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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

JUDITH CORTES TINOCO, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

SWA SERVICES GROUP, INC. a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21CV389519

[Honorable Patricia M. Lucas, Department 3]

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT**

Complaint Filed: October 28, 2021

Trial Date: Not set

1 This Joint Stipulation of Class and PAGA Action Settlement is entered into between
2 Plaintiff Judith Cortes Tinoco (“Plaintiff”) and Defendant SWA Services Group, Inc.
3 (“Defendant”).

4 **DEFINITIONS**

5 1. Action. “Action” means the class action lawsuit entitled *Judith Cortes Tinoco v.*
6 *SWA Services Group, Inc.*, filed in the Superior Court of California, County of Santa Clara, with
7 case number 21CV389519.

8 2. Agreement. “Agreement” means the instant Joint Stipulation of Class and PAGA
9 Action Settlement.

10 3. Attorneys’ Costs. “Attorneys’ Costs” means the amount to be reimbursed to Class
11 Counsel for their litigation costs and expenses. Attorneys’ Costs shall not exceed Seventeen-
12 Thousand Dollars and Zero Cents (\$17,000.00).

13 4. Attorneys’ Fees. “Attorneys’ Fees” means the amount to be awarded to Class
14 Counsel for the work they have performed in furtherance of the Action. Attorneys’ Fees shall not
15 exceed One Hundred and Eleven Thousand Six Hundred and Sixty-Six Dollars and Sixty-Seven
16 Cents (\$111,666.67), which represents Thirty-Three and One-Third percent (33 1/3 %) of the
17 Maximum Settlement Amount (as defined below).

18 5. Class Counsel. “Class Counsel” means Kane Moon, Allen Feghali, and Jacquelyne
19 VanEmmerik of MOON & YANG, APC.

20 6. Class Members, and the Class. “Class Members” (individually, “Class Member”)
21 means all current and former hourly-paid or non-exempt employees who have worked for
22 Defendant in the State of California at any time during the Class Period (as defined below) totaling
23 approximately Three Hundred and Fifty (350).

24 7. Class Notice. “Class Notice” means the Notice of Class and PAGA Action
25 Settlement mutually agreed upon by the Parties and approved by the Court to be sent to the Class
26 Members and PAGA Members (as defined below) following preliminary approval, which includes
27 the scope of release language for Settled Claims (as defined below) and Settled PAGA Claims (as
28 defined below), notifies Class Members and PAGA Members of the Settlement (as defined below),

explains the Class Members' options, including how Class Members may opt out or object to the Settlement, and explains the facts and methods based on which the Class Members' and PAGA Members' estimated Settlement Payments and PAGA Payments (as defined below) are calculated, substantially in the form attached hereto as **Exhibit A**.

8. Class Period. "Class Period" means the period from October 28, 2017 through July 14, 2022.

9. Complaint. "Complaint" means the operative First Amended Class Action and Representative Action Complaint.

10. Court. "Court" means the Superior Court of California, County of Santa Clara, or other court, that will approve the Agreement.

11. Day(s). "Day(s)" or "day(s)" means calendar day(s) unless otherwise stated. If any designated date or deadline falls on a weekend or holiday, the designated date or deadline will occur on the next business day.

12. Defendant. "Defendant" means SWA Services Group, Inc.

13. Effective Date. "Effective Date" of this Agreement means the first business day following the last of the following occurrences: (i) the day final approval is granted if there are no objections to the settlement, (ii) sixty (60) days following the date the Court enters a Final Approval Order and Final Judgment, if there are objections by any Class Member and assuming no appeal is filed; or (iii) if an appeal is filed, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*) resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible.

14. Final Approval Order. "Final Approval Order" means the order entered and filed by the Court granting final approval of the Settlement (as defined below) and entry of the Final Judgment (as defined below), substantially in the form attached hereto as **Exhibit C**.

15. Final Judgment. "Final Judgment" means the judgment entered and filed by the Court that: (1) ultimately approves this Agreement; and (2) awards and orders the payment of all required amounts pursuant to the terms of this Agreement (approving Attorneys' Costs, Attorneys'

1 Fees, Settlement Payments to Class Members, and PAGA Payments to PAGA Members, as defined
2 below, *etc.*). The Final Judgment will constitute a binding and final resolution, have full *res*
3 *judicata* effect, and discharge Defendant and Released Parties (as defined below) from liability for
4 any and all claims by Named Plaintiff (as defined below), all Settlement Class Members as to all
5 Settled Claims (as defined below), and all PAGA Members and the State of California as to all
6 Settled PAGA Claims (as defined below), as set forth in this Agreement.

7 16. Final Approval Hearing. “Final Approval Hearing” means the hearing at which the
8 Court shall consider the motion for final approval of this Settlement and determine whether to fully
9 and finally approve the fairness and reasonableness of this Settlement and Agreement, and enter
10 the Final Approval Order and Final Judgment.

11 17. Last Known Address. “Last Known Address” means the most recently recorded
12 mailing address for a Class Member and/or PAGA Member contained in Defendant’s payroll
13 records.

14 18. Maximum Settlement Amount. “Maximum Settlement Amount” means the
15 maximum total payment of Three Hundred and Thirty-Five Thousand Dollars and Zero Cents
16 (\$335,000.00), payable by Defendant under this Agreement. The Maximum Settlement Amount
17 includes all: (1) Settlement Payments and PAGA Payments (as defined below); (2) Attorneys’
18 Costs; (3) Attorneys’ Fees; (4) Settlement Administration Costs (as defined below); (4) LWDA’s
19 portion of the PAGA Allocation; and (5) Service Payment (as defined below) to the Named
20 Plaintiff. The Maximum Settlement Amount is non-reversionary, which means no portion will
21 revert to Defendant. However, with the exception of the circumstances discussed in paragraphs
22 51(e) and 64 below, in no event shall Defendant be required to pay any amount above the
23 Maximum Settlement Amount to effectuate this Agreement. Each of the Class Members and
24 PAGA Members shall be responsible for paying any additional taxes due on his or her settlement
25 payment.

26 19. Named Plaintiff. “Named Plaintiff” means Plaintiff Judith Cortes Tinoco.

27 20. Net Distribution Fund. “Net Distribution Fund” means the Maximum Settlement
28 Amount less the amount the Court awards for: (1) the PAGA Allocation (as defined below); (2)

1 Attorneys' Costs; (3) Attorneys' Fees; (4) Settlement Administration Costs; and (5) the Service
2 Payment to Named Plaintiff. The Settlement Payment(s) (as defined below) will be made from the
3 Net Distribution Fund.

4 21. Objection. "Objection" means an objection to the Settlement that a Settlement Class
5 Member submits in writing to the Settlement Administrator. Each "Objection" must (1) contain the
6 name, address, and telephone number of the Settlement Class Member objecting and the case name
7 and number of the Action; (2) be signed by the Settlement Class Member; (3) be postmarked, e-
8 mailed or fax stamped on or before the Response Deadline (as defined below) and returned to the
9 Settlement Administrator at the specified address, e-mail address, or fax number; and (4) give the
10 legal and factual basis for the objection.

11 22. Opt Out Request. "Opt Out Request" means a request by a Class Member to be
12 excluded from the Settlement of Settled Claims. Each "Opt Out Request" should (1) contain the
13 name, address, and telephone number of the Class Member requesting exclusion and the case name
14 and number of the Action; (2) be signed by the Class Member; (3) be postmarked, e-mailed or fax
15 stamped on or before the Response Deadline and returned to the Settlement Administrator at the
16 specified address, e-mail address, or fax number; and (4) contain a statement substantially similar
17 to:

18 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS CLAIMS
19 IN THE *JUDITH CORTES TINOCO V. SWA SERVICES GROUP, INC.* LAWSUIT.
20 I UNDERSTAND THAT THE PAGA CLAIM WILL STILL BE RELEASED
21 AND SETTLED."

22 23. Parties. "Parties" means Named Plaintiff, individually on behalf of herself and on
23 behalf of all Class Members, PAGA Members and interests of the LWDA, and Defendant.

24 24. PAGA Allocation. "PAGA Allocation" means the amount to be allocated to the
25 Labor and Workforce Development Agency ("LWDA") for the settlement of the Settled PAGA
26 Claims. The PAGA Allocation shall be Thirty Thousand Dollars and Zero Cents (\$30,000.00).
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28

1 25. PAGA Members. “PAGA Members” (individually, “PAGA Member”) means all
2 Class Members who are employed or have been employed by Defendant in the State of California
3 during the PAGA Period.

4 26. PAGA Payment(s). “PAGA Payment(s)” means individual settlement payments
5 made to PAGA Members from the PAGA Allocation, as provided for in this Agreement.

6 27. PAGA Period. “PAGA Period” means from October 28, 2020 through July 14,
7 2022.

8 28. Pay Period(s). “Pay Period” means any bi-weekly pay period (*i.e.*, period beginning
9 on Sunday and ending on the second following Saturday) in which a Class Member or PAGA
10 Member performed work for Defendant at least one day.

11 29. Preliminary Approval Order. “Preliminary Approval Order” is the Order entered
12 and filed by the Court that preliminarily approves the terms and conditions of this Agreement,
13 including approval of the Parties’ Agreement that specifies the content of notice and manner in
14 which notice will be provided to the Class and responded to by the Class, substantially in the form
15 attached hereto as **Exhibit B**.

16 30. Released Parties. “Released Parties” include Defendant and each of its owners,
17 members, partners, shareholders, agents (including, without limitation, investment bankers,
18 accountants, insurers, reinsurers, attorneys, and any past, present, or future officers, directors, and
19 employees), servants, assigns, subsidiaries, affiliates, independent contractors, volunteers,
20 predecessors, successors, parent companies and organizations, and any and all other persons, firms,
21 companies, and corporations in which Defendant may have an interest.

22 31. Response Deadline. “Response Deadline” means the day that is sixty (60) days after
23 the date the Class Notice is mailed to Class Members via First-Class U.S. Mail and is the deadline
24 to submit an Opt Out Request (as defined below), Objection (as defined below), and/or Dispute
25 (as defined below).

26 32. Service Payment. “Service Payment” means the amount awarded to Named Plaintiff
27 for her service in furtherance of the Action and in consideration of her General Release (as defined
28

below) and waiver of Civil Code section 1542 rights. The Service Payment shall not exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00).

33. Settlement. “Settlement” means the agreement of the Parties to settle the claims as set forth and embodied in this Agreement.

34. Settlement Administrator. “Settlement Administrator” means ILYM Group, Inc., a neutral administrator mutually chosen by the Parties and approved by the Court.

35. Settlement Administration Costs. “Settlement Administration Costs” means the costs of administering this Settlement to be paid to the Settlement Administrator. The Settlement Administration Costs shall not exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

36. Settlement Class/Settlement Class Member(s). “Settlement Class” or “Settlement Class Member(s)” means all Class Members who have not timely and validly submitted an Opt Out Request.

37. Settlement Payment(s). “Settlement Payment(s)” means the individual settlement payments made to Settlement Class Member(s) from the Net Distribution Fund as provided for in this Agreement.

