: Michael@jameshawkinsaplc.com
 Email: Lauren@jameshawkinsaplc.com
 Email: Ava@jameshawkinsaplc.com

To Defendants:

Irene V. Fitzgerald, Bar No. 266949
 ifitzgerald@littler.com
 Julie R. Campos, Bar No. 314063
 jcampos@littler.com
 LITTLER MENDELSON P.C.
 5200 North Palm Avenue
 Suite 302
 Fresno, California 93704.2225
 Telephone: 559.244.7500
 Fax No.: 559.244.7525

95. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Settlement Agreement. Plaintiff and Defendants expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Settlement Agreement shall be in all cases construed as a whole, according to its fair meaning.

96. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

97. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

1 98. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this
2 Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, a Party
3 shall provide written notice to the other Party and allow an opportunity to cure the alleged deficiencies,
4 and Plaintiff and Defendants agree to seek the help of the mediator identified in this Settlement
5 Agreement to resolve any dispute they are unable to resolve informally. During this period, the Parties
6 shall bear their own attorneys' fees and costs. This provision shall not apply to any legal action or
7 other proceeding instituted by any person or entity other than Plaintiff or Defendants.

8 99. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of
9 dismissal pursuant to the terms of this Settlement Agreement, that, pursuant to California Code of
10 Civil Procedure § 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this
11 Action over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and
12 obligations of this Settlement Agreement.

13 100. Enforceability. Pursuant to California Evidence Code §§ 1123(a) and (b), the Parties
14 intend that this Settlement Agreement shall be enforceable, binding, and admissible in a court of law.

15 101. Choice of Law. This Settlement Agreement shall be governed by and construed,
16 enforced and administered in accordance with the laws of the State of California.

17 102. Integration Clause. This Settlement Agreement contains the entire agreement between
18 the Parties relating to the settlement and transaction contemplated hereby, and all prior or
19 contemporaneous agreements, understandings, representations, and statements, whether oral or
20 written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder
21 may be waived except in writing.

22 103. Binding On Assigns. This Settlement Agreement shall be binding upon and inure to
23 the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
24 successors, and assigns.

25 104. Signatures of All Class Members and Aggrieved Employees Unnecessary to be
26 Binding. It is agreed that, because the members of the Settlement Class and Aggrieved Employees

are numerous, it is impossible or impractical to have each Class Member and Aggrieved Employee execute this Settlement Agreement. The Notice will advise all Settlement Class Members and Aggrieved Employees of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member and Aggrieved Employee.

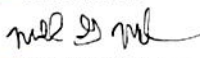
105. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid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

106. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

--- Signatures on Next Page ---

Dated: November 18, 2024

PLAINTIFF AND CLASS REPRESENTATIVE:



6C1A4D0552AC41C
MICHAEL GEORGE MCCANN

Dated: November 20, 2024

DEFENDANTS:

DELTA CONTAINER CORPORATION
REPUBLIC SERVICES, INC.



By: Ashley Kasanian

Title: Vice President

END OF DOCUMENT

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE READ CAREFULLY AS
THIS NOTICE MAY AFFECT YOUR RIGHTS

MICHAEL GEORGE MCCANN, individually and on behalf of all others similarly situated, Plaintiff, v. REPUBLIC SERVICES, INC., a Delaware Corporation; DELTA CONTAINER CORPORATION, a California Corporation; and DOES 1-50, inclusive, Defendants	STK-CV-UOE-2021-8294; STK-CV-UOE-2021-0010476 ASSIGNED FOR ALL PURPOSES TO: Honorable Blanca A. Banuelos, Dept. CX10B NOTICE OF CLASS ACTION SETTLEMENT
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I. WHY DID I GET THIS NOTICE?

This notice explains that a settlement has been reached in the following case entitled: (1) *Michael George Mccann v. Republic Services, Inc., et al.*, Case No. STK-CV-UOE-2021-8294 and (2) *Michael George Mccann v. Republic Services, Inc., et al.*, Case No. STK-CV-UOE-2021-0010476 (herein referred as “The Lawsuits”). You are receiving this notice because the records of REPUBLIC SERVICES, INC. and DELTA CONTAINER CORPORATION, (collectively “Defendants”) indicate that you are a current or former non-exempt employee that falls within the following proposed “Class”, which is defined as:

all non-exempt employees who worked for Delta Container Corporation in California, during the Class Period (April 10, 2019 through the date of preliminary approval of the Settlement Agreement) (the “Class”).

