

JAMES F. CLAPP (SBN 145814)
jclapp@clapplegal.com
MARITA MURPHY LAUINGER (SBN 199242)
mlauinger@clapplegal.com
CLAPP & LAUINGER LLP
701 Palomar Airport Road, Suite 300
Carlsbad, California 92011
Telephone: (760) 209-6565 ext. 101
Facsimile: (760) 209-6565

Attorneys for Plaintiffs, the Putative Class, and the
Aggrieved Employees

Wendy M. Lazerson (SBN 97285)
wlazerson@sidley.com
SIDLEY AUSTIN LLP
1001 Page Mill Rd, Building 1
Palo Alto, California 94304
Telephone: (650) 565-7000
Facsimile: (650) 565-7100

Attorneys for Defendants
Liberty Mutual Insurance Company
Liberty Mutual Group Inc.

Additional Defendants' Counsel listed on next page

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

ALEX CHARALAMBOUS and BRIAN
PULLEN, individually on behalf of all others
similarly situated,

Plaintiffs,

vs.

LIBERTY MUTUAL INSURANCE COMPANY,
LIBERTY MUTUAL GROUP INC., and DOES 1
through 10, inclusive,

Defendants.

Case No. 3:22-cv-00216-EMC

**SETTLEMENT AGREEMENT AND
RELEASE OF CLASS AND
REPRESENTATIVE ACTION CLAIMS**

1 Katherine A. Roberts SBN (259486)
kate.roberts@sidley.com
2 Beth A. Scheel (SBN 202064)
bscheel@sidley.com

3
4 SIDLEY AUSTIN LLP
555 West Fifth Street
Los Angeles, California 90013
5 Telephone: (213) 896-6000
Facsimile: (213) 896-6600

6
7 Attorneys for Defendants
Liberty Mutual Insurance Company
8 Liberty Mutual Group Inc.

SETTLEMENT AGREEMENT AND RELEASE
OF REPRESENTATIVE AND CLASS ACTION CLAIMS

This Settlement Agreement and Release of Class and Representative Action Claims (“Settlement Agreement”) is made and entered into by: **(1)** Plaintiffs Alex Charalambous and Brian Pullen (“Plaintiffs”), individually and in their representative capacities on behalf of the Settlement Class, as defined below, and as private attorneys general on behalf of the State of California; and **(2)** Defendants Liberty Mutual Group Inc. and Liberty Mutual Insurance Company (“Defendants”). Plaintiffs and Defendants are collectively referred to herein as the “Parties,” or individually, a “Party.” This Settlement Agreement is subject to the approval of the Court pursuant to Federal Rule of Civil Procedure Rule 23(e) and is made for the sole purpose of attempting to consummate settlement of the action on a class-wide basis subject to the following terms and conditions. As detailed below, and subject to the terms of Section 13.1 below, in the event the Court does not enter an order granting final approval of this Settlement Agreement or the conditions precedent are not met for any reason, this Settlement Agreement shall be void and of no force or effect whatsoever.

1. DEFINITIONS

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

1.1. ACTION

“Action” shall mean the following civil action: *Alex Charalambous et al. v. Liberty Mutual Insurance Company et al.*, No. 3:22-cv-00216-EMC, currently pending before the United States District Court, Northern District of California.

1.2. ADMINISTRATIVE EXPENSES

“Administrative Expenses” shall include all reasonable costs and expenses associated with and paid to the Settlement Administrator.

1 **1.3. CLASS ATTORNEYS' FEES AND EXPENSES**

2 “Class Attorneys’ Fees and Expenses” shall mean the portion of the Gross Settlement Amount
3 attributable to Class Counsel’s attorneys’ fees and litigation expenses. The Parties agree that the
4 amount of fees and costs payable to Class Counsel shall be determined by the Court. However, in no
5 event will Class Counsel request fees of more than 33.33% of the Gross Settlement Amount (*i.e.*,
6 \$1,041,562.50).

7 **1.4. CLASS COUNSEL**

8 “Class Counsel” shall mean James F. Clapp and Marita Murphy Lauinger of Clapp &
9 Lauinger LLP.

10 **1.5. CLASS MEMBER**

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

14 **1.6. CLASS NOTICE**

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

18 **1.7. CLASS PARTICIPANTS**

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

21 **1.8. CLASS PERIOD**

22 “Class Period” shall mean the period from March 1, 2020, through February 28, 2023.

23 **1.9. CLASS REPRESENTATIVES**

24 “Class Representatives” shall mean Plaintiff Alex Charalambous and Plaintiff Brian Pullen.

25 **1.10. CLASS SETTLEMENT**

26 “Class Settlement” shall mean the settlement of the class claims embodied in this Settlement
27 Agreement, which is subject to the Court’s approval.
28

1 **1.11. COMPLAINT**

2 “Complaint” shall mean the currently operative complaint in the Action.

3 **1.12. COURT**

4 “Court” shall mean the United States District Court, Northern District of California.

5 **1.13. DEFENDANTS**

6 “Defendants” shall mean Defendants Liberty Mutual Group Inc. and Liberty Mutual
7 Insurance Company.

8 **1.14. DEFENSE COUNSEL**

9 “Defense Counsel” shall mean Defendants’ counsel of record in the Action, Wendy M.
10 Lazerson, Katherine A. Roberts, and Beth A. Scheel of Sidley Austin LLP.

11 **1.15. EFFECTIVE DATE**

12 “Effective Date” shall be the date when all of the following events have occurred: **(a)** this
13 Settlement Agreement has been executed by all Parties and by Class Counsel and Defense Counsel;
14 **(b)** the Court has given preliminary approval to the Class Settlement; **(c)** notice has been given to the
15 Settlement Class providing them with an opportunity to request exclusion from, and/or to object to,
16 the Class Settlement; **(d)** the Court has held a Final Approval and Fairness Hearing and entered a
17 final order and judgment certifying the Settlement Class and approving this Settlement Agreement;
18 and **(e)** the later of the following events: **(i)** the expiration of the period for filing any appeal, writ, or
19 other appellate proceeding opposing the Class Settlement has elapsed without any appeal, writ, or
20 other appellate proceeding having been filed; **(ii)** the dismissal of any appeal, writ, or other appellate
21 proceeding opposing the Class Settlement with no right to pursue further remedies or relief; or
22 **(iii)** any decision on any appeal, writ, or the issuance of such other final appellate order upholding the
23 Court’s final order with no right to pursue further remedies or relief. In this regard, it is the intention
24 of the Parties that the Class Settlement shall not become effective until the Court’s order approving
25 the Class Settlement is completely final and there is no further recourse by an appellant or objector
26 who seeks to contest the Class Settlement. In the event no objections are filed, the Effective Date
27 shall be the date steps (a) through (d) are completed (*i.e.*, the date that the court has entered a final
28 order and judgment certifying the Settlement Class and approving this Settlement Agreement).

1 **1.16. FINAL APPROVAL AND FAIRNESS HEARING**

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

4 **1.17. GROSS SETTLEMENT AMOUNT**

5 “Gross Settlement Amount” is the agreed upon non-reversionary settlement amount totaling
6 \$3,125,000.00 to be paid by Defendants in full settlement of the Released Claims asserted in this
7 Action, inclusive of the Administrative Expenses, the Class Attorneys’ Fees and Expenses, the
8 Incentive Awards, and PAGA Payment. Notwithstanding the foregoing definition, Defendants shall
9 be responsible to pay the employer’s share of any taxes or withholding arising from settlement
10 payments made under this Settlement.

11 **1.18. HEARING ON PRELIMINARY APPROVAL**

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

14 **1.19. INCENTIVE AWARDS**

15 “Incentive Awards” shall mean any additional monetary payment from the Gross Settlement
16 Amount that is beyond the Individual Settlement Amount provided to the Class Representatives for
17 their efforts and risks on behalf of the Settlement Class in this Action.

18 **1.20. INDIVIDUAL SETTLEMENT AMOUNT**

19 “Individual Settlement Amount” shall mean the amount which is ultimately distributed to
20 each Class Participant. The Individual Settlement Amount does not include any portion of the PAGA
21 Payment.

22 **1.21. NET SETTLEMENT AMOUNT**

23 “Net Settlement Amount” shall mean the Gross Settlement Amount minus: the Administrative
24 Expenses; the Class Attorneys’ Fees and Expenses; 75% of the PAGA Payment; and the Incentive
25 Awards.

26 **1.22. OPT OUT**

27 “Opt Out” shall refer to the process of a Class Member submitting a timely and valid request
28 for exclusion from the Class Settlement in accordance with the terms of the Class Notice and no later

1 than the Response Deadline; provided, however, that PAGA Class Members shall not be eligible to
2 opt out of the portion of the Class Settlement allocated to PAGA penalties.

3 **1.23. OPT-OUTS**

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

7 **1.24. PAGA PAYMENT**

8 “PAGA Payment” means the amount of the Gross Settlement Amount allocated to penalties
9 pursuant to the California Labor Code Private Attorney General Act of 2004 (“PAGA”), codified at
10 Labor Code sections 2698 through 2699, that the Parties have agreed is a reasonable sum to be paid
11 in settlement of the PAGA claims included in the Action, which is \$156,250 (*i.e.*, five (5) percent of
12 the Gross Settlement Amount). The PAGA Payment is subject to approval by the Court pursuant to
13 Labor Code section 2699 and shall be distributed as follows: seventy-five percent (75%) (*i.e.*,
14 \$117,187.50) to the California Labor and Workforce Development Agency (“LWDA”) and twenty-
15 five percent (25%) (*i.e.*, \$39,062.50) to the PAGA Settlement Class. Class Counsel shall give timely
16 notice of this Settlement Agreement to the LWDA pursuant to Labor Code section 2699, subdivision
17 (l)(2). In the event that the Court alters the sum allocated to PAGA penalties, the same 75/25%
18 percentages shall apply.

19 **1.25. PAGA PERIOD**

20 “PAGA Period” shall mean the period from October 4, 2020, through June 1, 2023.