38. Settled Claims. “Settled Claims” means all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, arising during the Class Period that each Class Member had, now has, or may hereafter claim to have against the Released Parties and that were asserted in the Complaint, or that could have been asserted in the Complaint based on any of the facts alleged in the Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. The Settled Claims specifically include, but are not limited to, claims for: (1) Violation of California Labor Code §§ 1194, 1194.2, 1197, and 1197.1 (failure to pay minimum and straight time wages); (2) Violation of California Labor Code §§ 510 and 1198 (failure to pay overtime wages); (3) Violation of California Labor Code §§ 226.7 and 512(a) (failure to provide compliant meal periods and associated premiums); (4) Violation of California Labor Code § 226.7 (failure to provide compliant rest periods and associated premiums); (5) Violation of California Labor Code §§ 2800 and 2802 (failure to indemnify business expenses); (6) Violation of California Labor Code §§ 201, 202 and

203 (failure to timely pay final wages); (7) Violation of California Labor Code § 204 (failure to timely pay wages during employment); (8) Violation of California Labor Code § 226(a) (failure to provide compliant wage statements); (9) Violation of California Labor Code § 1174(d) (failure to keep requisite payroll records); (10) Violation of California Business & Professions Code §§ 17200, *et seq.*; and (11) incorporated or related claims asserted through the Private Attorneys General Act (“PAGA”) for any of the above alleged California Labor Code violations.

39. Settled PAGA Claims. “Settled PAGA Claims” are any of the Settled Claims that may serve as a basis for any claim under the PAGA for *any* of the California Labor Code violations and/or violations of Wage Orders alleged within the Complaint, including, but not limited to, California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

40. Settlement Proceeds Distribution Deadline. “Settlement Proceeds Distribution Deadline” means a date that is fourteen (14) days after the Maximum Settlement Amount has been deposited by Defendant.

41. Updated Address. “Updated Address” means a mailing address that was updated by a reasonable address verification measure of the Settlement Administrator or by an updated mailing address provided by the United States Postal Service for a Class Member or PAGA Member.

42. Workweek. “Workweek” means any calendar week (*i.e.*, week beginning on Sunday and ending on Saturday) in which a Class Member or PAGA Member performed work for Defendant at least one day. The Parties agree that, for purposes of determining Workweeks of Class Members and PAGA Members under this Agreement, Defendant may also calculate Workweeks by either (1) multiplying the number of Pay Periods attributable to a Class Member and/or PAGA Member by 2, or (2) calculating the number of days between the hire and termination dates and rehire and termination dates based on a 360-day year (using Microsoft Excel’s DAYS360 function which returns the number of days between two dates based on a 360-day year (*i.e.*, twelve 30-day months)) and dividing the result by 7.

RECITALS

43. The Action was filed on October 28, 2021 in the Superior Court of California, County of Santa Clara. The Complaint alleges the following causes of action: (1) Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (6) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; (7) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]; and (8) Civil Penalties Under PAGA [Cal. Lab. Code § 2699, *et seq.*]

44. Defendant filed an Answer and denied all allegations and claims asserted in the Complaint on April 14, 2022.

45. Defendant and Class Counsel, on behalf of the Named Plaintiff and Class Members, attended mediation with Kelly A. Knight, Esq. on July 14, 2022. Through settlement discussions, the Parties reached the Agreement herein. The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties supervised by an experienced employment law mediator. The Parties agree that the Agreement is entered into in good faith as to each Class Member and PAGA Member and that the Settlement is fair, reasonable, and adequate as to each Class Member and PAGA Member.

TERMS AND CONDITIONS OF SETTLEMENT

NOW THEREFORE, in consideration of the recitals listed above and the promises and warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set forth herein, Named Plaintiff, individually on behalf of herself and on behalf of the Class Members and PAGA Members and LWDA, on the one hand, and Defendant, on the other hand, agree that the Action shall be and is finally and fully compromised and settled on the following terms and conditions.

46. Non-Admission of Liability. The Parties enter into this Agreement to resolve the Action and to avoid the burden, expense, and risk of continued litigation. In entering into this

1 Agreement, Defendant does not admit, and specifically denies, that it has: (1) violated any federal,
2 state, or local law; (2) violated any regulations or guidelines promulgated pursuant to any statute or
3 any other applicable laws, regulations, or legal requirements; (3) breached any contract; or (4)
4 engaged in any other culpable, wrongful, or unlawful conduct with respect to its employees or any
5 other person or entity. Neither this Agreement, nor any of its terms or provisions, nor any of the
6 negotiations connected with it or proceedings, payouts, or other events associated with it, shall be
7 construed as an admission or concession by Defendant of any such violation(s) or failure(s) to
8 comply with any applicable law by Defendant or any Released Parties. Except as necessary in a
9 proceeding to approve, interpret, or enforce the terms of this Agreement, this Agreement and its
10 terms and provisions shall not be offered or received as evidence in any action or proceeding to
11 establish any admission on the part of Defendant or to establish the existence of any condition
12 constituting a violation of, or noncompliance with, federal, state, local or other applicable law. The
13 Parties intend this Settlement to be contingent upon the Preliminary Approval and Final Approval
14 of this Agreement; and in the event Final Approval of this Agreement is not obtained, the Parties
15 do not waive, and instead expressly reserve, their respective rights to prosecute and defend the
16 Action as if this Agreement never existed. In the event Final Approval of this Agreement is denied
17 by the Court, fails to become effective, or is reversed, withdrawn, or modified by the Court or any
18 other court with jurisdiction over the Action, the Agreement shall become null and void *ab initio*
19 and shall have no bearing on, and shall not be admissible in connection with, further proceedings in
20 the Action.

21 47. Stipulation for Class Certification. The Parties stipulate to the certification of the
22 Class for purposes of this Settlement only. If, however, the Settlement does not become final for
23 any reason, the Parties' Agreement shall become null and void *ab initio* and shall have no bearing
24 on, and shall not be admissible in connection with, class certification, whether class certification
25 would be appropriate in any other context in the Action.

26 48. Release of Settled Claims. As of the Effective Date and after payment of all funds
27 due under the terms of this Settlement, Named Plaintiff and all Settlement Class Members hereby
28 do and shall be deemed to have fully, finally, and forever released, settled, compromised,

1 relinquished, and discharged any and all Settled Claims against any and all Released Parties. The
2 Settlement includes a release of all Settled Claims during the Class Period by Settlement Class
3 Members. The Parties agree that it is their intent that the terms set forth in this Agreement will
4 release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other
5 action of any kind, by each and every Settlement Class Member to obtain any recovery based on
6 Settled Claims.

7 a. The Parties agree for settlement purposes only that, because the Class
8 Members are so numerous, it is impossible or impracticable to have each Class Member execute
9 this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature
10 of the release of Settled Claims and Settled PAGA Claims and such notice shall have the same
11 force and effect as if the Agreement were executed by each Class Member.

12 b. Named Plaintiff and Class Counsel represent, covenant, and warrant that
13 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
14 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
15 cause of action, or rights herein released and discharged, except as set forth herein.

16 c. The Parties agree that this is a settlement of disputed claims not involving
17 undisputed wages and that Labor Code Section 206.5 is therefore inapplicable.

18 49. Release of Settled PAGA Claims. As of the Effective Date and after payment of all
19 funds due under the terms of this Settlement, Named Plaintiff, individually, and on behalf of the
20 State of California and all PAGA Members, hereby does and shall be deemed to have fully, finally,
21 and forever released, settled, compromised, relinquished, and discharged any and all of the
22 Released Parties of and from any and all Settled PAGA Claims during the PAGA Period. The
23 Parties agree that it is their intent that the terms set forth in this Agreement will release any further
24 attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind,
25 by each and every PAGA Member to obtain any recovery based on the Settled PAGA Claims. All
26 PAGA Members shall release claims arising under PAGA regardless of their decision to participate
27 in the Settlement.
28

1 50. Individual Release of Claims for Named Plaintiff. In addition to all other releases
2 set forth in this Agreement, and except as to claims specifically excluded (as discussed in this
3 paragraph), Named Plaintiff makes the additional following general release of all claims, known or
4 unknown. Named Plaintiff releases the Released Parties from all claims, demands, rights,
5 liabilities, and causes of action of every nature and description whatsoever, known or unknown,
6 asserted or that might have been asserted—whether based upon federal, state or local constitutional
7 law, tort law, contract law, statute/rule/regulation, or any other legal or equitable theory of
8 recovery—arising out of, relating to, or in connection with any act or omission by or on the part of
9 any of the Released Parties committed or omitted through the execution of this Agreement. Named
10 Plaintiff also specifically agrees and acknowledges that she is waiving all claims under the Civil
11 Rights Act of 1964, the California Fair Employment and Housing Act, the Americans with
12 Disabilities Act, the Family and Medical Leave Act, the California Family Rights Act, the Age
13 Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Employee
14 Retirement Income Security Act, the Fair Labor Standards Act, the California Labor Code,
15 California’s Wage Orders, all other laws governing the payment of wages, the California
16 Government Code, and the California Business and Professions Code. (The release set forth in this
17 Paragraph shall be referred to as the “General Release”). Named Plaintiff agrees not to sue or
18 otherwise make a claim against any of the Released Parties that is in any way related to the General
19 Release to the maximum extent permitted by law. The General Release includes any unknown
20 claims Named Plaintiff does not know or suspect to exist in her favor at the time of the General
21 Release, which, if known, might have affected Named Plaintiff’s settlement with, and release of,
22 the Released Parties or might have affected her decision not to object to this Settlement or the
23 General Release. With respect to the General Release, Named Plaintiff stipulates and agrees that
24 she shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived
25 and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of
26 Section 1542 of the California Civil Code, which states:

27 “A general release does not extend to claims that the creditor or releasing party does not
28 know or suspect to exist in his or her favor at the time of executing the release and that, if

known by him or her, would have materially affected his or her settlement with the debtor or released party.”

This General Release shall not affect or bar any claims that Named Plaintiff may have for Unemployment Insurance, claims under the National Labor Relations Act, and the right to receive benefits under any retirement plan or to elect COBRA continuation of health insurance benefits. Nor shall the General Release preclude Named Plaintiff from filing a charge with any applicable administrative agency. Named Plaintiff understands and agrees, however, that by way of the General Release, she individually releases any right to recover monetary damages in an action brought by an administrative agency.

51. Settlement Payments and Calculation of Claims. Subject to final Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth herein, Defendant agrees to make a payment or payments as set forth herein totaling an amount of, but not to exceed, the Maximum Settlement Amount. The Maximum Settlement Amount shall be apportioned as follows:

a. Attorneys’ Costs. Class Counsel shall request approval of an amount not to exceed Seventeen Thousand Dollars and Zero Cents (\$17,000.00) in costs, including any litigation costs (i.e., Attorneys’ Costs), which will be paid and deducted from the Maximum Settlement Amount. Defendant will not oppose such application. Any un-awarded Attorneys’ Costs shall become part of the Net Distribution Fund for allocation to Settlement Class Members. Any reduction by the Court shall not constitute grounds for revocation or cancellation of this Agreement by Named Plaintiff. Attorneys’ Fees as specified in the subsequent paragraph and Attorneys’ Costs as specified in this paragraph shall cover all claimed and unclaimed Attorneys’ Fees, Attorneys’ Costs, and other amounts payable or awardable against Defendant for Class Counsel’s work, effort, or involvement in the Action and in carrying out the Agreement and includes any and all work, effort, or involvement to carry out the terms of the Agreement and as may be potentially or actually necessary or advisable to defend the Agreement and/or Settlement through appeal, or collateral attack or in any other forum or proceeding.