This is **not** a notice of a lawsuit against you. **You are not being sued.** The Lawsuit was brought on behalf of all persons who are members of the Class (“Class Members”), for their benefit. Your participation, or non-participation, in the Settlement will not affect your employment with Defendants in any way whatsoever.

The Court has ordered that this notice be sent to you because Defendants’ records indicate that you are a Class Member. The purpose of this notice is to inform you of the proposed Settlement of the Lawsuits. The notice is also intended (i) to describe the Settlement, including how the Net Settlement Fund will be allocated and how the Settlement may affect you, and (ii) to advise you of your rights and options with respect to the Settlement.

II. WHAT IS THIS CLASS ACTION LAWSUIT ABOUT?

This Class and Representative Action Settlement Agreement and Release (“Settlement” or “Agreement”) encompasses the actions (1) *Michael George Mccann v. Republic Services, Inc., et al.*, Case No. STK-CV-UOE-2021-8294 and (2) *Michael George Mccann v. Republic Services, Inc., et al.*, Case No. STK-CV-UOE-2021-0010476.

The Lawsuits alleged various wage and hour causes of action premised on alleged violations of the California Labor Code including the failure to: pay minimum wages, overtime wages, failure to provide meal periods, failure to provide rest periods, failure to timely pay wages, failure to provide accurate wage statements, failure to keep requisite payroll records, for unfair competition, and for civil penalties pursuant to the Private Attorney’s General Act.

Defendants maintain that they have complied with all applicable state and federal laws. Defendants deny any liability or wrongdoing of any kind associated with the claims asserted in the Lawsuits. Defendants agreed to the terms of the Settlement in order to avoid the time and expense associated with litigation.

For the purpose of avoiding the time and expense of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, Plaintiff and Defendants have negotiated a settlement whereby Defendants’ has agreed to pay Two Hundred and Ninety-Five Thousand Dollars (\$295,000.00) to resolve the Lawsuits, and Class Members will be eligible to receive a portion of this amount. This Settlement is **not** an admission by Defendants of any liability.

III. WHAT DOES THE PROPOSED SETTLEMENT OFFER?

Under the terms of the parties’ Settlement, the following will occur if the Settlement is given final approval by the Court:

A. Defendants will pay Two Hundred and Ninety-Five Thousand Dollars (\$295,000.00) to settle the claims of all Class Members who do not timely opt-out.

B. A Settlement Administrator has been appointed by the Court to administer the Settlement. The Settlement Administrator will pay from the Two Hundred and Ninety-Five Thousand Dollars (\$295,000.00), subject to court approval: (1) Plaintiff’s counsel’s attorneys’ fees of the litigation, up to the amount of \$98,333.33; (2) Plaintiff’s counsels’ litigation costs, up to the amount of \$25,000.00; (3) The expenses of administering the Settlement, up to the amount of \$10,000.00; (4) a Service Enhancement Award to Plaintiff in the amount of \$5,000.00; and (5) \$30,000.00 allocated to the settlement of Plaintiff’s claim for penalties under PAGA (“PAGA Payment”) that will be addressed separately. The remainder of the \$295,000.00, currently estimated to be at least **\$x.00**, will be available to be distributed to all Class Members; this amount is called the “Net Settlement Value”.

C. From the Gross Settlement Amount, Defendants will pay \$30,000 Dollars for settlement of any and all Released Claims for which penalties under PAGA, Labor Code section 2698 et seq., may be sought or are otherwise available, as the PAGA Penalty Payment. Pursuant to the express requirements of Labor Code section 2699(i), the PAGA Penalty Payment shall be allocated as follows: \$22,500 (75%) to the LWDA for the enforcement of labor laws and education of employers, and \$7,500 (25%) to the Aggrieved Employees as a part of the Net Settlement Amount.

D. The Net Settlement Fund to be distributed to the Class Members will be divided as follows: Individual Settlement Payments will be paid from the Net Settlement Fund pursuant to the settlement formula. The Net Settlement Fund shall be divided among the Settlement Class Members on a pro-rata basis based on the following: (i) using the Class Information, the Settlement Administrator will compute the total number of workweeks of all Class Members collectively during the Class Period; this sum shall be known as the “Compensable Work Weeks”; (ii) the Settlement Administrator will divide the Net Settlement Fund by the Compensable Workweek total to determine the settlement value for each workweek (the “Workweek Value”); and (iii) the Settlement Administrator will multiply the number of workweeks of a Class Member during the Class Period by the Workweek Value to determine that Class Member’s Individual Settlement Payment.