21 **1.26. PAGA SETTLEMENT CLASS**

22 “PAGA Settlement Class” shall mean all individuals who are or were employed by
23 Defendants and/or any Released Party in California from October 4, 2020 through February 28, 2023.
24 For purposes of this Settlement Agreement, the Parties stipulate that the PAGA Settlement Class
25 consists of approximately 2,364 employees who worked a total of approximately 97,394 pay periods
26 during the PAGA Period.
27
28

1.27. PAGA SETTLEMENT CLASS MEMBER

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

1.28. PRELIMINARY APPROVAL DATE

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

1.29. RELEASE PERIOD

“Release Period” shall mean March 1, 2020 through June 1, 2023.

1.30. RELEASED CLAIMS

“Released Claims” shall mean those claims arising out of or related to the allegations set forth in the Complaint and/or PAGA notice to the LWDA, including any and all claims arising from the same nucleus of facts that could have been raised in the Complaint and/or PAGA notice, which arose at any time during the Release Period, including but not limited to claims for: **(1)** failure to reimburse business expenses in violation of Labor Code section 2802, including but not limited to expenses incurred for internet service, telephone service, telecommunications equipment, cost of home office equipment (such as, without limitation, computers, printers, scanners, monitors, and headsets, *et cetera*), office supplies, electricity and other utility bills, rental value of home office space, and late payment charges or fees assessed to corporate credit cards; **(2)** deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California’s Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); **(3)** statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–2699.6); and **(4)** liquidated damages, penalties, interest, attorneys’ fees, and costs based on the foregoing. The period of the release set forth in Section 11 below shall extend through the entire Release Period. The *res judicata* effect of the Judgment will be the same as that of the Release. Except as provided herein, the definition of Released Claims shall not be limited in any way by the possibility that Plaintiffs, Settlement Class Members or PAGA Settlement Class Members may discover new facts or legal theories or legal arguments not alleged in the Complaint but which

1 might serve as an alternative basis for pursuing claims, causes of action, or legal theories of relief
2 falling within the definition of Released Claims.

3 Except as set forth in Section 11.3, below, this Settlement Agreement will not release any
4 person, Party, or entity from claims, if any, by Class Members for workers' compensation,
5 unemployment, or disability benefits of any nature. Nor does it release any claims, actions, or causes
6 of action which may be possessed by Class Members other than Plaintiffs under state or federal
7 discrimination statutes, including, without limitation, the California Fair Employment and Housing
8 Act (Gov. Code, §§ 12900–12996); the Unruh Civil Rights Act (Civ. Code, § 51); the California
9 Constitution; Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000, et seq.); the Americans
10 with Disabilities Act (42 U.S.C. § 12101, et seq.); the Employee Retirement Income Security Act of
11 1974 (29 U.S.C. § 1001 et seq.); and all of their implementing regulations and interpretive guidelines.

12 **1.31. RELEASED PARTIES**

13 “Released Parties” shall mean Defendants and all of Defendants’ current or former parent
14 companies, subsidiaries, affiliates, and otherwise related entities, and any of their past, present and/or
15 future direct and/or indirect officers, directors, shareholders, agents, employees, representatives,
16 attorneys, insurers, partners, investors, administrators, members, agents, predecessors, successors,
17 assigns, divisions and joint venturers.

18 **1.32. RELEASING PARTIES**

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

25 **1.33. RESPONSE DEADLINE**

26 “Response Deadline” shall mean the date forty-five (45) days following the date on which the
27 Settlement Administrator first mails the Class Notice to the Class Members. The Response Deadline
28

1 shall be the last day on which Class Members may submit a request for exclusion and/or objection to
2 the Class Settlement.

3 **1.34. SETTLEMENT ADMINISTRATOR**

4 “Settlement Administrator” shall mean ILYM Group, Inc. (or other administrator agreed upon
5 by the Parties) which the Parties have agreed will be responsible for administration of the Class
6 Settlement and related matters.

7 **1.35. SETTLEMENT CLASS**

8 “Settlement Class” shall mean all individuals who are or were employed by Defendants
9 and/or any Released Party in California during the Class Period. For purposes of this Settlement
10 Agreement, the Parties stipulate that the Settlement Class consists of approximately 2,449 Class
11 Members who worked a total of approximately 240,994 workweeks during the Release Period.
12 “Settlement Class Member” shall mean any individual who is a part of the Settlement Class.

13 **1.36. SHARE FORM**

14 “Share Form” shall mean the *Class Action Settlement Share Form*, as set forth in the form of
15 **Exhibit 2** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class
16 Members along with the Class Notice.

17 **1.37. TAXES**

18 “Taxes” shall mean all taxes arising with respect to the Gross Settlement Amount, including
19 any taxes or tax detriments that may be imposed upon the Parties or their counsel with respect to any
20 income earned by the Gross Settlement Amount for any period during which the Gross Settlement
21 Amount does not qualify as a “Qualified Settlement Fund” for federal or state income tax purposes.

22 **2. FACTUAL AND PROCEDURAL BACKGROUND**

23 **2.1. PLAINTIFFS’ CLAIMS**

24 Plaintiffs, individually and in their representative capacities on behalf of the Settlement Class,
25 and as private attorneys general on behalf of the State of California, have alleged the following:
26 **(1)** failure to reimburse business expenses in violation of Labor Code section 2802, including but not
27 limited to internet service, telephone service, telecommunications equipment, cost of home office
28 equipment (such as, without limitation, computers, printers, scanners, monitors, and headsets, *et*

1 *cetera*), office supplies, electricity and other utility bills, and rental value of home office space;
2 **(2)** deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing in violation
3 of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); **(3)** statutory
4 penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–2699.6); and **(4)** all claims
5 for liquidated damages, penalties, interest, attorneys' fees, and costs based on the foregoing.

6 **2.2. DISCOVERY, INVESTIGATION, RESEARCH, AND MEDIATION**

7 Class Counsel have conducted significant formal and informal discovery during the
8 prosecution of the Action. Class Counsel and the Class Representatives have vigorously prosecuted
9 this case, and Defendants have vigorously contested it. The Parties have engaged in sufficient
10 investigation and discovery to assess the relative merits of the claims of the Class Representatives
11 and of the defenses to them. After such discovery, investigation, and prosecution, the Parties attended
12 a full-day mediation with an experienced employment law mediator, the Honorable Lisa Hart Cole
13 (ret.), and thereafter continued negotiations which culminated in a settlement in principle, the terms
14 of which are elaborated in this Settlement Agreement.

15 **2.3. ALLEGATIONS OF THE CLASS REPRESENTATIVES AND BENEFITS OF** 16 **CLASS SETTLEMENT**

17 The documents and data exchanged in this matter, as well as discussions between counsel,
18 have been adequate to give the Class Representatives and Class Counsel a sound understanding of the
19 merits of their positions and to enable them to evaluate the value of the claims of the Settlement
20 Class. The discovery conducted in this Action is sufficient to assess the merits of the Parties'
21 respective positions reliably and to compromise the issues on a fair and equitable basis.

22 The Class Representatives and Class Counsel believe that the claims, causes of action,
23 allegations, and contentions asserted in the Action have merit. However, the Class Representatives
24 and Class Counsel recognize and acknowledge the expense and delay of continued lengthy
25 proceedings necessary to prosecute the Action against Defendants through trial and through appeals.
26 Class Counsel have taken into account the uncertain outcome of the litigation, the risk of continued
27 litigation in complex actions such as this, as well as the difficulties and delays inherent in such
28 litigation, and the potential difficulty of obtaining certification of a class as well as trying the claims

1 of the class. Class Counsel are mindful of the potential problems of proof under, and possible
2 defenses to, the claims alleged in the Action.

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

9 **2.4. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

10 Defendants have denied and continue to deny all allegations, claims, and contentions alleged
11 by Plaintiffs in the Action. Defendants have expressly denied and continue to deny all charges and
12 allegations of wrongdoing or liability of any kind arising out of any of the conduct, statements, acts,
13 or omissions alleged in the Action. Defendants contend, among other things, that they complied at all
14 times with California law, and that they have dealt legally and fairly with Plaintiffs and the Class
15 Members.

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

1 **2.5. INTENT OF THE CLASS SETTLEMENT**

2 The Class Settlement set forth herein intends to achieve the following: **(1)** entry of an order
3 approving the Class Settlement; **(2)** entry of judgment of the Action; and **(3)** discharge and release of
4 the Released Parties from liability for any and all of the Released Claims.

5 **3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

6 For the purposes of this Settlement Agreement and the Class Settlement of this Action only,
7 the Parties agree to conditional class certification of the Settlement Class. Defense Counsel believe
8 this conditional certification is appropriate because the Released Claims are being compromised
9 without need to establish the elements of those claims on which liability turns. The certification of the
10 Settlement Class shall not constitute, in this or any other proceeding, an admission of any kind by
11 Defendants, including without limitation, that certification of a class for trial purposes is or would be
12 warranted, appropriate or proper; or that Plaintiffs could establish any of the requisite elements for
13 class treatment of any of the claims in the Action. Nor do Defendants concede or waive any rights to
14 dispute that this matter, should it have proceeded, is properly brought as a representative action or
15 that Plaintiffs or any PAGA Settlement Class Members are aggrieved employees as defined by
16 PAGA.

17 In the event that the Settlement Agreement is not finally approved by the Court, a final
18 Effective Date is not achieved, or the Class Settlement is rejected, terminated, or otherwise rendered
19 null and void as set forth herein, then, except as set forth in Section 13.1 below, certification of the
20 Settlement Class shall be automatically vacated, shall be void *ab initio*, of no force or effect, and
21 shall not constitute evidence or a binding determination that the requirements for certification of a
22 class for trial purposes (or for any other purpose) in this Action or in any other action have been, are,
23 or can be satisfied. Further, if the Agreement does not reach a final Effective Date, Plaintiffs agree
24 that Plaintiffs will not argue, claim, reference, or otherwise raise any preliminary approval of the
25 Settlement Class in connection with any later proceeding before the Court or any court.