1 b. Attorneys' Fees. Class Counsel will apply to the Court for an award of
2 attorneys' fees of no more than One Hundred and Eleven Thousand Six Hundred and Sixty-Six
3 Dollars and Sixty-Seven Cents (\$111,666.67) and which represents Thirty-Three and One-Third
4 percent (33 1/3 %) of the Maximum Settlement Amount (i.e., Attorneys' Fees). The Attorneys'
5 Fees shall be paid from and be deducted from the Maximum Settlement Amount, and Defendant
6 will not oppose such application. In the event the Court approves an amount less than 33 1/3% of
7 the Maximum Settlement Amount, the un-awarded amount shall become part of the Net
8 Distribution Fund for allocation to Settlement Class Members. Any reduction by the Court shall
9 not constitute grounds for revocation or cancellation of this Agreement by Named Plaintiff. These
10 specified Attorneys' Fees and Attorneys' Costs shall be the sole payment for attorneys' fees and
11 costs and, otherwise, the Parties and Class Members and their counsel shall bear their own fees and
12 costs in connection with the Action.

13 c. Settlement Administration Costs. Class Counsel will apply to the Court for
14 approval of costs of settlement administration in an amount estimated to be up to Fifteen Thousand
15 Dollars and Zero Cents (\$15,000.00), which the Parties agree will be deducted from the Maximum
16 Settlement Amount (i.e., Settlement Administration Costs). Defendant will not oppose such
17 application. Any un-awarded amount shall become part of the Net Distribution Fund for allocation
18 to Settlement Class Members. Class Counsel will specify the amount sought for such costs, up to
19 the foregoing maximum, in Named Plaintiff's motion for final approval of the Settlement.

20 d. Named Plaintiff's Service Payment. Class Counsel will apply to the Court
21 for approval of an enhancement award in an amount not to exceed Seven Thousand Five Hundred
22 Dollars and Zero Cents (\$7,500.00) for Named Plaintiff to be paid from the Maximum Settlement
23 Amount for her service in furtherance of the Action and in consideration for a General Release of
24 all claims and waiver of Civil Code section 1542 rights by Named Plaintiff (i.e., the Service
25 Payment). Defendant will not oppose such application. Any un-awarded amount shall become part
26 of the Net Distribution Fund for allocation to Settlement Class Members. Any reduction by the
27 Court shall not constitute grounds for revocation or cancellation of this Agreement by Named
28 Plaintiff.

e. Employer Payroll Taxes. Defendant agrees to pay its share of payroll taxes and contributions in connection with the portion of the settlement allocated towards wages (which it will pay in addition to the Maximum Settlement Amount).

f. PAGA Allocation and PAGA Payment(s). Pursuant to California Labor Code Sections 2698, *et seq.*, the Parties designate Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Maximum Settlement Amount to resolve the Settled PAGA Claims (i.e., the PAGA Allocation). Pursuant to the California Labor Code, seventy-five percent (75%) of the PAGA Allocation, which is Twenty-Two Thousand and Five Hundred Dollars and Zero Cents (\$22,500.00), will be paid to the LWDA. The remaining Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) (“Net PAGA Distribution Amount”) shall be paid to PAGA Members on a *pro rata* basis based on the number of Workweeks worked by the PAGA Member during the PAGA Period as follows:

i. The Settlement Administrator will determine the total number of Workweeks worked by a PAGA Member during the PAGA Period (“Qualifying PAGA Workweek(s)”) as reflected in the Class List to be provided by Defendant to the Settlement Administrator;

ii. Each PAGA Member is eligible to receive a *pro rata* share of the Net PAGA Distribution Amount based on his or her share of the total number of Qualifying PAGA Workweeks worked.

iii. The value of a single Qualifying PAGA Workweek shall be determined by dividing the Net PAGA Distribution Amount by the total number of Qualifying PAGA Workweeks worked by all PAGA Members. Each PAGA Member shall receive a PAGA Payment equal to his or her Qualifying PAGA Workweeks multiplied by the value of a single Qualifying PAGA Workweek. PAGA Members shall receive their respective PAGA Payments regardless of whether they opt out with respect to their class claims.

g. Settlement Payments to Settlement Class Members. Settlement Payments to the Settlement Class Members will be calculated as follows:

i. The Settlement Administrator will determine the total number of Workweeks worked by Settlement Class Members during the Class Period (“Qualifying Workweek(s)”) as reflected in the Class List to be provided by Defendant to the Settlement Administrator;

ii. Each of the Class Members is eligible to receive a *pro rata* share of the Net Distribution Fund based on his or her share of the total number of Qualifying Workweeks worked.

iii. The value of a single Qualifying Workweek shall be determined by dividing the Net Distribution Fund by the total number Qualifying Workweeks by all Settlement Class Members. Each Settlement Class Member shall receive a gross individual payment (“Individual Settlement Payment”) equal to his or her Qualifying Workweeks multiplied by the value of a single Qualifying Workweek.

h. The Parties agree that under no circumstances shall Defendant be obligated to pay any amount under this Agreement to any Class Member other than all Settlement Class Members and PAGA Members.

i. The Parties acknowledge and agree that the formula used to calculate Settlement Payments and PAGA Payments does not imply that all of the elements of damages covered by the release are not being taken into account.

52. No Credit Toward Benefit Plans. The Settlement Payments made to Settlement Class Members and PAGA Payments made to PAGA Members under this Agreement shall not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Class Members or PAGA Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’ intention that this Agreement will not affect any rights, contributions, or amounts to which any Settlement Class Members and PAGA Members may be entitled under any benefit plans.

53. Taxation of Settlement Proceeds.

1 a. The Parties agree that the Settlement Payments shall be allocated as follows:
2 thirty-three and one-third percent (33 1/3 %) will be allocated to wages, and subject to all
3 applicable employee state and federal tax withholdings; thirty-three and one-third percent (33 1/3
4 %) will be considered penalties; and thirty-three and one-third percent (33 1/3 %) shall be allocated
5 to interest and any other non-wage related amount. The payment for wages shall be reported on an
6 IRS Form W-2. The payments for penalties, interest, and other non-wage related amounts will be
7 reported on an IRS Form 1099.

8 b. The PAGA Payments to PAGA Members will be designated entirely as
9 payments for alleged penalties.

10 c. The Settlement Administrator shall calculate, withhold from the Individual
11 Settlement Payments, and remit to applicable governmental agencies sufficient amounts, if any, as
12 may be owed by Settlement Class Members for applicable employee taxes. The Settlement
13 Administrator will issue appropriate tax forms, as required, to each such Settlement Class Member
14 and PAGA Member consistent with the above allocations.

15 d. All Parties represent that they have not received, and shall not rely on,
16 advice or representations from other Parties or their agents regarding the tax treatment of payments
17 under federal, state, or local law. In this regard, Defendant makes no representations regarding the
18 taxability of the Settlement Payments, PAGA Payments, or any other payments made under this
19 Agreement.

20 e. Class Counsel will be issued an IRS Form 1099 for the Attorneys' Costs and
21 Attorneys' Fees awarded by the Court.

22 f. Named Plaintiff will be issued IRS Form 1099s for any Service Payment
23 approved by the Court. The Service Payment payable to Named Plaintiff shall be in addition to the
24 Settlement Payment and, if applicable, PAGA Payment that she will receive.

25 54. Provisional Approval of Settlement. Named Plaintiff shall file a motion in the
26 Action and take all other necessary steps to request that the Court enter the Preliminary Approval
27 Order based on an agreed-upon Settlement schedule, subject to Court approval, including:
28

1 a. Seeking class certification on the terms set forth in this Agreement solely for
2 purposes of Settlement;

3 b. Preliminarily approving the proposed Settlement and this Agreement,
4 including the payments to the Settlement Class Members, Class Counsel, Named Plaintiff, PAGA
5 Members, the Settlement Administrator, and the LWDA;

6 c. Preliminarily approving the appointment of Named Plaintiff as
7 representative of the Class for settlement purposes;

8 d. Preliminarily approving the appointment of counsel for Named Plaintiff as
9 Class Counsel;

10 e. Appointing and approving the Settlement Administrator, to comply with the
11 duties and obligations as required by this Agreement;

12 f. Approving the form of the Class Notice mutually agreed by the Parties;

13 g. Scheduling the Final Approval Hearing for consideration of final approval of
14 this Agreement;

15 h. Approving the procedure to submit an Opt Out Request, Objection, or
16 Dispute;

17 Defendant shall not oppose Class Counsel's motions for preliminary approval and
18 final approval of the Settlement so long as the motions and supporting papers are consistent with
19 the terms of this Agreement. Class Counsel shall provide Defendant with five (5) business days to
20 review and provide comments on the motions for preliminary and final approval of the Settlement
21 before the motion and supporting papers are filed with the Court. Failure of the Court to grant a
22 Preliminary Approval Order will be grounds for the Parties to terminate the Settlement and the
23 terms of the Agreement, provided that, should the Court fail to approve this Settlement for any
24 reason, the Parties first agree that they will return to and attend mediation with a mutually agreed
25 mediator in an effort to reach a settlement that may be approved by the Court. A request by the
26 Court for supplemental brief, or a preliminary denial pending additional briefing, shall not be
27 deemed a denial of preliminary approval. To the extent the Court requests further or supplemental
28 briefing, the Parties will work in good faith to address the Court's concerns and questions.

1 55. Notice Procedure.

2 a. *Class and PAGA Member Data.* Within fourteen (14) calendar days after
3 notice of entry of the Preliminary Approval Order, Defendant shall provide to the Settlement
4 Administrator Microsoft Office Excel data file(s) identifying for each Class Member: (1) full
5 name; (2) last known address; (3) last known telephone number, if known; (4) social security
6 number, if known; (5) start and end dates of active employment for Class Members; (6) data
7 necessary to determine Qualifying Workweeks for each Class Member; (7) data necessary to
8 determine Qualifying PAGA Workweeks for each PAGA Member; and (8) any other information
9 required by the Settlement Administrator in order to effectuate the terms of the Settlement
10 (collectively referred to as the “Class List”). The Settlement Administrator will keep the Class List
11 confidential and shall not provide to anyone, including Class Counsel absent express written
12 approval from Defendant, and shall use it only for the purposes described herein, take adequate
13 safeguards to protect confidential or private information, and return or certify the destruction of the
14 information upon completion of the Settlement Administration process.

15 b. *Settlement Administrator Duties.* Prior to mailing the Class Notice, the
16 Settlement Administrator will update the addresses for the Class Members and PAGA Members
17 using the National Change of Address database and other available resources deemed suitable by
18 the Settlement Administrator. To the extent this process yields a different address from the one
19 supplied by Defendant (“Updated Address”), that Updated Address shall replace the address
20 supplied by Defendant (i.e., Last Known Address) and be treated as the new Last Known Address
21 for purposes of this Agreement and for subsequent mailings in particular.

22 c. *Notice Process.* Within fourteen (14) days following receipt of the Class
23 List, the Settlement Administrator shall prepare and mail the approved Class Notice. The
24 Settlement Administrator shall deliver the Class Notice by First-Class U.S. Mail to each Class
25 Member and PAGA Member’s Last Known Address or Updated Address (if applicable).

26 d. *Opt Out Request.* Any Class Member may exclude himself or herself from
27 the Settlement. Any such Opt Out Request must be submitted to the Settlement Administrator in
28

1 writing on or before the Response Deadline. Opt Out Requests do not apply to the Settled PAGA
2 Claims and will not exclude PAGA Members from the release of Settled PAGA Claims.

3 e. *Objections.* Any Settlement Class Member may object to the Settlement by
4 submitting an Objection to the Settlement Administrator on or before the Response Deadline. Any
5 Settlement Class Member may also choose to appear at the Final Approval Hearing to state their
6 objection. The Parties shall be permitted to file responses to any Objections no later than five (5)
7 court days prior to the Final Approval Hearing. At no time shall any of the Parties or their counsel
8 seek to solicit or otherwise encourage Settlement Class Members to submit any Objections to the
9 Settlement or appeal from the Order of Final Approval and/or Final Judgment. Class Counsel shall
10 not represent any Settlement Class Members with respect to any such Objections. The Settlement
11 Administrator shall file or otherwise submit to the Court and serve on the Parties all Objections
12 received by the Settlement Administrator within ten (10) days after the Response Deadline.

13 f. *Disputes.* Class Members will have the right to challenge the number of
14 Qualifying Workweeks and/or Qualifying PAGA Workweeks allocated to them. Class Members
15 shall have until the Response Deadline to submit to the Settlement Administrator their dispute *in*
16 *writing* (“Dispute”) at the address indicated on the Class Notice. Each Dispute must (1) contain the
17 name, address, and telephone number of the Class Member and the case name and number of the
18 Action; (2) be signed by the Class Member; (3) be postmarked, e-mailed, or fax stamped on or
19 before the Response Deadline and returned to the Settlement Administrator at the specified
20 address, e-mail address, or fax number; (4) clearly state the number of Qualified Workweeks
21 and/or Qualified PAGA Workweeks he or she believes is correct; and (5) attach any documentary
22 evidence the Class Member has to prove the number of contented Qualified Workweeks and/or
23 Qualified PAGA Workweeks. Defendant shall have the right to respond to any Dispute submitted
24 by any Class Members. The Settlement Administrator will inform Class Counsel and Defendant’s
25 Counsel in writing of any timely submitted Disputes and will determine all such Disputes. Subject
26 to Court approval, Disputes will be resolved without hearing by the Settlement Administrator, who
27 will make a decision based on Defendant’s records and any documents or other information
28 presented by the Class Member making the Dispute, Class Counsel, or Defendant.

1 g. *Settlement Administrator Follow-Up Efforts.*

2 i. The Settlement Administrator shall re-mail by First-Class U.S. mail
3 the Class Notice returned by the Post Office with a forwarding address, and shall re-mail by First-
4 Class U.S. mail the Class Notice to any individual who personally provides an updated address to
5 the Settlement Administrator. Any re-mailing shall occur within five business days of receipt by
6 the Settlement Administrator of the returned Class Notice.

7 ii. In the event the first mailing of the Class Notice to any Class
8 Member and PAGA Member is returned without a forwarding address, the Settlement
9 Administrator will immediately perform a skip trace search using the social security number
10 provided by Defendant and National Change of Address searches, as needed, to obtain an updated
11 mailing addresses.

12 h. *Documenting Communications.* The Settlement Administrator shall date
13 stamp documents it receives, including Opt Out Requests, Objections, Disputes, and any
14 correspondences and documents from Class Members and PAGA Members.

15 i. *Settlement Administrator Declaration.* At least ten (10) days prior to the
16 filing of the motion for final approval, the Settlement Administrator shall prepare, subject to the
17 Parties' input and approval, a declaration setting forth the due diligence and proof of mailing of the
18 Class Notice, the results of the Settlement Administrator's mailings, including tracing and re-
19 mailing efforts, and the Class Members' and PAGA Members' responses to those mailing, and
20 provide additional information deemed necessary to approve the settlement.

21 j. *Settlement Administrator Written Reports.* Each week after initially mailing
22 the Class Notices and prior to the Response Deadline, the Settlement Administrator shall provide
23 the Parties with a report listing the number of Class Members that submitted Opt Out Requests and
24 Objections as well as the number of re-mailed and/or undeliverable class notices. Within seven (7)
25 days after the Response Deadline, the Settlement Administrator will provide a final report listing
26 the number of Class Members who submitted Opt Out Requests or Objections.

27 k. *Settlement Administrator Calculations of Settlement Payments.* Within
28 seven (7) days after resolving all Disputes made by Settlement Class Members, and following the

1 Final Approval Order, the Settlement Administrator shall provide to the Parties a report showing,
2 by employee ID number and without individual names, its calculation of all Settlement Payments
3 to be made to Settlement Class Members and PAGA Payments to be made to PAGA Members.
4 After receiving the Settlement Administrator's report, Class Counsel and Defendant's counsel shall
5 review the same to determine if the calculation of payments to Settlement Class Members and
6 PAGA Members is consistent with this Agreement, and shall notify the Settlement Administrator if
7 either counsel does not believe the calculation is consistent with the Agreement. After receipt of
8 comments from counsel, the Settlement Administrator shall finalize its calculation of Settlement
9 Payments and PAGA Payments, at least five (5) days prior to the distribution of such payments,
10 and shall provide Class Counsel and Defendant's Counsel with a final report listing, by employee
11 ID number and without individual names, the amount of all payments to be made to each
12 Settlement Class Member from the Net Distribution Fund and listing the amount of all payments to
13 be made to each PAGA Member from the Net PAGA Distribution Amount. The Settlement
14 Administrator will also provide information that is requested and approved by both Parties
15 regarding its duties and other aspects of the Settlement and that is necessary to carry out the terms
16 of the Settlement.

17 1. *Case Website.* The Settlement Administrator shall establish a static
18 website and, on the website, post this stipulation, any preliminary approval order and the Final
19 Approval Order and Judgment, for a duration of at least 180 days after the Effective Date,
20 unless otherwise ordered by the Court. Posting of the Final Approval Order and Judgment on
21 such website shall constitute notice of judgment to the Settlement Class, as required by
22 California Rule of Court 3.771(b).

23 56. Requirements for Recovery of Settlement Payments.

24 a. *Class Members.* No claim form is necessary to participate in the Settlement.
25 Unless a Class Member submits a valid and timely Opt Out Request, that Class Member will be a
26 Settlement Class Member, bound by the Final Judgment, and will receive a payment from the Net
27 Distribution Fund (i.e., a Settlement Payment). All Class Members except for those who timely and
28

1 validly opt out of the Settlement (i.e., Settlement Class Members) shall be bound by the release of
2 Settled Claims in this Agreement.

3 b. *PAGA Members.* All PAGA Members shall be bound by the release of
4 Settled PAGA Claims in this Agreement irrespective of whether they submit an Opt Out Request.

5 c. *Late Submissions.* The Settlement Administrator shall not accept as valid
6 any Opt Out Request postmarked after the Response Deadline. It shall be presumed that, if an Opt
7 Out Request or Objection is not postmarked by, facsimiled, or otherwise received on or before the
8 Response Deadline, the Class Member did not return the Opt Out Request or Objection in a timely
9 manner.

10 d. *Opt-Out Procedure.* A Class Member will not be entitled to opt out of the
11 Settlement established by this Agreement unless he or she submits to the Settlement Administrator
12 a timely and valid Opt Out Request.

13 i. The Settlement Administrator shall not have the authority to extend
14 the deadline for Class Members to submit an Opt Out Request absent agreement by both Parties.

15 ii. Class Members shall be permitted to rescind in writing their Opt Out
16 Request by submitting a written rescission statement to the Settlement Administrator no later than
17 the filing date of the motion for Final Approval.

18 iii. If more than ten percent (10%) of the Class Members timely opt out
19 of the Settlement, Defendant shall have the sole and absolute discretion to withdraw from this
20 Agreement within fourteen (14) days after the Response Deadline and written notice from the
21 Settlement Administrator of the final opt out rate. Defendant shall provide written notice of such
22 withdrawal to Class Counsel. In the event Defendant elects to so withdraw, the withdrawal shall
23 have the same effect as a termination of this Agreement for failure to satisfy a condition of
24 Settlement, and the Agreement shall become null and void and have no further force or effect, and
25 Defendant will be responsible for any and all Settlement Administration Costs incurred thus far.

26 57. Final Fairness Hearing, Final Approval and Final Judgment.

27 a. *Entry of Final Judgment.* At the Final Approval Hearing, Named Plaintiff
28 will request, and Defendant will concur in said request, that the Court enter a Final Judgment.

1 b. *Motion.* Named Plaintiff will draft and file a motion for final approval in
2 conformity with any requirements from the Court and will take other action to request the entry of
3 Final Judgment in accordance with this Agreement. In conjunction with the motion for final
4 approval and requesting an award of Attorneys' Costs, Attorneys' Fees, and Service Payment,
5 Class Counsel shall file a declaration from the Settlement Administrator confirming that the Class
6 Notice was mailed to all Class Members as required by this Agreement, as well as any additional
7 information Class Counsel, with the input and approval of Defendant, deems appropriate to provide
8 to the Court.

9 c. *Order.* The Parties shall take all reasonable efforts to secure entry of the
10 Final Approval Order and Final Judgment. If the Court rejects the Agreement or denies Final
11 Approval of the Settlement, this Agreement shall be void *ab initio*, and Defendant shall have no
12 obligation to make any payments under the Agreement besides any Settlement Administration
13 Costs incurred thus far. Named Plaintiff will submit a proposed Final Approval Order substantially
14 similar to the form attached hereto as **Exhibit C**. Said Final Approval Order shall contain the
15 following provisions:

16 i. Wherein the Court enters Final Judgment, finding that this
17 Agreement and Settlement is fair, just, equitable, reasonable, adequate, and in the best interests of
18 the Class; was reached as a result of intensive, serious, and non-collusive arms-length negotiations;
19 and was achieved with the aid of an experienced mediator and in good faith as to each Class
20 Member;

21 ii. Affirming that each side will bear its own costs and fees (including
22 attorneys' fees), except as provided by the Agreement, and that Defendant shall not be required to
23 pay any amounts other than as set forth in the Agreement;

24 iii. Confirming that the certification of the Class for purposes of
25 Settlement only;

26 iv. Finding that the Settlement Administration process as carried out
27 afforded adequate protections to Class Members, provided the best notice practicable, and satisfied
28 the requirements of law and due process;

- 1 v. Rejecting any objections to the Settlement;
- 2 vi. Approving the settlement of Settled PAGA Claims consistent with
- 3 the Settlement;
- 4 vii. Retaining Court jurisdiction after entry of judgment to oversee
- 5 administration and enforcement of the terms of the Agreement; and
- 6 viii. Requiring the Parties to carry out the provisions of this Agreement.

7 58. Notice to the Labor and Workforce Development Agency. Class Counsel is

8 responsible for complying with all requirements of the PAGA governing notice to the LWDA of

9 settlement and/or final judgment. Specifically, Class Counsel will provide a copy of the proposed

10 settlement to the LWDA at the same time that it is submitted to the Court and will further provide a

11 copy of the Court's judgment to the LWDA within ten (10) days after entry of judgment or order as

12 required by Labor Code sections 2699(1)(2)-(3).

13 59. Payment of Settlement. Defendant will deposit the Maximum Settlement Amount

14 into an account established by the Settlement Administrator within fourteen (14) days of the

15 Effective Date.

16 a. The Parties agree that the Maximum Settlement Amount will qualify as a

17 settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal Revenue Code of

18 1986, as amended, and Section 1.468B-1 *et seq.* of the income tax regulations. Furthermore, the

19 Settlement Administrator is hereby designated as the "Administrator" of the qualified Settlement

20 funds for purposes of Section 1.468B-2(k) of the income tax regulations. As such, all employee

21 taxes imposed on the gross income of that settlement fund and any tax-related expenses arising

22 from any income tax returns or other reporting documents that may be required by the Internal

23 Revenue Service or any state or local taxing body will be paid from the Net Distribution Fund by

24 the Settlement Administrator.

25 b. The Settlement Administrator shall be deemed to have timely distributed

26 Settlement Payments and PAGA Payments if it places said payment in the mail (First-Class U.S.).

27 If the Settlement Administrator receives notice from Settlement Class Members or PAGA

28 Members that they have not received their settlement check due to changes of address or other

1 circumstances, the Settlement Administrator shall make reasonable efforts to ensure the initial
2 payment is cancelled and re-mail the Settlement Payment to the Settlement Class Member and/or
3 PAGA Payment to the PAGA Member.

4 c. The distribution of Attorneys' Costs, Attorneys' Fees, Service Payment,
5 Settlement Administration Costs, and LWDA's portion of the PAGA Allocation shall occur no
6 later than the Settlement Proceeds Distribution Deadline. Under no circumstances shall the
7 foregoing payments be made prior to the distribution of Settlement Payments to Settlement Class
8 Members and PAGA Payments to PAGA Members.

9 d. Settlement Class Members who are sent Settlement Payments and PAGA
10 Members who are sent PAGA Payments shall have one hundred eighty (180) days after mailing by
11 the Settlement Administrator to cash their settlement checks.

12 e. If such Settlement Class Members and/or PAGA Members do not cash their
13 checks within the one hundred eighty (180) day period, those checks will become void and a stop
14 payment will be placed on the uncashed checks. In the event settlement checks that are not cashed
15 within one hundred eighty (180) days of mailing, or are returned to the Settlement Administrator,
16 the Settlement Administrator shall send the uncashed funds to Legal Aid At Work, a jointly
17 selected non-profit organization in compliance with California Code of Civil Procedure section
18 384. Settlement Class Members and PAGA Members who fail to deposit or negotiate their check(s)
19 in a timely fashion shall remain subject to the terms of the Agreement and the Final Judgment.

20 f. Upon completion of administration of the Settlement, the Settlement
21 Administrator shall provide written certification of such completion to the Court, Class Counsel,
22 and Defendant's Counsel.

23 60. Binding Effect of Agreement on Settlement Class Members and PAGA Members.
24 Subject to final Court approval, all Settlement Class Members and PAGA Members shall be bound
25 by this Agreement and Final Judgment shall be entered in the Action.

26 61. Waiver of Appeal. Subject to preliminary and final approval of this Settlement,
27 Named Plaintiff and all Class Members, except those Class Members who make timely and valid
28 Objections pursuant to the terms of this Agreement, expressly waive the right to appeal.

1 62. Automatic Voiding of Agreement if Settlement Not Finalized. If for any reason the
2 Effective Date does not occur, the Settlement shall be null and void and the orders, judgment, and
3 dismissal to be entered pursuant to this Agreement shall be vacated; and the Parties will be returned
4 to the status quo prior to entering this Agreement with respect to the Action, as if the Parties had
5 never entered into this Agreement. In addition, in such event, the Agreement and all negotiations,
6 court orders, and proceedings relating thereto shall be without prejudice to the rights of any and all
7 Parties hereto, and evidence relating to the Agreement and all negotiations shall not be admissible
8 or discoverable in the Action or otherwise in any other proceeding.

9 63. No Injunctive Relief. The Parties agree that the Settlement does not include
10 injunctive relief against Defendant or the Released Parties.

11 64. Pro Rata Adjustment to Maximum Settlement Amount Based on Workweeks.
12 Defendant provided among other things, a sample class list prior to the Parties' July 14, 2022
13 mediation that contained, among other things, the hire and termination dates and rehire and
14 termination dates of Class Members for the period from October 28, 2017 to July 14, 2022. Using
15 this class list, Class Counsel and Defendant's Counsel estimated 13,947 Workweeks worked by all
16 Class Members for the period from October 28, 2017 through July 14, 2022. Accordingly, if the
17 actual number of Workweeks for Class Members for the period from October 28, 2017 through
18 July 14, 2022 *exceeds* the 13,947 estimate by more than ten percent (10%) (i.e., is 15,342 or more),
19 the Parties agree the Maximum Settlement Amount shall be increased *pro rata* according to the
20 percentage that the actual Workweek count is greater than 15,342. This provision is tied to the
21 Class Period as defined herein, meaning it will apply from October 28, 2017 through July 14, 2022.

22 65. Destruction or Return of Evidence. Upon distribution of all settlement funds, the
23 Parties shall destroy all confidential documents related to the Complaint. Within twenty-one (21)
24 days of the distribution of all payments described in this Agreement, Class Counsel shall sign a
25 declaration confirming the destruction of all Defendant's confidential information, including but
26 not limited to, employees' ID numbers, timekeeping data, and payroll information related to the
27 Class Members.
28

1 66. Modification in Writing. This Agreement may be altered, amended, modified or
2 waived, in whole or in part, only in a writing signed by counsel for the Parties and, if a material
3 change, approved by the Court. Any waiver of any provision of this Agreement shall not constitute
4 a waiver of any other provision of this Agreement unless expressly so indicated.

5 67. Ongoing Cooperation. Named Plaintiff and Defendant, and each of their respective
6 counsel, shall cooperate in good faith to execute all documents and perform all acts necessary and
7 proper to effectuate and implement the terms of this Agreement, including but not limited to
8 drafting and submitting the Motions for Preliminary and Final Approval, and defending the
9 Agreement and Final Judgment against objections and appeals. The Parties to this Agreement shall
10 use their best efforts, including all efforts contemplated by this Agreement and any other efforts
11 that may become necessary by order of the Court or otherwise, to effectuate this Agreement and
12 the terms set forth herein.

13 68. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they
14 have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer,
15 or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
16 action, or rights herein released and discharged except as set forth herein.

17 69. Binding on Successors. This Agreement shall be binding and shall inure to the
18 benefit of the Parties and their respective successors, assigns, executors, administrators, heirs, and
19 legal representatives, including the Released Parties.

20 70. Integration/Entire Agreement. The Parties warrant that no promise or inducement
21 has been offered or made to any of the Parties except as set forth herein. This Agreement
22 constitutes the full, complete and entire understanding, agreement and arrangement between
23 Named Plaintiff and the Class Members and PAGA Members on the one hand, and Defendant and
24 Released Parties on the other hand, with respect to the Settlement of the Action and the Settled
25 Claims and Settled PAGA Claims against the Released Parties. This Agreement supersedes any
26 and all prior oral or written understandings, agreements, and arrangements, written or oral, express
27 or implied, between the Parties with respect to the Settlement of the Action and the Settled Claims
28 and Settled PAGA Claims against the Released Parties. The Parties explicitly recognize California

Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to be construed according to its terms, and may not be varied or contradicted by extrinsic evidence, and agree that no such extrinsic oral or written representations or terms shall modify, vary, or contradict the terms of this Agreement.

71. Execution in Counterparts. This Agreement may be signed in one or more counterparts. A photographic, scanned, or facsimile copy of signatures shall be treated as an original signature for all purposes. All executed copies of this Agreement, and photocopies thereof (including facsimile or email copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

72. Captions. The captions and section numbers in this Agreement are inserted for the reader's convenience and in no way define, limit, construe, or describe the scope or intent of the provisions of this Agreement.

73. Governing Law. This Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of the State of California without regard to otherwise applicable principles of conflicts of laws.

74. Invalidity of Any Provision. Before declaring any provision of this 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 Agreement valid and enforceable.

75. Enforcement and Continuing Jurisdiction of the Court. To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure § 664.6. The Court shall retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court may award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken and based on an alleged violation of any material term of the Agreement.

76. Fair and Reasonable; Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement, which they believe represents a fair,

adequate, and reasonable resolution of the Action. Accordingly, this Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

77. Resolution of Disputes. The Parties agree to refer any disputes related to the drafting of the Agreement and attached documents to mediator, Kelly A. Knight, Esq.

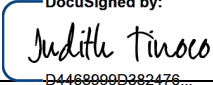
78. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel.

79. Voluntary Agreement. The Parties acknowledge that they have entered into this Settlement Agreement voluntarily, on the basis of their own judgment and without coercion, duress, or undue influence of any Party, and not in reliance on any promises, representations, or statements made by the other Parties other than those contained in this Agreement. Each of the Parties hereto expressly waives any right she/it might ever have to claim that this Agreement was in any way induced by fraud.

80. Parties' Authority. The signatories hereby represent that they are fully authorized to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

IT IS SO AGREED:

1 Dated: 8/31/2022, 2022

By: 
JUDITH CORTES TINOCO

2
3
4 Dated: August 26, 2022

MOON & YANG, APC

5
6
7 By: 
Kane Moon
Allen Feghali
Jacquelynne VanEmmerik
Attorneys for Plaintiff Judith Cortes Tinoco

8
9
10 Dated: , 2022

11
12 By: _____
SWA SERVICES GROUP, INC.
13 By: _____

14
15 Dated: , 2022

HOGE FENTON JONES & APPEL, INC.

16
17 By: _____
18 Sarju A. Naran
19 Maysa Saeed
20 Attorneys for Defendant SWA Services Group,
21 Inc.

1 Dated: _____, 2022

2 By: _____
3 JUDITH CORTES TINOCO

4 Dated: August 26, 2022

5 MOON & YANG, APC

6
7 By: Jacquelyne VanEmmerik
8 Kane Moon
9 Allen Feghali
10 Jacquelyne VanEmmerik
11 *Attorneys for Plaintiff Judith Cortes Tinoco*

12 Dated: 09/07/2022, 2022

13 By: [Signature]
14 SWA SERVICES GROUP, INC.
15 By: Solomon Wong
16 CEO

17 Dated: August 29, 2022

18 HOGE FENTON JONES & APPEL, INC..

19 By: [Signature]
20 Sarju A. Naran
21 Maysa Saeed
22 *Attorneys for Defendant SWA Services Group,*
23 *Inc.*

EXHIBIT A

NOTICE OF CLASS AND PAGA ACTION SETTLEMENT
SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

Judith Cortes Tinoco v. SWA Services Group, Inc., Case Number 21CV389519

PLEASE READ THIS NOTICE

A class and representative action under the Private Attorneys General Act, California Labor Code sections 2699, *et seq.* (“PAGA”) against Defendant SWA Services Group, Inc. (“SWA Services”) has been preliminarily approved for settlement. In the Lawsuit, Plaintiff Judith Cortes Tinoco (“Plaintiff”) alleges that SWA Services failed to properly compensate Class Members for all hours worked, failed to provide Class Members with compliant meal and/or rest periods or compensation in lieu thereof, failed to reimburse necessary business expenses, failed to provide accurate wage statements, failed to timely pay all wages owed during employment and upon termination, failed to maintain accurate payroll records, violated California Business and Professions Code sections 17200, *et seq.*, and owes civil penalties to the Labor and Workforce Development Agency (“LWDA”) and PAGA Members under the Private Attorneys General Act of 2004 (“PAGA”). SWA Services denies these allegations and contends that it complied with applicable law.

“Class” or “Class Member(s)” is defined as: all current and former hourly-paid or non-exempt employees who have worked for Defendant in the State of California at any time from October 28, 2017 through July 14, 2022 (“Class Period”). “PAGA Member(s)” is defined as: all Class Members who are employed or have been employed by Defendant in the State of California at any time from October 28, 2020 through July 14, 2022 (“PAGA Period”).

You have been identified by SWA Services’ records as a Class Member in the above-entitled action, and as such, you are subject to the terms of the Joint Stipulation of Class and PAGA Action Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) preliminarily approved by the Court. Please read this notice carefully. It may affect your legal rights.

YOUR LEGAL RIGHTS AND OPTIONS WITH RESPECT TO THE SETTLEMENT	
Participate in the Settlement	If you want to remain in the Class, be bound by the Settlement, and receive your Individual Settlement Payment and, if eligible, PAGA Payment , then you do not need to do anything.
Exclude Yourself From the Settlement	If you do not want to be bound by the Settlement, you should follow the instructions in Section 6 to exclude yourself. If you exclude yourself, you will not receive your Individual Settlement Payment, and you will not release the Settled Claims against Released Parties defined in Section 4 below. If this Settlement is approved by the Court and you are a PAGA Member, you will receive your PAGA Payment and release the Settled PAGA Claims even if you exclude yourself from the Settlement.
Object to the Settlement	If you want to object to the Settlement, you should follow the instructions in Section 7. If you object, you will still be bound by the terms of the Settlement, if approved by the Court.

1. WHY DID I GET THIS NOTICE?

You have received this Notice because SWA Services' records reflect that you are a Class Member, as defined above. This Notice provides you with information about (1) the terms of the Settlement, including the claims that are being released, (2) the total monetary amount of the Settlement, (3) your estimated Individual Settlement Payment, provided you remain a "Settlement Class Member" (i.e., a Class Member who does not request to be excluded from the Settlement), and (4) where to find additional information regarding the case and the Settlement.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT:

If you do nothing, then you will be automatically included in the Settlement and do not need to take any further action to receive a payment.

2. WHAT IS THIS CASE ABOUT?

The Class Action Complaint was filed on October 28, 2021 in the Superior Court of California, County of Santa Clara, commencing the lawsuit entitled *Judith Cortes Tinoco v. SWA Services Group, Inc.*, Case Number 21CV389519 (the "Action"). On March 15, 2022, Plaintiff filed a First Amended Class Action and Representative Action Complaint ("Operative Complaint"), adding claims against SWA Services under PAGA.

The Operative Complaint alleges that SWA Services: (1) failed to pay minimum wages for all hours worked; (2) failed to pay overtime compensation; (3) failed to provide compliant meal periods or compensation in lieu thereof; (4) failed to provide compliant rest breaks or compensation in lieu thereof; (5) failed to indemnify necessary business expenses; (6) failed to timely pay all compensation due upon termination or resignation; (7) failed to provide accurate itemized wage statements; (8) engaged in unfair competition in violation of Business and Professions Code sections 17200, *et seq.*; and (9) owes civil penalties under PAGA.

SWA Services denies any liability or wrongdoing of any kind. SWA Services contends, among other things, that it complied at all times with the California Labor Code, all IWC Wage Orders, and the Business and Professions Code, that employees were correctly and timely paid all wages, and that meal periods and rest breaks were provided as required by applicable law.

The Court has not ruled on the merits of the claims alleged in the Operative Complaint. By preliminarily approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case on the merits. Rather, the Court has determined only that there is sufficient evidence to determine, on a preliminary basis, that the proposed Settlement is fair, adequate, and reasonable and that any final determination of those issues will be made at the final approval hearing. SWA Services reserves the right, if for any reason the Settlement fails, to contest any factual or legal allegations, including to contest whether the Action should proceed as a class or representative action.

3. THE SETTLEMENT TERMS AND CALCULATION OF INDIVIDUAL SETTLEMENT PAYMENTS AND PAGA PAYMENTS

Without admitting any wrongdoing, and to avoid the business disruptions caused by litigating these claims, SWA Services has agreed to pay a Maximum Settlement Amount of Three Hundred and Thirty-Five Thousand Dollars and Zero Cents (\$335,000.00) to settle the Action.

The following amounts will be paid from the Maximum Settlement Amount:

- Attorneys' Costs not to exceed Seventeen-Thousand Dollars and Zero Cents (\$17,000.00) to Class Counsel for reimbursement of litigation costs and expenses ("Attorneys' Costs");
- Attorneys' Fees not to exceed One Hundred and Eleven Thousand Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents (\$111,666.67), which is one-third of the Maximum Settlement Amount, to Class Counsel for their work in furtherance of the Action ("Attorneys' Fees");
- Settlement Administration Costs not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for costs incurred by the Settlement Administrator ("Settlement Administration Costs");
- The PAGA Allocation in the amount of Thirty Thousand Dollars and Zero Cents (\$30,000.00) allocated to the payment of civil penalties under PAGA (the "PAGA Allocation"); and
- The Service Payment to Named Plaintiff Judith Cortes Tinoco ("Named Plaintiff") not to exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for her services as Class Representative ("Service Payment").

The amount remaining from the Maximum Settlement Amount after the above deductions is called the "Net Distribution Fund." The Net Distribution Fund will be allocated to all Settlement Class Members on a *pro rata* basis, based on their number of Qualifying Workweeks. Each such payment is called an "Individual Settlement Payment" and will be calculated as follows:

1. The Settlement Administrator will determine the number of workweeks worked by each Settlement Class Member during the Class Period ("Qualifying Workweeks");
2. The Settlement Administrator will determine the value of a single Qualifying Workweek by dividing the Net Distribution Fund by the total number Qualifying Workweeks worked by all Settlement Class Members.
3. Each Settlement Class Member shall receive a gross Individual Settlement Payment equal to his or her Qualifying Workweeks multiplied by the value of a single Qualifying Workweek.

PAGA Payment: A total of Thirty Thousand Dollars and Zero Cents (\$30,000) of the Maximum Settlement Amount has been allocated to the PAGA Settlement. Of this amount, 75% (i.e., \$22,500.000) will be paid to California's LWDA, and 25% (i.e., \$7,500.000) (the "Net PAGA Distribution Amount") will be paid on a *pro rata* basis to PAGA Members. Each such payment is called a "PAGA Payment" and will be calculated as follows:

1. The Settlement Administrator will determine the number of workweeks worked by PAGA Members during the period from October 28, 2020 through July 14, 2022 (“Qualifying PAGA Workweeks”);
2. The Settlement Administrator will determine the value of a single Qualifying PAGA Workweek by dividing the Net PAGA Distribution Amount by the total number Qualifying PAGA Workweeks worked by all PAGA Members.
3. Each PAGA Member shall receive a PAGA Payment equal to his or her Qualifying PAGA Workweeks multiplied by the value of a single Qualifying PAGA Workweek.

You have been credited with [REDACTED] Qualifying Workweeks. Based on these Qualifying Workweeks, your gross Individual Settlement Payment, prior to any applicable withholdings, is estimated to be \$ [REDACTED].

You have been credited with [REDACTED] PAGA Qualifying Workweeks. Based on these PAGA Qualifying Workweeks, your PAGA Payment is estimated to be \$ [REDACTED].

If you dispute the above information, you may submit a written dispute to the number of Qualifying Workweeks and/or Qualifying PAGA Workweeks allocated to you (“Dispute”) to the Settlement Administrator. Your Dispute must (1) contain your name, address, and telephone number and the case name and number of the Action (i.e., *Judith Cortes Tinoco v. SWA Services Group, Inc.*, Superior Court of California, County of Santa Clara, Case Number 21CV389519); (2) be signed by you; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Settlement Administrator at the address or fax number listed below; (4) clearly state the number of Qualified Workweeks and/or Qualified PAGA Workweeks you believe is correct; and (5) attach any documentary evidence you have to prove the number of contended Qualified Workweeks and/or Qualified PAGA Workweeks.

[Settlement Administrator]
[contact info including e-mail address]

Thirty-Three and One-Third percent (33 1/3%) of each Individual Settlement Payment will be allocated to wages and subject to all applicable employee state and federal tax withholdings; Thirty-Three and One-Third percent (33 1/3%) of each Individual Settlement Payment will be considered penalties; and Thirty-Three and One-Third percent (33 1/3%) of each Individual Settlement Payment shall be allocated to interest and any other non-wage related amount. The amount allocated as wages will be reported on an IRS form W-2, and the remaining amount allocated as penalties, liquidated damages, interest and other non-wage payments will be reported on an IRS form 1099. One hundred percent (100%) of each PAGA Payment will be allocated as penalties and be reported on an IRS form 1099.

In addition to the Maximum Settlement Amount, SWA Services will pay all employer-payroll taxes and contributions in connection with the portion of the Settlement allocated towards wages.

Class Members are responsible for paying taxes on any amounts received. This Notice is not tax advice and you should consult your tax advisor. Checks will be valid and negotiable for one hundred and eighty (180) days. After that, checks will become void and a stop payment will be placed on the uncashed checks. Settlement checks that are not cashed within one hundred and eighty (180) days of mailing, or are returned to the Settlement Administrator, will be cancelled and the Settlement Administrator shall send the funds associated with uncashed checks to Legal Aid At Work, a jointly selected non-profit organization. Class Members who do not timely cash their checks should contact the administrator to determine how they can obtain their payment. **Class Members will be bound by the Settlement even if they do not cash their settlement checks.**

4. WHAT AM I RELEASING AS A CLASS MEMBER UNDER THE SETTLEMENT?

If you do nothing, you will receive your Individual Settlement Payment.

If and when the Court grants final approval of the Settlement, as of the Effective Date (as defined in the Agreement), all Class Members who do not opt out of the Settlement (i.e., all Settlement Class Members) do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Settled Claims against any and all Released Parties.

“Released Parties” means Defendant and each of its owners, members, partners, shareholders, agents (including, without limitation, investment bankers, accountants, insurers, reinsurers, attorneys, and any past, present, or future officers, directors, and employees), servants, assigns, subsidiaries, affiliates, independent contractors, volunteers, predecessors, successors, parent companies and organizations, and any and all other persons, firms, companies, and corporations in which Defendant may have an interest.

“Settled Claims” are all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, arising during the Class Period that each Class Member had, now has, or may hereafter claim to have against the Released Parties and that were asserted in the Complaint, or that could have been asserted in the Complaint based on any of the facts alleged in the Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. The Settled Claims specifically include, but are not limited to, claims for: (1) Violation of California Labor Code §§ 1194, 1194.2, 1197, and 1197.1 (failure to pay minimum and straight time wages); (2) Violation of California Labor Code §§ 510 and 1198 (failure to pay overtime wages); (3) Violation of California Labor Code §§ 226.7 and 512(a) (failure to provide compliant meal periods and associated premiums); (4) Violation of California Labor Code § 226.7 (failure to provide compliant rest periods and associated premiums); (5) Violation of California Labor Code §§ 2800 and 2802 (failure to indemnify business expenses); (6) Violation of California Labor Code §§ 201, 202 and 203 (failure to timely pay final wages); (7) Violation of California Labor Code § 204 (failure to timely pay wages during employment); (8) Violation of California Labor Code § 226(a) (failure to provide compliant wage statements); (9) Violation of California Labor Code § 1174(d) (failure to keep requisite payroll records); (10) Violation of California Business & Professions Code §§ 17200, *et*

seq.; and (11) incorporated or related claims asserted through the Private Attorneys General Act (“PAGA”) for any of the above alleged California Labor Code violations.

5. WHAT AM I RELEASING AS A PAGA MEMBER UNDER THE SETTLEMENT?

If and when the Court grants final approval of the Settlement, as of the Effective Date (as defined in the Agreement), and after payment of all funds due under the terms of the Settlement, all PAGA Members do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the Released Parties of and from any and all Settled PAGA Claims.

“Settled PAGA Claims” means any of the Settled Claims that may serve as a basis for any claim under the PAGA for *any* of the California Labor Code violations and/or violations of Wage Orders alleged within the Complaint, including, but not limited to, California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

Released Parties is defined in Section 4 of this Notice, above.

PAGA MEMBERS CANNOT OPT-OUT OR EXCLUDE THEMSELVES FROM THE PAGA SETTLEMENT OR THE RELEASE OF SETTLED PAGA CLAIMS, AND THEY WILL RECEIVE A PAGA PAYMENT EVEN IF THEY OPT-OUT OF THE CLASS SETTLEMENT.

6. WHAT IF I DON’T WANT TO PARTICIPATE IN THE CLASS SETTLEMENT?

You have the right to request exclusion from the Settlement as a Class Member and with regards to the settlement of Settled Claims, but you are not able to exclude yourself as a PAGA Member. To exclude yourself as a Settlement Class Member, you should submit a written request for exclusion to the Settlement Administrator (“Opt Out Request”) at the address or fax number listed in Section 3 of this Notice, above.

A valid and complete Opt Out Request must (1) contain the name, address, and telephone number of the Class Member requesting exclusion and the case name and number of the Action (i.e., *Judith Cortes Tinoco v. SWA Services Group, Inc.*, Superior Court of California, County of Santa Clara, Case Number 21CV389519); (2) be signed by the Class Member; (3) be postmarked, e-mailed, or fax stamped on or before **[Response Deadline]** and returned to the Settlement Administrator at the specified address or fax number listed in Section 3 of this Notice, above; and (4) contain a statement substantially similar to:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS CLAIMS IN THE *JUDITH CORTES TINOCO v. SWA SERVICES GROUP, INC.* LAWSUIT. I UNDERSTAND THAT THE PAGA CLAIM WILL STILL BE RELEASED AND SETTLED.”

It is your responsibility to ensure that the Settlement Administrator timely receives your request to be excluded from the Settlement. Unless you timely request to be excluded from the Settlement, you will be bound by the judgment upon final approval of the Settlement.

Class Members who request to be excluded from the Settlement will NOT receive their Individual Settlement Payment, and will not release any of the Settled Claims. However, Class Members who are also PAGA Members will receive their PAGA Payment and will release the Settled PAGA Claims regardless of whether they submit an Opt Out Request.

7. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Settlement Class Member may object to the Settlement or to any settlement term. If you wish to object, you may submit your objection in writing to the Settlement Administrator (“Objection”) at the specified address, e-mail address, or fax number listed in Section 3 of this Notice, above. A valid and timely Objection should (1) contain the name, address, and telephone number of the Settlement Class Member objecting and the case name and number of the Action (i.e., *Judith Cortes Tinoco v. SWA Services Group, Inc.*, Superior Court of California, County of Santa Clara, Case Number 21CV389519); (2) be signed by the Settlement Class Member; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Settlement Administrator at the specified address or fax number listed in Section 3 of this Notice, above; and (4) give the legal and factual basis for their objection.

Filing an objection will **not** exclude you from the Settlement. If the Court grants final approval of the Settlement, you will still receive an Individual Settlement Payment and you will be barred from pursuing the Settled Claims. **Do not file both an Objection and Opt Out Request.**

8. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing is scheduled to take place on _____, at _____ a.m. in Department _____ of the Superior Court of the State of California, County of Santa Clara, located at 191 North First Street San Jose, CA 95113-1090.

9. WHO ARE THE ATTORNEYS?

Attorneys for Plaintiff and the Class are:

Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
MOON & YANG, APC
1055 West Seventh Street, Suite 1880
Los Angeles, California 90017
Tel: (213) 232-3128

Attorneys for SWA Services are:

Sarju A. Naran, Esq.
Maysa Saeed, Esq.
HOGE FENTON JONES & APPEL, INC.
55 South Market Street, Suite 900
San Jose, California 95113
Tel: (408) 287-9501

The Court has decided that the Attorneys for Plaintiff and the Class are qualified to represent the Settlement Class Members. Other than the Attorneys’ Fees and Attorneys’ Costs approved by the Court, which will be paid out of the Maximum Settlement Amount, you will not be charged for their services.

10. SHOULD I GET MY OWN LAWYER?

You do not need to get your own lawyer. If you want your own lawyer to speak for you or appear in Court, you have the right to hire one, but you will have to pay for that lawyer yourself.

11. FURTHER INFORMATION

The foregoing is only a summary of the Settlement. For the precise terms and conditions of the Settlement and other important case documents, please see the settlement agreement available at www._____.com, by contacting Class Counsel at the address or telephone number provided in Section 9, or by visiting the office of the Clerk of the Superior Court of the State of California, County of Santa Clara, located at 191 North First Street San Jose, CA 95113-1090, or the Court's website www.scscourt.org.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE
TO INQUIRE ABOUT THIS SETTLEMENT.**

EXHIBIT B

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

JUDITH CORTES TINOCO, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

SWA SERVICES GROUP, INC. a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21CV389519

[Honorable Patricia M. Lucas, Department 3]

**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT**

Complaint Filed: October 28, 2021

Trial Date: Not set

On [REDACTED], Plaintiff Judith Cortes Tinoco filed a Motion for Preliminary Approval of a Class and PAGA Action Settlement Agreement (“Motion”). The Motion was heard on [REDACTED].

NOW THEREFORE, having read and considered the Motion and all supporting documents filed therein, **IT IS HEREBY ORDERED:**

1. This Order hereby incorporates by reference the definitions of the Joint Stipulation of Class and PAGA Action Settlement (“Agreement”) as though fully set forth herein, and all terms used herein shall have the same meaning as set forth in the Agreement.

2. The putative Class is conditionally certified and approved for settlement purposes only. The Class includes all current and former hourly-paid or non-exempt employees who have worked for Defendant SWA Services Group, Inc. (“Defendant”) in the State of California at any time during the Class Period, totaling approximately Three Hundred and Fifty (350). The Class Period means from October 28, 2017 through July 14, 2022.

3. The putative Class shall be represented by Kane Moon, Allen Feghali and Jacquelyne VanEmmerik of MOON & YANG, APC (“Class Counsel”) for purposes of the Settlement in this Action. Any putative Class Member(s) may enter an appearance in the above-entitled action (“Action”), at his or her own expense, either individually or through counsel of his or her own choice.

4. The putative Class shall be represented by Plaintiff Judith Cortes Tinoco (“Named Plaintiff”).

5. The Agreement appears to be within the range of reasonableness necessary for preliminary approval by the Court. The Agreement terms appear fair, adequate, and reasonable as to all Class Members when balanced against the probable outcome of further litigation, given the risks relating to liability and damages. The Agreement terms also appear to have been supported by thorough investigation and research on behalf of Class Counsel and Defense Counsel, such that the Parties were reasonably able to evaluate their respective positions before entering into the Agreement. The Agreement terms further appear to have been reached as a result of intensive, arms-length negotiations utilizing an experienced third party neutral. The Agreement terms finally appear to enable the Parties and Court to avoid substantial additional costs by all Parties, as well

1 as the delay and risks that would be presented by the further prosecution of the Action. For these
2 reasons, the Agreement is preliminarily approved as to the terms, conditions, and all release
3 language set forth therein.

4 6. The selected Settlement Administrator, ILYM Group, Inc., shall be the putative
5 Class Settlement Administrator. Further, the Settlement Administration Costs are preliminarily
6 approved, shall be paid from the Maximum Settlement Amount (as defined in the Agreement), and
7 shall not exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00). The Settlement
8 Administrator is directed to perform all responsibilities set forth for the Settlement Administrator
9 in the Agreement.

10 7. The Final Approval Hearing shall be held on [REDACTED] at [REDACTED] before
11 the Honorable Patricia M. Lucas in Department 3 of the Superior Court of California, County of
12 Santa Clara. The purpose of the Final Approval Hearing shall be to: (a) determine whether the
13 Agreement should be finally approved by the Court as fair, reasonable and adequate; (b) determine
14 the reasonableness of Class Counsel's request for Attorneys' Fees and Attorneys' Costs; (c)
15 determine the reasonableness of the Service Payment requested for the Named Plaintiff; and (d)
16 Order entry of Final Judgment in the Action, which shall constitute a complete release with respect
17 to the Release of Settled Claims of all Settlement Class Members, the Release of Settled PAGA
18 Claims of all PAGA Members, and the General Release by the Named Plaintiff.

19 8. The Notice of Class Action and PAGA Settlement ("Class Notice") attached to the
20 Agreement as Exhibit A and attached hereto as **Exhibit A**, is approved for settlement purposes, as
21 to form and content. Further, the mailing and distribution of the Class Notice in the manner set
22 forth in Paragraph 9 of this Order meets the requirements of due process.

23 9. The Court-approved Class Notice shall be mailed via First Class U.S. Mail to the
24 Class Members in accordance with the schedule and procedures set forth in the Agreement. Such
25 schedule and procedure set forth in the Agreement provides the best notice practicable under the
26 circumstances and constitute due and sufficient notice to all persons entitled to notice. The Parties
27 may make non-material changes as necessary to the Class Notice, including to correct
8 typographical errors and insert information specific to Class Members.

1 10. Class Members may request exclusion from the Agreement by submitting a timely
2 written request to be excluded from the Class as set forth in the Agreement. In order to be valid
3 and timely, the request for exclusion, pursuant to the requirements set forth in the Class Notice
4 (“Opt Out Request”), must be postmarked and sent to the Settlement Administrator within sixty
5 (60) calendar days after the Settlement Administrator mails the Class Notice to Class Members
6 (the “Response Deadline”). A Class Member who submits a valid and timely Opt Out Request will
7 not be entitled to any Individual Settlement Payment, will not be bound by the Release of Settled
8 Claims, and will not have any right to object to the Agreement. Opt Out Requests do not apply to
9 the Settled PAGA Claims and submitting an Opt Out Request will not exclude PAGA Members
10 from the release of Settled PAGA Claims. Class Members who fail to submit valid and timely Opt
11 Out Requests (*i.e.*, Settlement Class Members) shall be bound by all terms of the Settlement and
12 any Final Judgment.

13 11. Class Members who do not request exclusion from the Settlement may object to
14 the Settlement by submitting a written objection to show cause why the Agreement should not be
15 approved, to explain why the Final Judgment in the Action should not be entered, or to present any
16 opposition to the application of Class Counsel for Attorneys’ Fees or Attorneys’ Costs or to the
17 Named Plaintiff’s request for Service Payment (“Objection”) to the Settlement Administrator on
18 or before the Response Deadline. Any Class Member who does not make his or her Objection in
19 the manner provided for in the Class Notice shall be deemed to have waived any such Objection
20 and shall be foreclosed from making any objection to the fairness or adequacy of the Agreement.

21 12. Pursuant to the Agreement, Class Members will have the right to challenge the
22 number of Qualifying Workweeks and/or Qualifying PAGA Workweeks allocated to them by
23 sending their dispute in writing (“Dispute”) to the Settlement Administrator on or before the
24 Response Deadline. Defendant shall have the right to respond to any Dispute submitted by any
25 Class Members. The Settlement Administrator will determine all such Disputes based on
26 Defendant’s records and any documents or other information presented by the Class Member
27 making the Dispute, Class Counsel, or Defendant.

1 13. The Agreement is preliminarily approved in the amount of the Maximum
2 Settlement Amount. The Maximum Settlement Amount is equal to, and shall not exceed Three
3 Hundred and Thirty-Five Thousand Dollars and Zero Cents (\$335,000.00). The Net Distribution
4 Fund shall mean the Maximum Settlement Amount less (1) the PAGA Allocation (in the amount
5 of Thirty Thousand Dollars and Zero Cents (\$30,000.00)); (2) Attorneys' Costs (not exceed
6 Seventeen-Thousand Dollars and Zero Cents (\$17,000.00)); (3) Attorneys' Fees (not exceed One
7 Hundred and Eleven Thousand Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents
8 (\$111,666.67)); (4) Settlement Administration Costs (not to exceed Fifteen Thousand Dollars and
9 Zero Cents (\$15,000.00)); and (5) the Service Payment to Named Plaintiff (not to exceed Seven
10 Thousand Five Hundred Dollars and Zero Cents (\$7,500.00)).

11 14. Upon entry of Final Judgment by the Court in accordance with the Agreement, as
12 of the Effective Date, all Settlement Class Members shall fully and finally release and discharge
13 Released Parties of all Settled Claims. Additionally, all PAGA Members shall release and
14 discharge Released Parties of all Settled PAGA Claims. Further, Plaintiff shall make a General
15 Release of all claims, known or unknown, as to the Released Parties, as set forth in Paragraph 50
16 of the Agreement.

17 16. The Court reserves the right to adjourn the date of the Final Approval Hearing
18 without further notice to the Class Members and retains jurisdiction to consider all further
19 applications arising out of or connected with the Agreement.

20 17. All further proceedings in this Action shall be stayed except such proceedings
21 necessary to review, approve, and implement the Agreement.

22 18. In the event: (i) the Court does not finally approve the Agreement as contemplated;
23 (ii) the Court does not enter an Order granting Final Approval as contemplated by the Agreement,
24 which becomes final as a result of the occurrence of the Effective Date (as defined in the
25 Agreement); (iii) Defendant elects to void the Agreement as provided under the terms of the
26 Agreement; or (iv) the Agreement does not become final for any other reason, the Agreement shall
27 be null and void and any order or judgment entered by this Court in furtherance of the Agreement
8 shall be deemed as void from the beginning. In such case, the Parties shall be returned to their

1 respective statuses as of the date and time immediately prior to the mediation which gave rise to
2 the Agreement, and the Parties shall proceed in all respects as if there had been no agreement to
3 settle this Action.

4 19. Neither the Agreement, preliminarily approved or not approved, nor any exhibit,
5 document, or instrument delivered hereunder, nor any statement, transaction, or proceeding in
6 connection with the negotiation, execution, or implementation of the Agreement, shall be
7 admissible in evidence for any purpose except seeking approval of the Agreement.

8 **IT IS SO ORDERED.**

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10 Dated: _____

11 Judge Patricia M. Lucas
12 Superior Court of the State of California
13 for the County of Santa Clara
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EXHIBIT C

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

JUDITH CORTES TINOCO, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

SWA SERVICES GROUP, INC. a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21CV389519

[Honorable Patricia M. Lucas, Department 3]

**[PROPOSED] ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT**

Complaint Filed: October 28, 2021
Trial Date: Not set

1 Plaintiff Judith Cortes Tinoco (“Named Plaintiff”), on the one hand, and Defendant SWA
2 Services Group, Inc. (“Defendant”), on the other hand, reached an agreement, subject to Court
3 approval, as represented in their Joint Stipulation of Class and PAGA Action Settlement (the
4 “Agreement”). On [REDACTED], this Court conducted a Final Approval Hearing pursuant to its
5 previous Order Granting Plaintiff’s Motion for Preliminary Approval of Class and PAGA Action
6 Settlement (the “Preliminary Approval Order”) entered herein on [REDACTED]. Due and adequate
7 notice having been given to the Class and Labor and Workforce Development Agency (“LWDA”),
8 the Court having considered all papers filed and proceedings had herein and otherwise being fully
9 informed in the matter, and good cause appearing therefore, **IT IS HEREBY ORDERED,**
10 **ADJUDGED, AND DECREED AS FOLLOWS:**

11 1. The applicable requirements of the California Code of Civil Procedure, including
12 Section 382, have been satisfied with respect to the Class and Agreement. The Class is finally
13 certified and approved for settlement purposes only. The Class includes all persons who are
14 employed or have been employed by Defendant in the State of California as hourly-paid or non-
15 exempt employees at any time during the Class Period, totaling approximately Three Hundred and
16 Fifty (350). The Class Period means from October 28, 2017 through July 14, 2022.

17 2. This Order and Final Judgment adopt and incorporate by reference the terms and
18 conditions of the Agreement, together with the definitions of terms used and contained therein.

19 3. The Court has jurisdiction over the subject matter of the Action and over all parties
20 to the Action, including all Class Members and PAGA Members.

21 4. The Class Notice given to the Class Members and PAGA Members fully and
22 accurately informed Class Members and PAGA Members of all material elements of the Agreement
23 and of their opportunity to object to or comment thereon, and their opportunity to be excluded from
24 the Settlement with respect to the Settled Claims. The Class Notice was the best notice practicable
25 under the circumstances; was valid and provided sufficient notice to all Class Members and PAGA
26 Members; and complied fully with California Code of Civil Procedure section 382, the laws of the
27 State of California, the California Constitution, due process, and other applicable law.

28 5. A full opportunity has been afforded to the Class Members and PAGA Members to

1 participate in the Final Approval Hearing, and all Class Members, PAGA Members, and other
2 persons wishing to be heard have been heard. Accordingly, the Court determines that all Class
3 Members who did not timely and properly execute an Opt Out Request are deemed Settlement Class
4 Members who are bound by this Order and Final Judgment. A list of all Class Members who timely
5 and properly excluded themselves from the Settlement is attached as Exhibit [REDACTED] to the Declaration
6 of [REDACTED]. Furthermore, the Court determines that all PAGA Members, and the LWDA
7 are bound by this Order and Final Judgment with respect to the Settled PAGA Claims.

8 6. The Court has considered all relevant factors for determining the fairness of the
9 Agreement and has concluded that all such factors weigh in favor of granting Final Approval. In
10 particular, the Court finds that the Agreement was reached following meaningful discovery and
11 investigation conducted by Class Counsel; the Agreement is the result of serious, informed,
12 adversarial, and arm's-length negotiations between the Parties; and the terms of the Agreement are
13 in all respects fair, adequate, and reasonable. In so finding, the Court has considered all of the
14 evidence presented, including evidence regarding the strength of the Named Plaintiff's case; the
15 risk, expense, and complexity of the claims presented; the likely duration of further litigation; the
16 extent of investigation and discovery completed; and the experience and views of Class Counsel.
17 Accordingly, the Court hereby approves the Agreement and expressly finds that it is, in all respects,
18 fair, reasonable, adequate, and in the best interests of the Settlement Class Members and PAGA
19 Members and hereby directs implementation of all remaining terms, conditions, and provisions of
20 the Agreement.

21 7. The Attorney's Fees to Class Counsel are hereby approved in the amount of
22 [REDACTED] as compensation for all attorney time spent on this Action
23 from inception through and including the Final Approval Hearing (and all other work related to this
24 Action), and Attorneys' Costs in the amount of [REDACTED] as reimbursement
25 of all costs incurred in furtherance of the Action, as these requests are fair and reasonable. Class
26 Counsel and the Named Plaintiff shall not be entitled to recover any additional fees or costs as a
27 result of this Action.

28 8. Settlement Administration Costs to the Settlement Administrator in the amount of

1 [REDACTED] are hereby approved as fair and reasonable.

2 9. The Service Payment to Named Plaintiff in the amount of [REDACTED] is hereby
3 approved for the Named Plaintiff's service as Class Representative and is in consideration of and
4 exchange for the Named Plaintiff's General Release of all claims as set forth in the Agreement.

5 10. The Court hereby approves settlement of the PAGA Claims for the total amount of
6 Thirty Dollars and Zero Cents (\$30,000.00), of which Twenty-Two Thousand Five Hundred Dollars
7 and Zero Cents (\$22,500.00) is payable to the LWDA and Seven Thousand Five Hundred Dollars
8 and Zero Cents (\$7,500.00) is payable to the PAGA Members, as this allocation is fair and
9 reasonable.

10 11. Entry of this Final Judgment will constitute a binding and final resolution, have full
11 *res judicata* effect, and discharge Defendant and Released Parties from liability for any and all
12 claims by Named Plaintiff, all Settlement Class Members as to all Settled Claims, and all PAGA
13 Members and the State of California as to all Settled PAGA Claims as set forth in the Agreement.

14 12. Nothing contained in the Agreement, the Preliminary Approval Order, this Order and
15 Final Judgment, or any other Order entered in this Action shall in any way or manner constitute an
16 admission or determination of liability by or against Defendant or any other Released Party with
17 respect to any of the Settled Claims, Settled PAGA Claims, and any claims settled by the Named
18 Plaintiff pursuant to her General Release, and shall not be offered in evidence in any action or
19 proceeding against Defendant, or any other Released Party in any court, administrative agency, or
20 other tribunal for any purpose whatsoever, other than to the extent necessary to enforce the
21 provisions of the Agreement or this Order.

22 13. By operation of the entry of this Order and Final Judgment, as of the Effective Date,
23 the Parties are ordered to perform their respective duties and obligations under the Agreement.

24 14. If the Agreement does not become final and effective in accord with its terms, then
25 this Order and Final Judgment shall be rendered null and void and shall be vacated, and the Parties
26 shall be returned to their respective statuses as of the date and time immediately prior to their
27 mediation which gave rise to the Agreement, and the Parties shall proceed in all respects as if there
28 had been no agreement to settle the Action.

FINAL JUDGMENT

IT IS SO ORDERED.

Judge Patricia M. Lucas
Superior Court of the State of California
for the County of Santa Clara