Each Class Member’s workweeks shall be calculated by Defendants from its records. The Individual Settlement Payments will be allocated based on the allegations in the Action as follows: one-third (1/3) will be allocated as wages subject to withholding of all applicable local, state and federal taxes; and the remaining two-thirds (2/3) will be allocated between interest and penalties (pursuant to, *e.g.*, California Labor Code §§ 203, 210, 226, 2699) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the penalties and interest allocations.

E. If the Court grants final approval of the Settlement and you do not opt-out of the Settlement, then you will release Defendants and any parent, subsidiary, affiliate, predecessor or successor entity, and all agents, employees, contracting parties, joint employers, officers, directors and attorneys thereof, (collectively the “Released Parties”) from:

Any and all claims during the time period of April 10, 2019 through **the date of preliminary approval of the Settlement Agreement**, alleged in either or both civil Complaints or those that could have been brought based on the claims asserted in the operative civil Complaints and/or the LWDA letter including the following: 1) failure to pay minimum and overtime wages, 2) failure to provide meal periods, 3) failure to pay all wages earned and owed upon separation from Defendants’ employ, 4) failure to provide rest periods, 5) failure to provide accurate itemized wage statements, and 6) engaging in unfair business practices.

Aggrieved employees may not opt out of the PAGA Payment and will release any and all PAGA claims alleged in or that may arise out of the allegations made in the civil Complaints or Plaintiff’s LWDA letter including the following: 1) failure to pay minimum and overtime wages, 2) failure to provide meal periods, 3) failure to pay all wages earned and owed upon separation from Defendants’ employ, 4) failure to provide rest periods, 5) failure to provide accurate itemized wage statements.

IV. WHAT ARE MY OPTIONS?

A. *You may accept your share of the \$295,000.00 settlement and be bound by the release of all claims described above and all other terms of the Settlement Agreement as approved by the Court. In order to receive your Individual Settlement Payment, you do not need to do anything.*

Based on Defendants' internal records, which will be presumed to be correct unless evidence to the contrary is timely submitted to the Settlement Administrator:

Defendants' records reflect that you worked for Defendants in California for <<WorkWeeks>> weeks during the Class Period, and your estimated gross Individual Settlement Share is <<estAmount>>. This is an estimated number and may change based on the Settlement Administrator's final calculation of the Net Settlement Amount.

The Individual Settlement Payments will be paid by check after the Settlement is given final approval by the Court. Your check will be mailed to you by the Settlement Administrator. Your check will remain valid and negotiable for 180 days from the date on which it is mailed. If any Class Member's Individual Settlement Payment check is not cashed within 180 days after it is mailed, or an envelope mailed to a Class Member is returned and no forwarding address can be located, then any such amounts shall be transmitted to the State of California Unclaimed Property division.

B. *You may opt out of the Settlement and choose not to participate in it, in which case you will not receive your Individual Settlement Payment and you will not be bound by the terms of the Settlement except that if you are also an Aggrieved Employee you will receive your portion of the PAGA Payment and release the PAGA claims described in the Settlement.* In order to opt out, you must send a written request for exclusion by United States mail to **the Settlement Administrator, [insert address]**, by no later than **[date]** (45 calendar days after mailing of this notice, the "Response Deadline"). In order to be considered valid, your request for exclusion **must** be in writing and: (1) contain the name and address of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. If you elect to Opt-Out you will not be able to participate in the settlement, and will not receive a share of the settlement proceeds. You will receive your portion of the PAGA Payment, if applicable.

C. *You may dispute the Calculations of Your Individual Settlement Payment.* In order to dispute the amount of your Individual Settlement Payment, and the number of workweeks used to calculate the Individual Settlement Payment, you must send a written dispute by United States mail to the Settlement Administrator, **[insert address]**, by no later than **[date]** (45 calendar days after mailing of this notice). In order to be considered, your dispute **must** be (1) timely; and (2) accompanied by records or documentation supporting your position such as wage statements, W2 forms, time records, calendars, memoranda, emails, or any other type of documentation. In response to any timely dispute, the Settlement Administrator will use Defendants' records and any information you provide to resolve any dispute about your workweek data.

D. *You may object to the Settlement.* The procedures for objecting to the settlement are described below in Section VIII of this form.

VI. WHAT ARE THE PROCEDURES FOR PAYMENT?

A. The Settlement Administrator will calculate your Individual Settlement Payment based on your number of credited workweeks and will issue and mail you a check.