1 **4. APPOINTMENT OF CLASS COUNSEL**

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

5 **5. CONSIDERATION**

6 **5.1. SETTLEMENT AMOUNT**

7 The Parties agree to settle this Action for the Gross Settlement Amount of \$3,125,000.00.
8 Subject to the terms of Section 9.1 below, there shall be no reversion to Defendants. Defendants shall
9 pay the Gross Settlement Amount in full. The Gross Settlement Amount and other actions and
10 forbearances taken by Defendants shall constitute adequate consideration for the Class Settlement
11 and will be made in full and final settlement of: the Released Claims, the Class Attorneys' Fees and
12 Expenses, the Administrative Expenses, the Incentive Awards, the PAGA Payment (and any
13 payments to individual PAGA Settlement Class Members resulting from the PAGA Payment), and
14 any other obligation of Defendants under this Settlement Agreement.

15 After the Court issues an order preliminarily approving this Class Settlement, the Settlement
16 Administrator will distribute to the Class Members: (i) the Class Notice to the Class Members, which
17 shall describe the terms of the Class Settlement and procedures to Opt Out, object, and/or participate
18 in the Class Settlement, and (ii) the Share Form, which shall identify the Class Member, the number
19 of workweeks worked by the Class Member while employed by Defendants and/or any of their
20 affiliated Liberty Mutual entities in California during the Release Period ("Workweeks"), as well as
21 the estimated amount of the Individual Settlement Amount the Class Member can expect to receive
22 once the Class Settlement becomes effective on the Effective Date.

23 **5.2. INCENTIVE AWARDS FOR PLAINTIFFS**

24 Plaintiffs may petition the Court to approve Incentive Awards in an amount not to exceed
25 \$10,000.00 per Plaintiff (*i.e.*, up to \$20,000 in the aggregate) to acknowledge their efforts on behalf
26 of the Settlement Class in this Action, including assisting in the investigation and consulting with
27 Class Counsel and providing crucial documents to Class Counsel. The amount of the Incentive
28 Awards shall be determined by the Court. Any Incentive Awards approved by the Court shall be paid

1 to Plaintiffs from the Gross Settlement Amount and shall be in addition to any distribution to which
2 they may otherwise be entitled as Class Participants. Any Incentive Awards approved by the Court
3 shall not be considered wages, and the Settlement Administrator shall issue to each Plaintiff an IRS
4 Form 1099 reflecting such payment. Plaintiffs shall be solely responsible for the payment of all taxes
5 with respect to any Incentive Awards approved by the Court.

6 **5.3. PAYMENT TO CLASS PARTICIPANTS**

7 Each Class Member shall be eligible to receive payment of his, her, or their Individual
8 Settlement Amount if (i) he or she does not Opt Out; and (ii) the Settlement Agreement takes effect
9 as a result of the passing of the Effective Date. Each Class Participant's Individual Settlement
10 Amount shall be calculated by determining his, her, or their pro rata share of the Net Settlement
11 Amount based on the Class Participant's Workweeks compared to the total number of Workweeks
12 worked by all Class Participants.

13 **5.4. PAYMENT TO PAGA SETTLEMENT CLASS**

14 Provided that the Settlement Agreement takes effect as a result of the passing of the Effective
15 Date, each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
16 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have
17 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action. The
18 portion of the PAGA Payment allocated to the PAGA Settlement Class shall be distributed to the
19 PAGA Settlement Class based on the pro rata number of pay periods worked by each particular
20 PAGA Settlement Class Member while employed by Defendants and/or any Released Party in
21 California during the PAGA Period as a proportion of all pay periods worked by all members of the
22 PAGA Settlement Class while employed by Defendants and/or any Released Party in California
23 during the PAGA Period.

24 **5.5. TAX TREATMENT AND PAYMENT**

25 The Parties agree to treat the Gross Settlement Amount as being at all times a "Qualified
26 Settlement Fund," also referred to throughout this Settlement Agreement as "QSF," within the
27 meaning of Treas. Reg. § 1.468B-1. The Settlement Administrator shall timely make such elections
28 as necessary or advisable to carry out the provisions of this Section 5.5, including the "relation-back

1 election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections
2 shall be made in compliance with the procedures and requirements contained in such regulations. It
3 shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver
4 the necessary documentation for signature by all necessary parties, and thereafter to cause the
5 appropriate filings to occur.

6 For purposes of § 468B of the Internal Revenue Code of 1986, as amended, and the
7 regulations promulgated thereunder, the “administrator” shall be the Settlement Administrator. The
8 Settlement Administrator shall timely and properly file all informational and other tax returns
9 necessary or advisable with respect to administering this Settlement Agreement. Such returns (as
10 well as the election described in this Section 5.5) shall be consistent with this paragraph and in all
11 events shall reflect that any and all Taxes (including any estimated Taxes, interest, or penalties) on
12 the Gross Settlement Amount will be paid out of the Gross Settlement Amount as provided in this
13 Section 5.5.

14 Any and all (a) Taxes, and (b) expenses and costs incurred in connection with the operation
15 and implementation of this Section 5.5 (including, without limitation, expenses of tax attorneys
16 and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to
17 file) the returns described in this Section 5.5) (“Tax Expenses”), shall be paid out of the Gross
18 Settlement Amount. In all events, except as otherwise provided for in this Settlement Agreement, the
19 Parties and their counsel shall have no liability or responsibility for the Taxes or the Tax Expenses.
20 The Gross Settlement Amount shall indemnify and hold Defendants, the Released Parties, and their
21 counsel harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by
22 reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and
23 considered to be, a cost of administration of the Gross Settlement Amount and shall be timely paid by
24 the Settlement Administrator out of the Gross Settlement Amount without prior order from the Court,
25 and the Settlement Administrator shall be obligated (notwithstanding anything herein to the contrary)
26 to withhold from distribution to Class Participants any funds necessary to pay such amounts,
27 including the establishment of adequate reserves for any Taxes or Tax Expenses (as well as any
28 amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)(2)); neither Defendants,

1 the Released Parties, nor their counsel are responsible nor shall they have any liability therefor. The
2 Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax
3 attorneys and accountants to the extent reasonably necessary to carry out the provisions of this
4 Section 5.5.

5 The Parties have agreed that no portion of the Gross Settlement Amount is attributable to
6 wages. The Settlement Administrator shall issue to each Class Participant an IRS Form 1099
7 reflecting his, her, or their Individual Settlement Amount. The Parties understand that Plaintiffs and
8 the Class Participants who receive any payment pursuant to this Settlement Agreement shall be solely
9 responsible for any and all individual tax obligations. Notwithstanding the foregoing, in the event
10 that any portion of the settlement payments under this Settlement must be treated as wages,
11 Defendants shall remain responsible for paying the employer's share of any taxes or withholding
12 arising from those payments.

13 With respect to the PAGA Payment and any payments made to individual members of the
14 PAGA Settlement Class, all such payments shall be treated as payments owed for alleged penalties
15 and interest thereon and shall not be considered wages. The Settlement Administrator shall issue to
16 each member of the PAGA Settlement Class an IRS Form 1099 reflecting such payment. Each
17 PAGA Settlement Class Member, including Plaintiff Charalambous, shall be solely responsible for
18 the payment of all taxes with respect to any PAGA payments made to them.

19 **5.6. NO EFFECT ON EMPLOYEE BENEFIT PLANS**

20 Neither the Class Settlement nor any amounts paid pursuant to this Settlement Agreement will
21 modify any previously credited hours, days, or weeks of service under any employee benefit plan,
22 policy or bonus program sponsored by or available to employees of Defendants. Such amounts will
23 not form the basis for additional contributions to, benefits under, or any other monetary entitlement
24 under Defendants' sponsored benefit plans, policies, or bonus programs. The payments made under
25 the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going
26 forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any
27 of Defendants' benefit plans, policies, or bonus programs. Defendants retain the right to modify the
28 language of their benefits plans, policies, and bonus programs to reflect this intent and to make clear

1 that any amounts paid pursuant to this Settlement Agreement are not for “hours worked,” “weeks
2 worked,” “weeks paid,” “weeks of service,” “years of service” or any similar measuring term as
3 defined by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit
4 accrual, or any other purpose, and that additional contributions or benefits are not required by or by
5 virtue of the payments to be made pursuant to this Settlement Agreement. Defendants do not consider
6 the Class Settlement payments “compensation” for purposes of determining eligibility for, or benefit
7 accrual within, any benefit plans, policies, or bonus programs, or any other plan sponsored by
8 Defendants or in which employees of Defendants may participate. None of the payments called for
9 by this Settlement Agreement shall be subject to matching contributions or included as benefits-
10 eligible earnings under any benefit plan or policy applicable to any of the Released Parties’
11 employees.

12 **5.7. CLASS ATTORNEYS’ FEES AND EXPENSES**

13 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
14 an award of Class Attorneys’ Fees and Expenses with the fee portion not to exceed 33.33% of the
15 Gross Settlement Amount (*i.e.*, \$1,041,562.50) and an award of costs and expenses incurred by Class
16 Counsel. Notwithstanding the foregoing, the Court shall determine the amount of fees and costs
17 payable to Class Counsel.

18 As a condition of this Class Settlement, Class Counsel have agreed to pursue fees only in the
19 manner reflected by this subsection. Any Class Attorneys’ Fees and Expenses awarded by the Court
20 shall be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and
21 shall not constitute payment to any Class Member. If Class Counsel voluntarily reduce the request for
22 Class Attorneys’ Fees and Expenses or the Court’s award of Class Attorneys’ Fees and Expenses is
23 less than set forth above, the Net Settlement Amount shall be recalculated to reflect the actual Class
24 Attorneys’ Fees and Expenses awarded.

25 The Class Attorneys’ Fees and Expenses approved by the Court shall reflect: **(a)** all work
26 performed and costs and expenses incurred by, or at the direction of, the attorneys purporting to
27 represent the Settlement Class through the date of this Settlement Agreement; **(b)** all work to be
28 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;

(c) all work to be performed and costs and expenses, if any, incurred in connection with administering the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and (d) may be based on the “catalyst theory” and/or the “common fund doctrine.”

6. SETTLEMENT ADMINISTRATION

6.1. COSTS AND EXPENSES

All costs and expenses due to the Settlement Administrator in connection with its administration of the Class Settlement, including for the responsibilities set forth in Section 7.1 below, shall be paid from the Gross Settlement Amount.

6.2. PAYMENT BY DEFENDANTS

Defendants shall issue a check or otherwise make payment of the Gross Settlement Amount in a lump sum to the QSF to be administered by the Settlement Administrator no later than thirty (30) days after the Court enters a final order and judgment certifying the Settlement Class and approving this Settlement Agreement, and the Settlement Administrator shall, in turn, deposit that amount in an interest-bearing account for the benefit of the Class; provided, however, that such amount shall revert to Defendants in accordance with Section 9.1 below if the circumstances described in that Section occur. In no event shall Defendants’ obligations under this Settlement Agreement exceed \$3,125,000.00.

7. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS

7.1. THE SETTLEMENT ADMINISTRATOR

In addition to performing the functions set forth in Section 5.5, the Settlement Administrator will be responsible for the administration of all other aspects of the settlement contemplated by this Settlement Agreement and/or required by the Court, including but not limited to the following responsibilities: mailing the Class Notice and Share Form (**Exhibit 1** and **Exhibit 2**, respectively) to Class Members; conducting an initial verification of Class Member addresses through the NCOA database; performing a skip trace search and seeking address corrections for any Class Member whose Class Notice and/or Share Form is returned as undelivered by the United States Postal Service, and re-mailing such Class Notice and/or Share Form to the corrected address (provided, however, that the Settlement Administrator shall attempt to re-mail such Class Notice and/or Share Form only

once); handling inquiries from Class Members concerning the Class Notice and/or Share Form; determining Individual Settlement Amounts; determining individual payment amounts for members of the PAGA Settlement Class; maintaining the settlement funds in an appropriate interest-bearing account; preparing, administering, and distributing Individual Settlement Amounts to Class Participants; preparing, administering, and distributing individual payments to members of the PAGA Settlement Class; distributing the portion of the PAGA Payment payable to the LWDA; issuing a final report and performing such other duties as the Parties may direct. Additionally, the Settlement Administrator will handle all tax document preparation and reporting, including state and federal tax forms, if any.

On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and Defense Counsel with summary information updating them as to the number of validated and timely objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and Defense Counsel via e-mail date-stamped copies of any Opt Out requests and objections no later than seven (7) days after their receipt.

No later than thirty (30) days prior to the Final Approval and Fairness Hearing, the Settlement Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary information regarding: (a) the total amount of the final Individual Settlement Amounts to be paid to each Class Participant; (b) the number of Class Participants to receive such payments, and (c) the final number of Opt-Outs and objections.

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

7.2. NOTICE TO CLASS MEMBERS

Notice shall be provided to Class Members in the following manner: within twenty-eight (28) days after the Preliminary Approval Date, Defendants shall provide the Settlement Administrator with an updated list of Class Members and members of the PAGA Settlement Class containing names, social security numbers, start and end dates of employment in California during the Class

1 Period and the PAGA Period, last-known addresses, last-known personal email addresses, and
2 personal phone numbers (the “Database”). The Database shall be marked “Confidential – Settlement
3 Administrator’s Eyes Only.” Class Counsel shall not receive a copy of this list.

4 Within fifty-three (53) days following the Preliminary Approval Date, the Settlement
5 Administrator shall determine the number of Workweeks worked by each Class Member, populate
6 the data in the Share Form for each Class Member accordingly, and send each Class Member the
7 Class Notice and Share Form via first-class, United States mail. The Class Notice shall also contain
8 an easily understood statement agreed upon by the Parties alerting the Class Member that, unless he
9 or she elects to Opt Out of the Class Settlement, the Class Member is releasing and waiving all
10 Released Claims against the Released Parties.

11 The Share Form will inform Class Members of their estimated Individual Settlement Amount
12 and the number of Workweeks they worked during the Class Period. Class Members may dispute
13 their Workweeks—if they believe they worked more weeks in the Class Period while employed by
14 Defendants and/or their affiliated Liberty Mutual entities in California than Defendants’ records
15 show—by submitting information to the Settlement Administrator no later than the Response
16 Deadline. The Settlement Administrator will jointly work with Plaintiffs and Defendants to resolve
17 any such dispute in good faith. If Plaintiffs and Defendants cannot agree over the Workweeks to be
18 credited, the Settlement Administrator shall make the decision based on the information presented by
19 the Class Member and Defendants, with the understanding that the Court shall retain the authority to
20 make any final Workweek determinations.

21 **7.3. OPT OUT PROCEDURE**

22 To Opt Out of the Class Settlement, a Class Member must submit a letter to the Settlement
23 Administrator by the Response Deadline. The Opt Out request must be signed and must state the
24 Class Member’s name, address, and telephone number. The Opt Out request should state something
25 to the effect of:

26 “I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *ALEX*
27 *CHARALAMBOUS V. LIBERTY MUTUAL* LAWSUIT. I UNDERSTAND THAT IF I
28

1 ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT
2 RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT
3 AND WILL NOT BE RELEASING ANY CLAIMS I MAY HAVE.”

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

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

21 If the Settlement Administrator determines that an Opt Out request returned by a Class
22 Member before the Response Deadline is deficient, then the Settlement Administrator shall mail a
23 deficiency letter to that Class Member identifying the problem. If a Class Member submits both a
24 dispute of his, her, or their Workweeks and an Opt Out request, the Settlement Administrator shall
25 make reasonable attempts to clarify the inconsistency with the Class Member. If the Class Member
26 fails to resolve the inconsistency, the Opt Out request shall be deemed deficient and disregarded, the
27 claim will be paid, and the Class Member will become bound by the judgment.
28

1 Class Participants will be bound by the Release of Released Claims set forth in the definition
2 of “Released Claims” provided in this Settlement Agreement. The Release of Released Claims shall
3 be described in the Class Notice.

4 A request to Opt Out of the Class Settlement shall **not** serve to exclude the Class Member
5 from participation in the PAGA Settlement Class. Opt-Outs shall still be entitled to their share of the
6 PAGA Payment. Class Members who are also members of the PAGA Settlement Class shall have no
7 right or ability to opt out of the portion of this Settlement Agreement releasing PAGA claims.

8 **7.4. OBJECTION PROCEDURE**

9 The Class Notice shall inform the Class Members of their right to object to the Class
10 Settlement. Any Class Member who wishes to object to the Class Settlement may submit a written
11 objection to the Court no later than the Response Deadline. Only Class Participants may object to the
12 Settlement. The objection should include the case name and number and must set forth, in clear and
13 concise terms, a statement of the reasons why the objector believes that the Court should find that the
14 proposed Class Settlement is not in the best interest of the Settlement Class and the reasons why the
15 Class Settlement should not be approved, including the legal and factual arguments supporting the
16 objection. If an objector also wishes to appear at the Final Approval and Fairness Hearing, in person
17 or through an attorney, he or she may, but is not required to, do so.

18 **8. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

19 **8.1. CALCULATION OF THE INDIVIDUAL SETTLEMENT AMOUNTS FOR** 20 **CLASS PARTICIPANTS**

21 For purposes of calculating the estimated Individual Settlement Amounts, the Settlement
22 Administrator shall calculate the estimated Net Settlement Amount prior to sending the Class Notice
23 and the Share Form to the Class Members. If any Class Member timely and validly Opt Out, his,
24 her, or their share of the Class Settlement will be included in the final Net Settlement Amount used to
25 calculate the final Individual Settlement Amounts and included in the distribution to the Class
26 Participants. Prior to final distribution, the Settlement Administrator shall recalculate the final Net
27 Settlement Amount, and the Individual Settlement Amounts to be paid to Class Participants shall be
28 paid from the final Net Settlement Amount.

Defendants will provide the Settlement Administrator with any information reasonably necessary to perform the calculation of number of Workweeks for each Class Member, and any other reasonably required information the Settlement Administrator requests to perform the calculations required under this Settlement Agreement. Defendants shall have no responsibility for deciding the validity of the Individual Settlement Amounts or any other payments made pursuant to this Settlement Agreement.

8.2. CALCULATION OF THE PAYMENTS FOR INDIVIDUAL MEMBERS OF THE PAGA SETTLEMENT CLASS

Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA Payment. Defendants will provide the Settlement Administrator with any information reasonably necessary to perform the calculation of the number of pay periods worked by each PAGA Settlement Class Member, and any other reasonably required information the Settlement Administrator requests to perform the calculations required under this Settlement Agreement. Defendants shall have no responsibility for deciding the validity of the individual payment amounts allocated to each member of the PAGA Settlement Class or any other payments made pursuant to this Settlement Agreement.

8.3. CALCULATION OF THE PAYMENTS FOR MEMBERS OF *MARANO* CLASS ACTION

To the extent that any Class Participant has received a settlement payment in connection with the *Stephen Marano v. Liberty Mutual Group Inc.* case, No. 8:20-cv-2215-CJC-ADS (the “*Marano Case*”) by the time the Settlement Administrator calculates such Class Participant’s estimated or final Individual Settlement Amount, then, for purposes of calculating such Class Participant’s Individual Settlement Amount, such Class Participant will not receive payment for any Workweeks that occurred during the period of time covered by the release set forth in the Settlement Agreement and Release of Class and Representative Action Claims finally approved by the Court in the *Marano Case* (the “*Marano Settlement Agreement*”). Similarly, to the extent that any PAGA Settlement Class Member has received a PAGA-related payment in connection with the *Marano Case* by the time the Settlement Administrator calculates such PAGA Settlement Class Member’s PAGA Payment, then,

1 for purposes of calculating such PAGA Settlement Class Member's portion of the PAGA Payment,
2 such PAGA Settlement Class Member will not receive payment for any pay periods that overlap with
3 the period of the release set forth in the *Marano* Settlement Agreement.

4 **8.4. TIME FOR PAYMENT OF ATTORNEY FEES AND EXPENSES**

5 The Settlement Administrator shall distribute to Class Counsel any attorneys' fees and
6 expenses approved by the Court no later than ten (10) days after the Effective Date in keeping with
7 the procedures described in Section 5.5.

8 **8.5. TIME FOR PAYMENT OF INCENTIVE AWARDS**

9 The Settlement Administrator shall distribute to Plaintiffs the Incentive Awards approved by
10 the Court no later than ten (10) days after the Effective Date in keeping with the procedures described
11 in Section 5.5.

12 **8.6. TIME FOR PAYMENT OF PAGA PAYMENT TO THE LWDA**

13 The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment
14 due to it and approved by the Court no later than ten (10) days after the Effective Date in keeping
15 with the procedures described in Section 5.5.

16 **8.7. TIME FOR PAYMENT OF INDIVIDUAL SETTLEMENT AMOUNTS**

17 The Settlement Administrator shall make every effort to mail payment of the Individual
18 Settlement Amounts to each Class Participant, by first-class United States mail, to the last-known
19 address no later than ten (10) days after the Effective Date in keeping with the procedures described
20 in Section 5.5. If the Settlement Administrator is not able to do so within the time period set forth
21 above, it shall so inform Class Counsel and Defense Counsel and provide an approximate date by
22 which the Individual Settlement Amounts will be mailed. Under no circumstances shall the
23 Settlement Administrator distribute checks to Class Participants until all Individual Settlement
24 Amounts have been considered, calculated, and accounted for, and all of the remaining monetary
25 obligations have been calculated and accounted for.

26 Within two hundred and ten (210) days of mailing the Individual Settlement Amounts to
27 Class Participants, the Settlement Administrator shall file with the Court and provide to Class
28 Counsel a declaration of payment. In the event that any Class Participant is deceased, payment shall

1 be made payable to the estate of that Class Participant and delivered to the executor or administrator
2 of that estate, unless the Settlement Administrator has received an affidavit or declaration pursuant to
3 California Probate Code section 13101, in which case payment shall be made to the affiant(s) or
4 declarant(s).

5 **8.8. NON-NEGOTIATED SETTLEMENT CHECKS**

6 Any checks that have not been negotiated within one hundred eighty (180) days will become
7 void and the Individual Settlement Amount will be paid to the California State Controller for deposit
8 in the Unclaimed Property Fund in the name of the individual whose check was uncashed. For the
9 purposes of determining whether Defendants have met their financial obligation under the Class
10 Settlement, Defendants will be deemed to have fulfilled their obligation upon payment of the Gross
11 Settlement Amount to the QSF, regardless of whether any Class Participant subsequently negotiates
12 his, her, or their check.

13 **8.9. DISPUTES REGARDING CLASS MEMBER WORKWEEKS DATA OR**
14 **PAYMENT OF INDIVIDUAL SETTLEMENT AMOUNTS**

15 Class Member Workweeks and the corresponding Individual Settlement Amount shall be
16 calculated using the employment and payroll records of Defendants, which presumptively shall be
17 deemed to be full, complete, and accurate for purposes of this Settlement Agreement. To overcome
18 that presumption, any Class Member objecting to the accuracy of the number of Workweeks or
19 amount of the Individual Settlement Amount must submit documentary evidence, such as pay stubs
20 or other written employment records, to the Settlement Administrator. Each Class Member may
21 dispute the number of Workweeks or their estimated Individual Settlement Amount contained on
22 their Share Form ("Workweeks Dispute"). Any such Workweeks Dispute must be mailed or faxed to
23 the Settlement Administrator by the Class Member, postmarked or fax-stamped on or before the
24 Response Deadline. The Settlement Administrator shall immediately provide copies of all Workweek
25 Disputes to counsel for Defendants, shall inform Class Counsel of the Workweeks Dispute without
26 disclosing the identity of the Class Member making the dispute, and shall immediately attempt to
27 resolve all such disputes directly with relevant Class Members with the assistance of Defendants,
28 Defense Counsel, and Class Counsel. If the Workweeks Dispute cannot be resolved, it shall be

submitted to the Settlement Administrator for decision, subject to Court approval. The Settlement Administrator shall use its best efforts to resolve all Workweeks Disputes prior to the Final Approval and Fairness Hearing. If, however, a Workweeks Dispute arises or is not resolved until after the Gross Settlement Amount has been distributed, the initial calculation shall stand (as Defendants shall be under no obligation to pay any amounts in excess of the Gross Settlement Amount under this Settlement Agreement).

9. NULLIFICATION OF THIS SETTLEMENT AGREEMENT

9.1. NON-APPROVAL OF THIS SETTLEMENT AGREEMENT

The Class Settlement and conditional class certification shall be considered null and void, and neither the Class Settlement, conditional class certification, nor any of the related negotiations or proceedings, shall be of any force or effect, and all Parties to the Class Settlement shall stand in the same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with the Court, if any of the following occurs: (a) the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties, except as set forth in Section 13.1 below; (b) the Court should for any reason fail to enter a judgment dismissing the Action with prejudice, or (c) the approval of the Class Settlement and/or judgment is reversed, modified, or declared or rendered void. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any perceived defects in this Settlement Agreement.

Further, if the Effective Date should fail to occur for any reason—including, without limitation, because an appellate court reverses, invalidates, modifies, declares or renders void, or otherwise sets aside the Court's final order and judgment certifying the Settlement Class and approving this Settlement Agreement—then any and all amounts that Defendants shall have previously paid to the QSF in accordance with Section 6.2 above, together with any interest earned, shall revert to Defendants, and the Settlement Administrator shall return such payment to Defendants within fourteen (14) days of the event that causes the Effective Date not to occur.

9.2. DEFENDANTS' RIGHT TO VOID CLASS SETTLEMENT

If 10% or more members of the Settlement Class timely submit Opt Out requests, Defendants shall have the unilateral right (but not the obligation) to void this Settlement Agreement.

1 **9.3. INVALIDATION**

2 Except as set forth in Section 13.1 below, invalidation of any material portion of this
3 Settlement Agreement shall invalidate the Class Settlement in its entirety, unless the Parties
4 subsequently agree in writing that the remaining provisions of the Class Settlement are to remain in
5 full force and effect. In the event that a court rules that any non-material provision of this Settlement
6 Agreement is invalid or unenforceable, such provision will be ineffective only to the extent of such
7 prohibition or invalidity, without invalidating the remainder of such provision or the remaining
8 provisions of this Settlement Agreement.

9 **9.4. STAY ON APPEAL**

10 In the event of a timely appeal from the approval of the Class Settlement and judgment, the
11 Parties shall proceed as though the judgment were stayed, and Defendants shall not be obligated to
12 take any actions otherwise required by this Settlement Agreement unless the Effective Date occurs.

13 **10. MOTIONS FOR COURT APPROVAL**

14 **10.1. PRELIMINARY APPROVAL**

15 As soon as practicable after execution of this Settlement Agreement, Class Counsel will
16 submit this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the
17 Class Settlement. Each Party shall cooperate to present the Class Settlement to the Court for
18 preliminary approval in a timely fashion. As set forth in Section 12.3 below, Class Counsel will
19 provide a reasonable opportunity for Counsel for Defendants to review the Motion for Preliminary
20 Approval prior to filing with the Court.

21 **10.2. FINAL APPROVAL**

22 The Final Approval and Fairness Hearing shall be held before the Court. At the Final
23 Approval and Fairness Hearing, Plaintiffs shall move the Court for the entry of the final order
24 certifying the Settlement Class for settlement purposes only and approving the Class Settlement as
25 being fair, reasonable, and adequate to the Class Participants within the meaning of Federal Rule of
26 Civil Procedure Rule 23(e), and for the entry of a final judgment of the Action consistent with the
27 terms of the Class Settlement and Federal Rule of Civil Procedure Rule 23(c). Class Counsel and
28 Defense Counsel shall submit to the Court such pleadings and/or evidence as may be required for the

1 Court's determination. As set forth in Section 12.3 below, Class Counsel will provide a reasonable
2 opportunity for Counsel for Defendants to review the Motion for Final Approval, including the Order
3 Granting Final Approval of Class Action Settlement, and Judgment thereon, prior to filing with the
4 Court.

5 **11. RELEASES AND WAIVERS**

6 **11.1. RELEASE OF CLAIMS BY THE SETTLEMENT CLASS**

7 Upon the Effective Date, each of the Releasing Parties shall be deemed to release the
8 Released Parties, and each of them, of and from any and all Released Claims. It is the desire of the
9 Parties and the Releasing Parties to fully, finally, and forever settle, compromise, and discharge the
10 Released Claims. Each of the Releasing Parties, including each Class Participant, will be bound by
11 the release of Released Claims as a result of the Class Settlement and to the terms of the final
12 judgment and the satisfaction of such judgment.

13 **11.2. RELEASE OF CLAIMS BY THE PAGA SETTLEMENT CLASS**

14 Upon the Effective Date, the California Labor and Workforce Development Agency
15 ("LWDA"), the Class Representatives, and, to the maximum extent permitted by law, each of the
16 PAGA Settlement Class Members, shall be deemed to release the Released Parties, and each of them,
17 of and from the Released Claims relating or pursuant to PAGA during the PAGA Period. The
18 LWDA, the Class Representatives, and, to the maximum extent permitted by law, each of the PAGA
19 Settlement Class Members, will be bound by the release of the PAGA claims as a result of the Class
20 Settlement and to the terms of the final judgment and the satisfaction of such judgment. Members of
21 the PAGA Settlement Class shall have no right or ability to opt out of the portion of this Settlement
22 Agreement releasing PAGA claims.

23 **11.3. RELEASE OF CLAIMS BY PLAINTIFFS**

24 Each Plaintiff individually, on behalf of himself and his dependents, heirs and assigns,
25 beneficiaries, devisees, legatees, executors, administrators, agents, trustees, conservators, guardians,
26 personal representatives, and successors-in-interest, whether individual, class, representative, legal,
27 equitable, direct or indirect, or any other type or in any other capacity, shall and does hereby forever
28 release, discharge and agree to hold harmless the Released Parties from any and all charges,

1 complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions,
 2 causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees
 3 and costs), known or unknown, at law or in equity, which exist or may exist on Plaintiffs' behalf as of
 4 the date each signs this Settlement Agreement, arising out of or in any way connected with Plaintiffs'
 5 employment with Defendants including but not limited to the Released Claims, claims that were
 6 asserted or could have been asserted in the Complaint, and any and all transactions, occurrences, or
 7 matters between the Parties occurring prior to the date each Plaintiff executes this Settlement
 8 Agreement. Without limiting the generality of the foregoing, this release shall include, but not be
 9 limited to, any and all claims under: **(a)** the Americans with Disabilities Act; **(b)** Title VII of the Civil
 10 Rights Act of 1964; **(c)** the Civil Rights Act of 1991; **(d)** 42 U.S.C. § 1981; **(e)** the Age
 11 Discrimination in Employment Act; **(f)** the Fair Labor Standards Act; **(g)** the Equal Pay Act; **(h)** the
 12 Employee Retirement Income Security Act, as amended; **(i)** the Consolidated Omnibus Budget
 13 Reconciliation Act; **(j)** the Rehabilitation Act of 1973; **(k)** the Family and Medical Leave Act; **(l)** the
 14 Civil Rights Act of 1966; **(m)** the California Fair Employment and Housing Act; **(n)** the California
 15 Constitution; **(o)** the California Labor Code; **(p)** the California Government Code; **(q)** the California
 16 Civil Code; and **(r)** any and all other federal, state, and local statutes, ordinances, regulations, rules,
 17 and other laws, and any and all claims based on constitutional, statutory, common law, or regulatory
 18 grounds, as well as any other claims based on theories of wrongful or constructive discharge, breach
 19 of contract or implied contract, fraud, misrepresentation, promissory estoppel, or intentional infliction
 20 of emotional distress, negligent infliction of emotional distress, or damages under any other federal,
 21 state, or local statutes, ordinances, regulations, rules, or laws, provided, however, that as a current
 22 employee, Plaintiff Charalambous shall not release any claim for employee benefits. This release is
 23 for any and all relief, no matter how denominated, including, but not limited to, back pay, front pay,
 24 vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive
 25 damages, interest, damages for pain and suffering, and attorneys' fees and costs, and Plaintiffs hereby
 26 forever release, discharge and agree to hold harmless Defendants and the Released Parties from any
 27 and all claims for attorneys' fees and costs arising out of the matters released in this Settlement
 28 Agreement.

Each Plaintiff specifically acknowledges that he is aware of and familiar with the provisions of California Civil Code section 1542, which provides as follows:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

Each Plaintiff, being aware of California Civil Code section 1542, hereby expressly waives and relinquishes all rights and benefits he may have under section 1542 as well as any other statutes or common law principles of a similar effect. Either Plaintiff may hereafter discover facts in addition to or different from those which he now knows or believes to be true with respect to the subject matter of all the claims referenced herein, but agrees that, upon the Effective Date, each Plaintiff shall and hereby does fully, finally, and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have been asserted upon any theory of law or equity without regard to the subsequent discovery of existence of such different or additional facts.

11.4. CIRCULAR 230 DISCLAIMER

Each Party to this Settlement Agreement (for purposes of this subsection, the “Acknowledging Party”; and each Party to this Settlement Agreement other than the Acknowledging Party, an “Other Party”) acknowledges and agrees that **(1)** no provision of this Settlement Agreement, and no written communication or disclosure between or among the parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10); **(2)** the Acknowledging Party **(a)** has relied exclusively upon his, her or its own independent legal and tax advisers for advice (including tax advice) in connection with this Settlement Agreement, **(b)** has not entered into this Settlement Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and **(c)** is not entitled to rely upon any communication or disclosure by any attorney or adviser to any Other Party

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

6 **12. DUTIES OF THE PARTIES**

7 **12.1. MUTUAL FULL COOPERATION**

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

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

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

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

22 Class Counsel shall promptly submit this Settlement Agreement to the Court for preliminary
23 approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly
24 upon execution of this Settlement Agreement, Class Counsel shall apply to the Court for the entry of
25 a preliminary order scheduling a hearing on the question of whether the proposed Class Settlement
26 should be approved as fair, reasonable, and adequate as to the Class Members, approving as to form
27 and content the proposed Class Notice and Share Form attached hereto as **Exhibit 1** and **Exhibit 2**,
28 respectively, and directing the mailing of the Class Notice to Class Members. Class Counsel will

1 provide a reasonable opportunity for Counsel for Defendants to review the Motions for Preliminary
2 and Final Approval, including the Order Granting Final Approval of Class Action Settlement, and
3 Judgment thereon, prior to filing with the Court. The Parties and their counsel will cooperate with
4 each other and use their best efforts to effect the Court's approval of the Motions for Preliminary and
5 Final Approval of the Settlement, and entry of Judgment.

6 **13. MISCELLANEOUS PROVISIONS**

7 **13.1. COURT'S DISCRETION REGARDING ATTORNEYS' FEES, INCENTIVE**
8 **AWARDS, AND PAGA ALLOCATION**

9 The Court, in its discretion, shall decide (A) the amount of fees and costs payable to Class
10 Counsel; (B) the amount of any Incentive Awards payable to Plaintiffs; and (C) whether to allocate
11 greater than five (5) percent of the Gross Settlement Payment to the PAGA Payment. The Parties
12 agree that such decision(s) shall not render this Settlement Agreement, or the conditional class
13 certification, null and void or invalid, and neither the Parties, Class Counsel, nor Defense Counsel
14 will argue otherwise. Nothing in this Section 13.1 shall be construed to permit the Court to change
15 the amount of the Gross Settlement Amount.

16 **13.2. DIFFERENT FACTS**

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

23 **13.3. NO PRIOR ASSIGNMENTS**

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

13.4. NON-ADMISSION

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

13.5. NON-EVIDENTIARY USE

Neither this Settlement Agreement nor any of its terms, nor any statements or conduct in the negotiation or drafting of it, shall be offered or used as evidence by Plaintiffs, any Class Member (including any individual who may request to be excluded from the Settlement Class), Defendants, or its, her, his, or their respective counsel, in the Action or in any other action, except as is reasonably

1 necessary to effectuate the Settlement Agreement's purpose and terms. This Settlement Agreement
2 may, however, be used by Defendants and the Released Parties to prove or defend against any claim
3 released herein by any Class Member in any judicial, quasi-judicial, administrative, or governmental
4 proceeding.

5 **13.6. COMMUNICATIONS**

6 Plaintiffs and Defendants, and their respective counsel, agree that they will not issue any press
7 releases or make affirmative efforts to contact reporters in connection with the Settlement. Any and
8 all advertisements on any websites, social media, and/or promotional materials shall be limited to
9 publicly available information.

10 **13.7. NON-RETALIATION**

11 Defendants understand and acknowledge that they have a legal obligation not to retaliate
12 against any Class Member who elects to participate in the Class Settlement or elects to Opt Out of the
13 Class Settlement.

14 **13.8. CONSTRUCTION**

15 The Parties agree that the terms and conditions of this Settlement Agreement are the result of
16 lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this
17 Settlement Agreement is not to be construed in favor of or against any Party by reason of the extent
18 to which any Party or its counsel participated in the drafting of this Settlement Agreement. If any of
19 the dates in this Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall
20 be extended to the next business day.

21 **13.9. GOVERNING LAW**

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

25 **13.10. NOTICES**

26 Except for Class Notices required to be made by the Settlement Administrator, all notices or
27 other communications required or permitted under this Settlement Agreement shall be in writing and
28 shall be sufficiently given if delivered in person to the Party or their counsel by U.S. certified mail,

1 postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address of the Party
2 appearing in this Settlement Agreement.

3 **13.11. CAPTIONS AND INTERPRETATIONS**

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

7 **13.12. MODIFICATION**

8 Except as set forth in Section 13.1, this Settlement Agreement may not be changed, altered, or
9 modified, except in writing signed by the Parties. If preliminary or final approval of this Settlement
10 Agreement has been granted by the Court, then any such amendments or modifications to this
11 Settlement Agreement shall be approved by the Court. This Settlement Agreement may not be
12 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

13 **13.13. INTEGRATION CLAUSE**

14 This Settlement Agreement contains the entire agreement between the Parties relating to the
15 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
16 contemporaneous agreements, understandings, representations, and statements, whether oral or
17 written, and whether by a Party or such Party's legal counsel, are hereby superseded. No rights under
18 this Settlement Agreement may be waived except in writing as provided above.

19 **13.14. SUCCESSORS AND ASSIGNS**

20 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and
21 Class Participants and their respective present and former heirs, trustees, executors, administrators,
22 representatives, officers, directors, shareholders, agents, employees, insurers, attorneys, accountants,
23 auditors, advisors, consultants, pension plans, welfare benefit plans, fiduciaries, parent companies,
24 subsidiaries, affiliates, related companies, joint ventures, predecessors, successors, and assigns.

25 **13.15. CORPORATE SIGNATORIES**

26 Any person executing this Settlement Agreement or any such related document on behalf of a
27 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all
28

Parties hereto, that such person has been duly authorized by such corporation or partnership to execute this Settlement Agreement or any such related document.

13.16. EXECUTION IN COUNTERPARTS

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

13.17. ATTORNEYS' FEES, COSTS, AND EXPENSES

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

14. EXECUTION

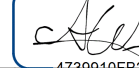
The Parties and their counsel have executed this Settlement Agreement on the date adjacent to their signatures. The date of this Settlement Agreement shall be the date of the latest signature.

APPROVAL AND EXECUTION BY PARTIES

CLASS REPRESENTATIVES:

Dated: 10/20/2023

DocuSigned by:

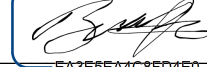


4739910FB2DB4C1...

Alex Charalambous
Plaintiff and Class Representative

Dated: 10/20/2023

DocuSigned by:



EA3E5EA4C8FD4E0...

Brian Pullen
Plaintiff and Class Representative

1 **DEFENDANTS:**

2
3 Dated: 10/18/23

Liberty Mutual Group Inc.

4 Melanie Foley

5 By: Melanie Foley

6 Title: Executive Vice President and Chief
7 Purpose Officer

8
9 Dated: 10/18/23

Liberty Mutual Insurance Company

10 Melanie Foley

11 By: Melanie Foley

12 Title: Executive Vice President and Chief
13 Administrative Offer

APPROVED AS TO FORM BY COUNSEL

CLASS COUNSEL:

Dated: 10/20/2023

Clapp & Lauinger LLP



James F. Clapp
Marita M. Lauinger
Attorneys for Plaintiff

DEFENDANTS' COUNSEL:

Dated: 10/31/2023

Sidley Austin LLP



Katherine A. Roberts
Attorneys for Defendants

EXHIBIT 1

Notice of Proposed Class Action Settlement

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

ALEX CHARALAMBOUS and BRIAN
PULLEN, individually on behalf of all others
similarly situated,

Plaintiffs,

vs.

LIBERTY MUTUAL INSURANCE COMPANY,
LIBERTY MUTUAL GROUP INC., and DOES 1
through 10, inclusive,

Defendants.

Case No. 3:22-cv-00216-EMC

**NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT**

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

You may be eligible to receive a settlement payment. Please read this notice carefully.

A proposed class action settlement agreement (the “Settlement”) has been reached between: (1) Plaintiffs Alex Charalambous and Brian Pullen (“Plaintiffs”), individually and in their representative capacities on behalf of a group of prospective class members defined below, and as private attorneys general on behalf of the State of California; and (2) Defendants Liberty Mutual Insurance Company and Liberty Mutual Group Inc. (“Defendants”). The Settlement resolves disputed claims against Defendants arising out of their expense reimbursement policies and practices during the period from March 1, 2020, through June 1, 2023 (the “Release Period”) as applied to all individuals who were employed by Defendants and/or any related Liberty Mutual entity (i.e., any “Released Party” as the term is defined in Section 5 below) in California during the period from March 1, 2020 through February 28, 2023 (the “Class Members”).

On [DATE], the Court granted preliminary approval of the Settlement and ordered that this notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you are a Class Member (as defined above) and received this notice, you are automatically included in the Settlement and do not need to take any further action to receive a payment. If you accept your settlement amount, you will release the claims described below.

1. DESCRIPTION OF THE LAWSUIT

Plaintiffs, individually and in their representative capacities on behalf of the Class Members, and as private attorneys general on behalf of the State of California, are pursuing a lawsuit against Defendants in the United States District Court, Northern District of California in the matter of *Alex Charalambous et al. v. Liberty Mutual Insurance Company et al.*, case number **3:22-cv-00216-EMC** (the “Action”). They have alleged the following violations relating to remote work, primarily arising from the office closures due to the COVID-19 pandemic: (1) failure to reimburse business expenses in violation of Labor Code section 2802, including but not limited to internet service, telephone service, telecommunications equipment, cost of home office equipment (such as, without limitation, computers,

1 printers, scanners, monitors, and headsets, *et cetera*), office supplies, electricity and other utility bills,
2 and rental value of home office space; **(2)** deceptive, fraudulent, or otherwise unlawful business
3 practices based on the foregoing in violation of California’s Unfair Competition Law (Bus. & Prof.
4 Code, §§ 17200–17210); **(3)** statutory penalties based on the foregoing pursuant to the Private
5 Attorneys General Act (“PAGA”) (Lab. Code, §§ 2698–2699.6); and **(4)** liquidated damages, penalties,
6 interest, attorneys’ fees, and costs based on the foregoing.

7 **Defendants deny all liability, deny all allegations in the Action, and have raised multiple**
8 **defenses to the claims.** Defendants assert that they fully complied with all applicable laws and contend
9 that civil penalties under PAGA are not warranted. Defendants also deny that the Action is suitable for
10 class certification. Defendants have entered into the Settlement solely for purposes of resolving this
11 dispute and avoiding costly, disruptive, and time-consuming litigation and do not admit any
12 wrongdoing or liability.

13 The Court has not ruled on the merits in the Action. By approving the Settlement and issuing
14 this notice, the Court is *not* suggesting which side would win or lose the case if it were to go to trial or
15 whether the claims are suitable for class certification. To avoid the additional expense, inconvenience,
16 and risk of continued litigation, however, Plaintiffs and Defendants (the “Parties”) have concluded that
17 it is in their respective best interests and the interests of the Class Members to settle the Action on the
18 terms summarized in this notice. The Settlement was reached after Defendants provided extensive
19 information and documents to Plaintiffs’ counsel, and after lengthy, arms-length, non-collusive
20 negotiations between the Parties, including mediation with an experienced and well-respected mediator
21 in California, the Honorable Lisa Hart Cole (ret.). In these negotiations, both sides recognized the
22 substantial risk that the Court or a jury could decide against them at trial and determined that the
23 Settlement was a fair, reasonable, and adequate way to resolve the disputed claims.

24 Plaintiffs and Plaintiffs’ counsel—James F. Clapp and Marita Murphy Lauinger of Clapp &
25 Lauinger LLP (“Class Counsel”)—support the Settlement. Among the reasons for support are the
26 defenses to liability potentially available to Defendants, the risk of denial of class certification, the
27 inherent risk of trial on the merits, and the delays and uncertainties associated with litigation. Plaintiffs
28

1 and Class Counsel believe that the Settlement described in this notice is fair, adequate, reasonable, and
2 in the best interests of Plaintiffs and the Class Members.

3 Under the Settlement, the following settlement class will be certified under California law: all
4 individuals who are or were employed by Defendants and/or any Released Party in California during
5 the period from March 1, 2020, through February 28, 2023 (the "Class Period"). The Settlement
6 provides for a gross settlement amount of \$3,125,000.00, a share of which, after the deduction of
7 various expenses including attorneys' fees as described in Section 3 below, is to be distributed to the
8 Class Members based on the pro rata number of weeks worked by each Class Member during the
9 Release Period as a proportion of all weeks worked by all Class Members during the Release Period.
10 In exchange for their share of the settlement amount, all participating Class Members will be deemed
11 to have released Defendants from liability on the terms described in this notice.

12 On [**Preliminary Approval Date**], the Court preliminarily approved the Settlement and
13 conditionally certified the settlement class. This notice is being sent to you because Defendants' records
14 indicate that you worked for Defendants and/or any Released Party during the Class Period and that
15 you meet the definition required to be treated as a Class Member.

16 **2. IF YOU ARE STILL EMPLOYED BY DEFENDANTS, THIS SETTLEMENT WILL**
17 **NOT AFFECT YOUR EMPLOYMENT.**

18 Liberty Mutual policy and California law strictly prohibit retaliation. Further, Defendants are
19 prohibited by law from taking any adverse action against or otherwise targeting, retaliating, or
20 discriminating against any Class Member because of the Class Member's participation or decision not
21 to participate in the Settlement.

22 **3. TERMS OF THE SETTLEMENT**

23 Defendants have agreed to pay \$3,125,000.00 (the "Gross Settlement Amount") to resolve the
24 claims in the Action. The Parties agreed to the following payments from the Gross Settlement Amount:

- 25 **1. Settlement Administration Costs.** The Court has approved ILYM Group, Inc. to act
26 as the "Settlement Administrator," who is sending this notice to you and will perform
27 many other duties relating to the Settlement. Under the Settlement, the Settlement
28

1 Administrator's reasonable costs and expenses associated with administering the
2 Settlement will be paid from the Gross Settlement Amount.

3 **2. Attorneys' Fees and Expenses.** Class Counsel have been prosecuting the Action on
4 behalf of the Class Members on a contingency fee basis (that is, without being paid any
5 money to date) and have been paying all litigation costs and expenses. To date, the
6 Parties have aggressively litigated many aspects of the case including investigation,
7 discovery, settlement efforts, and a full-day mediation session. The Court will determine
8 the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from
9 the Gross Settlement Amount. Class Members are not personally responsible for any of
10 Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of 33.33%
11 of the Gross Settlement Amount (*i.e.*, \$1,041,562.50) as reasonable compensation for
12 the work Class Counsel have performed and will continue to perform in the Action.
13 Class Counsel also will ask for reimbursement for the costs Class Counsel incurred in
14 connection with the Action.

15 **3. Service Payment to Class Representative.** Class Counsel will ask the Court to provide
16 a service payment in the amount of \$[10,000.00] to each of Plaintiff Alex Charalambous
17 and Plaintiff Brian Pullen (*i.e.*, \$[20,000.00] in the aggregate) to compensate them for
18 their efforts on behalf of the Class Members in the Action, including assisting in the
19 investigation and consulting with Class Counsel and providing crucial documents to
20 Class Counsel. Plaintiffs also may receive a share of the Settlement as Class Members.

21 **4. PAGA Payment.** The Parties have agreed on a reasonable sum to be paid in settlement
22 of the PAGA claims included in the Action, which is \$156,250.00 (the "PAGA
23 Payment"). The PAGA Payment is to be approved by the Court pursuant to Labor Code
24 section 2699 and is to be distributed as follows: seventy-five percent (75%) (*i.e.*,
25 \$117,185.50) to the California Labor and Workforce Development Agency ("LWDA")
26 and twenty-five percent (25%) (*i.e.*, \$39,062.50) to be divided into pro rata shares
27 amongst the individuals who come within the definition of an "aggrieved employee" for
28 the purposes of the Settlement (*i.e.*, all individuals who are or were employed by

Defendants and/or any Released Party in California from October 4, 2020 through February 28, 2023).

After deducting the amounts above, the balance of the settlement amount will form the “Net Settlement Amount” for distribution to the Class Members.

This notice summarizes the proposed Settlement. For the precise terms of the Settlement, you may: (i) review the settlement agreement, which is available at www._____.com (the “Settlement Website”), (ii) contact class counsel using the contact information provided at the end of this notice, (iii) access the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (“PACER”) system at <https://ecf.cand.uscourts.gov>, or (iv) visit the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00am and 4:00pm, Monday through Friday, excluding court holidays. **PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

4. DISTRIBUTION OF THE SETTLEMENT TO THE CLASS MEMBERS

Each eligible Class Member who does not request exclusion from the Settlement will be deemed a “Class Participant.” After the Court issues a final order approving the Settlement, judgment is entered, and the Settlement takes effect, each Class Participant will receive a share from the Net Settlement Amount which will be distributed pro rata based on the proportional number of weeks worked by each Class Participant during the Release Period (the “Individual Settlement Amount”). If any Class Member requests exclusion from the Settlement, his, her, or their share will be distributed to the remaining Class Participants.

The Parties agree that no portion of the Gross Settlement Amount is attributable to wages. The Settlement Administrator will issue to each Class Participant an IRS Form 1099 reflecting his, her, or their Individual Settlement Amount. Class Participants are solely responsible for the proper income tax treatment of their Individual Settlement Amounts. The Settlement Administrator, Defendants and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

1 The workweeks you worked for Defendants in California during the Release Period will be
2 calculated based on Defendants' records. If you feel that you were not credited with the correct number
3 of workweeks worked in California during the Release Period, you may submit evidence to the
4 Settlement Administrator on or before [Response Deadline] with documentation to establish the
5 number of workweeks you claim to have actually worked in California during the Release Period.
6 **Documentation sent to the Settlement Administrator will not be returned or preserved, so do not**
7 **send originals.** The Parties and the Settlement Administrator will promptly evaluate the evidence
8 submitted and discuss in good faith how many workweeks should be credited. The Settlement
9 Administrator will decide how many weeks are credited and report the outcome to the Class Participant,
10 subject to approval by the Court. If you are unsatisfied with the decision, you may submit an objection,
11 as explained below.

12 Settlement checks will be mailed to all Class Participants after the Court grants final approval
13 of the Settlement, judgment is entered and the Settlement takes effect.

14 **5. THE RELEASE OF CLAIMS**

15 If the Court approves the Settlement, the Court will enter judgment ("Judgment") and the
16 Settlement will bind all Class Participants. The Class Participants will then be barred from bringing
17 any "Released Claims" against the "Released Parties" as those terms are defined below.

18 The "Released Parties" are Defendants and all of Defendants' current or former parent
19 companies, subsidiaries, affiliates, and otherwise related entities, and any of their past, present and/or
20 future direct and/or indirect officers, directors, shareholders, agents, employees, representatives,
21 attorneys, insurers, partners, investors, administrators, members, agents, predecessors, successors,
22 assigns, divisions and joint ventures.

23 The "Released Claims" are those claims arising out of or related to the allegations set forth in
24 the Complaint and/or PAGA notice to the LWDA, including any and all claims arising from the same
25 facts that could have been raised in the Complaint and/or PAGA notice, which arose at any time during
26 the Release Period, including but not limited to claims for: **(1)** failure to reimburse business expenses
27 in violation of Labor Code section 2802, including but not limited to expenses incurred for internet
28 service, telephone service, telecommunications equipment, cost of home office equipment (such as,

without limitation, computers, printers, scanners, monitors, and headsets, *et cetera*), office supplies, electricity and other utility bills, rental value of home office space, and late payment charges or fees assessed to corporate credit cards; **(2)** deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California’s Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); **(3)** statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–2699.6); and **(4)** liquidated damages, penalties, interest, attorneys’ fees, and costs based on the foregoing. The period of the release shall extend through the entire Release Period. The *res judicata* effect of the Judgment will be the same as that of the release. Except as provided herein, the definition of Released Claims shall not be limited in any way by the possibility that Plaintiffs, Settlement Class Members or PAGA Settlement Class Members, as these terms are defined in the Settlement, may discover new facts or legal theories or legal arguments not alleged in the operative complaint but which might serve as an alternative basis for pursuing claims, causes of action, or legal theories of relief falling within the definition of Released Claims.

The Settlement will not release any person, party, or entity from claims, if any, by Class Members for workers’ compensation, unemployment, or disability benefits of any nature.

6. YOUR OPTIONS

6.1. DO NOTHING AND RECEIVE YOUR PORTION OF THE SETTLEMENT

If you do nothing, you will be automatically included as a Class Participant in the Settlement. You do not have to take any further action to receive whatever settlement payment to which you may be entitled. It is, however, the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or a settlement payment. The estimated amount of your settlement payment if you do nothing is included on the attached *Class Action Settlement Share Form*.

6.2. REQUEST EXCLUSION FROM THE CLASS AND THE CLASS SETTLEMENT

If you do ***not*** wish to take part in the class action portion of the Settlement (the “Class Settlement”), you may exclude yourself (*i.e.*, opt out of the Class Settlement) by sending the Settlement Administrator a letter or card postmarked no later than **[Response Deadline]** that specifically requests

1 exclusion from the Class Settlement in this case. The request for exclusion must include your name,
2 address, telephone number, and signature, and it should state:

3 “I wish to be excluded from the settlement class in the case of *Alex Charalambous*
4 *et al. v. Liberty Mutual Insurance Company et al.* I understand that by asking to be
5 excluded from the settlement class, I will not receive any money from the class
6 settlement of this lawsuit and will not be releasing any claims I may have.”

7 Send the request for exclusion directly to the Settlement Administrator at the following address
8 by no later than [Response Deadline]:

9 [*]

10 Any person who submits a timely request for exclusion from the Class Settlement shall, upon
11 receipt, no longer be a Class Member, shall be barred from participating in the Class Settlement, and
12 shall receive no benefits from the class action portion of the Settlement. If you want confirmation of
13 receipt of your request for exclusion, please send it by United States certified mail, return receipt
14 requested, or contact the Settlement Administrator.

15 **Importantly**, Class Members who timely and validly request exclusion from the Class
16 Settlement will not be excluded from their share, if any, of the PAGA Payment. Requesting exclusion
17 from the Class Settlement applies solely to the Class Members’ entitlement to the class action portion
18 of the Settlement and not their entitlement, if any, to their share of the PAGA Payment. If you request
19 exclusion from the Class Settlement you will still be entitled to your pro rata share, if any, of the PAGA
20 Payment.

21 **6.3. OBJECT TO THE SETTLEMENT**

22 If you do not request exclusion, you can ask the Court to deny approval of the Settlement by
23 filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve
24 or reject the Settlement. If the Court denies approval, no settlement payments will be sent out, and the
25 lawsuit will continue. If that is what you want to happen, you should object.

26 Any objection to the proposed Settlement must be in writing. If you file a timely written
27 objection, you may, but are not required to, appear at the final approval and fairness hearing (details
28 below), either in person or through your own attorney. If you appear through your own attorney, you

are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Alex Charalambous et al. v. Liberty Mutual Insurance Company et al.*, Case No. 3:22-cv-00216-EMC), (b) include your name, address, and telephone number, (c) state whether the objection applies only to you, to a specific subset of the class, or to the entire class, (d) state with specificity the grounds for the objection, (e) be submitted to the Court either by filing them electronically or in person at any location of the United States District Court for the Northern District of California or by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, and (f) be filed or postmarked on or before **[Response Deadline]**. Objections that do not include all required information, or that are not timely submitted, may not be considered by the Court.

The final approval and fairness hearing is currently scheduled for **[Final Approval Hearing Date]**, at **[Final Approval Hearing Time]** in Department **[Court Department]** of the United States District Court, Northern District of California, located at **[Court Location]**. The date and time may change without further notice to the Class Members. Class Members should check the Settlement Website or the Court's PACER site to confirm that the date and time have not been changed.

If you object to the Settlement, you will remain a Class Member, and if the Court approves the Settlement, you will receive payment and be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided above shall be deemed to have waived any objection to the Settlement, whether by appeal or otherwise.

7. HOW TO UPDATE OR CHANGE YOUR ADDRESS

If you move after receiving this notice or if it was misaddressed, please contact the Settlement Administrator, ILYM Group, Inc., at **[*]** or by email at **[*]**, as soon as possible. This is important to ensure that future notices and/or the Settlement payment reach you.

8. IF THE SETTLEMENT IS NOT APPROVED

If the Settlement is not approved by the Court, or if any of its conditions are not satisfied, the Settlement may be voided in accordance with the terms of the Settlement, in which case no money will be paid, and the case will return to litigation. If that happens, there is no assurance: **(1)** that any class will be certified by the Court; **(2)** that any decision at trial would be in favor of Class Members; **(3)** that

1 a trial decision, if any, would be as favorable to the Class Members as the Settlement; or (4) that any
2 favorable trial decision would be upheld if an appeal were filed.

3 **9. QUESTIONS OR COMMENTS**

4 **PLEASE DO NOT CALL OR CONTACT THE COURT.** If you have any questions about
5 the settlement, you may contact the Settlement Administrator at: [*] or by e-mail at [*]. You may also
6 contact Class Counsel at the addresses or phone numbers listed below.

7
8 **Lawyers Representing the Plaintiffs, Class Members, and Aggrieved**
9 **Employees:**

10
11 **CLAPP & LAUINGER LLP**

12 **James F. Clapp**

13 **jclapp@clapplegal.com**

14 **Marita Murphy Lauinger**

15 **mlauinger@clapplegal.com**

16 **701 Palomar Airport Road, Suite 300**

17 **Carlsbad, California 92011**

18 **Phone: (760) 209-6565 ext. 104**

19 **Fax: (760) 209-6565**
20
21
22
23
24
25
26
27
28

EXHIBIT 2
Class Action Settlement
Share Form

CLASS ACTION SETTLEMENT SHARE FORM

Alex Charalambous et al. v. Liberty Mutual Insurance Company et al.

Case Number 3:22-cv-00216-EMC

United States District Court, Northern District of California

The proposed class action settlement agreement (the “Settlement”) described in the accompanying *Notice of Proposed Class Action Settlement* resolves disputed claims against Defendants Liberty Mutual Insurance Company and Liberty Mutual Group Inc. (“Defendants”) arising out of their expense reimbursement policies and practices during the period from March 1, 2020, through June 1, 2023 (the “Release Period”) as applied to all individuals who were employed by Defendants and/or any related Liberty Mutual entity in California during the period from March 1, 2020 through February 28, 2023 (the “Class Members”).

You are receiving this form because you are believed to be a Class Member. **According to Defendants’ records, you actively worked ____ workweeks for Defendants and/or any Released Party, as that term is defined in the Settlement, in California during the Release Period. Accordingly, your share of the Settlement is currently estimated to be \$ _____, which** is an estimate of your allocated portion of the Net Settlement Amount, as that term is defined in the accompanying *Notice of Proposed Class Action Settlement*. Your estimated share of the Settlement may change depending on factors such as, but not limited to, the number of Class Members who exclude themselves from the Settlement.

You do not need to do anything to receive money under the Settlement.

If you believe the information provided above as to the number of your workweeks is incorrect and wish to dispute it, please contact the Settlement Administrator no later than **[Response Deadline]** at:

[*]

If you dispute the information stated above, the information Defendants provided to the Settlement Administrator will control unless you are able to provide documentation that establishes otherwise. Any disputes, along with supporting documentation, must be postmarked no later than **[Response Deadline]**.

Do not send originals; documentation sent to the claims administrator will not be returned or preserved.