B. It is important for the Settlement Administrator and the parties to the Lawsuits to have your current address in order to be able to send you other mailings regarding the Lawsuits. You should contact the Settlement

Administrator to report any change of your address after you receive this notice. Failure to report a change of address may result in you not receiving your Individual Settlement Amount.

VII. HEARING ON PROPOSED SETTLEMENT

A Final Fairness Hearing, at which the Court will decide whether or not the proposed settlement is fair, reasonable, and adequate, will be held on _____, at _____ a.m., in Department CX10B of the San Joaquin County Superior Court, 180 E Weber Ave, Stockton, CA 95202. The Court may adjourn or continue the hearing without further notice to you.

You are not required to attend the hearing. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense.

VIII. PROCEDURES FOR OBJECTING TO SETTLEMENT

A. You may object to the proposed Settlement as unfair, unreasonable, and/or inadequate or believe the Settlement should not be finally approved for any reason. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. You are not eligible to object to the Settlement if you choose to opt out.

B. To object to the settlement, you must either: (1) provide a written objection to the Settlement Administrator or (2) appear at the final approval hearing to state your objection. Any written objection submitted to the Settlement Administrator must: (i) state the full name and signature of the objecting Class Member; (ii) set forth, in clear and concise terms, a statement of the reasons why the objector believes that the Court should find that the proposed Settlement is not in the best interest of the Class and the reasons why the Settlement should not be approved, including the legal and factual arguments supporting the objection; (iv) state whether the objecting Class Member is represented by counsel, and identify any such counsel; (v) be filed or postmarked on or before [insert Objection Deadline] (45 days after mailing of this Notice). If you do decide to file your written objections and supporting papers in person, please visit the Court's website at <https://www.sjcourts.org/>, for the most current information about in-person access to the Court.

The Court retains final authority with respect to the consideration and admissibility of any objections. Counsel for the Parties shall file any response to any objections at least five (5) court days before the date of the Final Fairness and Approval Hearing.

However, if you do not opt out of the Settlement you may appear at the final approval hearing and voice an objection, whether or not you submit a prior written objection.

C. If you do not object in this manner as described, you will have given up your right to object to the Settlement. If you file an objection, you do not have to come to the Court to talk about it. As long as you submit your written objection on time, the Court will consider it. You may also pay your own lawyer to appear in Court on your behalf.

D. If you do not make your objection in the manner provided for in this notice, you will be deemed to have waived such objection and shall forever be barred from making any objection to or appealing the fairness, reasonableness, or adequacy of the Settlement.

IX. EXAMINATION OF COURT PAPERS AND QUESTIONS

This notice summarizes the Settlement. For more detailed information you may review Plaintiff's Motion for Preliminary Approval of Class Action Settlement, and all other settlement related documents and motions, which are posted for your review at www.xxxx.com. Additionally, all papers filed in the Lawsuits, including Plaintiff's Motion for Preliminary Approval of Class Action Settlement and all settlement related documents and motions may be examined by accessing the Court docket, Case Number STK-CV-UOE-2021-8294, in this case through the Court's online services system, at <https://www.sjcourts.org/>. There may be a fee required to review the materials via the online court system. Additionally, all papers filed in the Lawsuits, including Plaintiff's Motion for Preliminary Approval of Class Action Settlement and all settlement related documents and motions are on file with the Clerk of the Court, Case Number STK-CV-UOE-2021-8294, which is located in the office of the Clerk of the San Joaquin Superior Court, 180 E Weber Ave, Stockton, CA 95202 and is available for viewing during regular office hours (Mon.–Fri., 8:00 a.m.-12:00p.m., excluding holidays). However, please visit the Court's website at <https://www.sjcourts.org/> for the most current information about in-person access to the Court.

If you have any questions, you can call the Settlement Administrator at 1-[xxx-xxx-xxxx](tel:xxx-xxx-xxxx) or any of the attorneys representing the Class (see below for Class Counsel's phone number).

ATTORNEYS REPRESENTING THE CLASS

James Hawkins APLC
James R. Hawkins
Gregory Mauro
Lauren Falk
Ava Issary
9880 Research Drive, Suite 200
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ATTORNEYS REPRESENTING DEFENDANTS

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Irene V. Fitzgerald
Julie R. Campos
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Fresno, California 93704.2225
Telephone: 559.244.7500
Fax No.: 559.244.7525

PLEASE DO NOT CALL OR OTHERWISE ATTEMPT TO CONTACT THE

COURT OR THE CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT
