

## **AMENDED JOINT STIPULATION AND SETTLEMENT AGREEMENT**

This Amended Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Laura Torres (“Plaintiff”), individually and on behalf of the putative class, the State of California, and the allegedly aggrieved employees, and defendant R.A. Phillips Industries, Inc. (“Phillips”). The Agreement refers to Plaintiff and Phillips collectively as “Parties,” or individually as a “Party.”

### **1. DEFINITIONS.**

- 1.1. **“Action”** means Plaintiff’s lawsuit alleging wage and hour violations against Phillips, captioned *Laura Torres v. R.A. Phillips Industries, Inc.*, Case No. 21STCV41572, initiated on November 10, 2021, and pending in the Superior Court of California, County of Los Angeles.
- 1.2. **“Administrator”** means Phoenix Class Action Administration Solutions, the neutral third-party administrator which the Parties have agreed to appoint to administer the Settlement, pursuant to Court approval.
- 1.3. **“Administration Expenses Payment”** means the amount the Administrator will be paid from the Gross Settlement Amount (subject to Court approval) to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. **“Aggrieved Employees”** means all current and former hourly, non-exempt employees employed by Phillips in California and worked for Phillips during the PAGA Period.
- 1.5. **“Class”** means all current and former hourly-paid or non-exempt employees of Phillips in California at any time during the Class Period.
- 1.6. **“Class Counsel”** means Lidman Law, APC; and Haines Law Group, APC.
- 1.7. **“Class Counsel Litigation Expenses Payment”** means the Court approved amount allocated to Class Counsel for reimbursement of reasonable and actual litigation costs incurred to prosecute the Action.
- 1.8. **“Class Data”** means Class Member identifying information in Phillips’ possession, including each Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. **“Class Member”** means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. **“Class Member Address Search”** means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of

Address database, skip traces, and direct contact by the Administrator with Class Members.

- 1.11. **“Class Notice”** means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached as **Exhibit A** to this Agreement, and incorporated by reference into this Agreement.
- 1.12. **“Class Period”** means the period from November 10, 2017, to and including the earlier date of Preliminary Approval (unless the Escalator Clause is triggered and Defendant elects to close the Class Period earlier under Paragraph 8 below).
- 1.13. **“Class Representative”** means the named Plaintiff in the First Amended Complaint filed in the Action seeking Court approval to serve as a Class Representative.
- 1.14. **“Class Representative Service Payment”** means the payment to the Class Representative for initiating the Action and providing services in support of the Action, which will not exceed Five-Thousand Dollars (\$5,000.00).
- 1.15. **“Court”** means the Superior Court of California, County of Los Angeles.
- 1.16. **“Phillips”** means defendant R.A. Phillips Industries, Inc.
- 1.17. **“Defense Counsel”** means Sabrina L. Shadi, Nicholas D. Poper, and Matthew J. Goodman of Baker & Hostetler LLP.
- 1.18. **“Effective Date”** means the earliest date by which both of the following have occurred: (a) the Court enters a Judgment based on its Final Approval of the Settlement; and (b) the Judgment becomes final. The Judgment becomes final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members object to the Settlement, the first day when the Judgment can no longer be appealed, which is either (i) the day after the deadline for filing a notice of appeal from the Judgment, if no timely appeal from the Judgment is filed, or (ii) the day after the appellate court affirms the Judgment and issues a remittitur, if an appeal from the Judgment is timely filed.
- 1.19. **“Fee Award”** means the Court-approved award of attorneys’ fees to be paid to Class Counsel for the services they rendered on behalf of Plaintiff, the Class, and the Aggrieved Employees. Class Counsel will not seek, and Defendant will not oppose, attorneys’ fees of more than one-third (1/3) of the Gross Settlement Amount (include one-third (1/3) of an increase pursuant to the Escalator Clause at Paragraph 8 below) as their Fee Award.
- 1.20. **“Final Approval”** means the Court’s order granting final approval of the Settlement and entering judgment.

- 1.21. **“Final Approval Hearing”** means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.22. **“Final Judgment”** means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.23. **“Gross Settlement Amount”** means the non-reversionary total amount that Phillips shall pay in connection with this Settlement, in exchange of the release of claims described in Paragraph 5 of this Agreement. The Gross Settlement Amount is the gross sum of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00), plus Phillips’ share of payroll taxes on the portions of the Gross Settlement Amount attributed to wages (which shall be paid separately). The Gross Settlement Amount and Phillips’ share of payroll taxes comprises the total amount Phillips agrees to pay, can ever be required to pay, or can ever cause to be paid, under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to fund the following payments: (a) the Individual Class Payments, (b) the Individual PAGA Payments, (c) the LWDA PAGA Payment, (d) the Fee Award, (d) the Class Counsel Litigation Expenses Payment, (f) the Class Representative Service Payment, and (g) the Administration Expenses Payment. No portion of the Gross Settlement Amount will revert to Phillips for any reason. Under no circumstances will Phillips be required to pay or cause to be paid greater than the Gross Settlement Amount and Phillips share of payroll taxes under this Settlement, except as provided in Paragraph 9 below.
- 1.24. **“Individual Class Payment”** means each Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked by the participating Class Member during the Class Period.
- 1.25. **“Individual PAGA Payment”** means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA period by each Aggrieved Employee.
- 1.26. **“Judgment”** means the judgment entered by the Court upon granting Final Approval.
- 1.27. **“LWDA”** means the California Labor and Workforce Development Agency.
- 1.28. **“LWDA PAGA Payment”** means the 75% of the PAGA Penalties paid to the LWDA pursuant to California Labor Code § 2699(i).
- 1.29. **“Net Settlement Amount”** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: (a) the Individual PAGA Payments, (b) the LWDA PAGA Payment, (c) the Class Representative Service Payments, (d) the Fee Award, (e) the Class Counsel Litigation Expenses Payment, and (f) the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

- 1.30. **“Non-Participating Class Member”** means any Class Member who opts out of the Settlement’s release of class action claims by sending the Administrator a valid and timely Request for Exclusion.
- 1.31. **“PAGA Pay Period”** means any pay period during which an Aggrieved Employee worked for Phillips for at least one day during the PAGA Period.
- 1.32. **“PAGA Period”** means the period from November 10, 2020 up to and including the date of Preliminary Approval (unless the Escalator Clause is triggered and Defendant elects to close the PAGA Period earlier).
- 1.33. **“PAGA”** means the Private Attorneys General Act of 2004, at California Labor Code §§ 2698 *et seq.*
- 1.34. **“PAGA Notice”** means Plaintiff’s November 10, 2021 notice to Phillips and the LWDA providing notice pursuant to California Labor Code § 2699.3(a).
- 1.35. **“PAGA Penalties”** means the total amount of \$30,000 in PAGA penalties to be paid from the Gross Settlement Amount, 25% of which (\$7,500) shall be paid to the Aggrieved Employees, and 75% of which (\$22,500) shall be paid to the LWDA in settlement of the Released PAGA Claims.
- 1.36. **“Participating Class Member”** means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. **“Plaintiff”** means Laura Torres, the named Plaintiff in the Action.
- 1.38. **“Preliminary Approval”** means the Court’s Order Granting Preliminary Approval of the terms and conditions of this Settlement.
- 1.39. **“Preliminary Approval Order”** means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.40. **“Released Class Claims”** means the claims being released as described in Paragraphs 5.2 and 5.4 below.
- 1.41. **“Released PAGA Claims”** means the claims being released as described in Paragraph 5.3 and 5.4 below.
- 1.42. **“Released Parties”** means R.A. Phillips Industries, Inc. and any of its past, present, and future parents, subsidiaries, divisions, and/or affiliated companies and entities, and each of its/their past, present, and future owners, officers, directors, members, consultants, partners, subsidiaries, shareholders, attorneys, insurers, joint venturers, agents, successors, assigns, and legal representatives.
- 1.43. **“Request for Exclusion”** means a Class Member’s timely and valid submission of a written request to be excluded from the Settlement’s release of class action claims signed by the Class Member.

- 1.44. **“Response Deadline”** means 45 days after the Administrator mails Class Notices to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Released Class Claims of the Settlement, or (b) fax, email, or mail written objections to class components of the Settlement. For Class Members to whom Class Notices are re-mailed after having been returned undeliverable to the Administrator, the Response Deadline shall be extended by an additional 14 days.
- 1.45. **“Settlement”** means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46. **“Workweek”** means any week during which a Class Member worked for Phillips for at least one day during the Class Period.

## 2. **RECITALS.**

- 2.1. On November, 10 2021, Plaintiff filed a putative class action against Phillips in this Court captioned *Laura Torres v. R.A. Phillips Industries, Inc.*, Case No. 21STCV41572.
- 2.2. On April 22, 2022, Plaintiff filed a First Amended Complaint (“Operative Complaint”) alleging the following putative class action and representative claim against Phillips: (1) Failure to Provide Meal Periods under California Labor Code §§ 226.7, 512, and 558; (2) Failure to Authorize and permit Rest Periods under California Labor Code §§ 226.7 and 516; (3) Failure to Provide Accurate Itemized Wage Statements under California Labor Code § 226; (4) Unfair Competition under California Business & Professions Code §§ 17200 *et seq.*; and (5) Civil Penalties under California Private Attorneys General Act of 2004, §§ 2698, *et seq.*
- 2.3. Pursuant to California Labor Code § 2699.3(a), Plaintiff gave written notice to Phillips and the LWDA by sending the PAGA Notice.
- 2.4. On September 30, 2022, the Parties participated in an all-day mediation presided over by mediator Glenn Lerman, Esq., which led to this Agreement to settle the Action. The Parties represent that, prior to mediation, they conducted significant investigation of the facts and law through informal discovery. Phillips produced documents relating to its policies, practices, and procedures regarding its wage and hour practices, paying non-exempt employees for all hours worked, meal and rest period policies, meal premiums paid, and payroll and operational policies. As part of Phillips’ production, Class Counsel represent they also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Class Counsel to understand the number of workweeks and pay periods in the Class Period and the PAGA Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged within the course and scope of the Parties’ mediation, are more than sufficient to assess the merits of the respective Parties’ positions and to compromise the issues on a fair and equitable basis. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

- 2.5. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

**3. MONETARY TERMS.**

- 3.1. Gross Settlement Amount. Phillips agrees to pay a total sum of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) as the Gross Settlement Amount. Under no circumstances will Phillips be required to pay or cause to be paid greater than the Gross Settlement Amount under the terms of this Settlement, except as to Phillips' share of payroll taxes for that portion of the Gross Settlement Amount attributed as wages (which shall be paid separately). Phillips has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Phillips.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1. To Plaintiff: Class Representative Service Payment, subject to Court approval, of no more than Five Thousand Dollars (\$5,000.00) to the Class Representative in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and/or Aggrieved Employee. Phillips will not oppose Plaintiff's request for Class Representative Service Payment that does not exceed this amount. Plaintiff will seek Court approval for any Class Representative Service Payment. Plaintiff and Class Counsel shall file this motion no later than 16 court days prior to the Final Approval Hearing. If the Court approves an amount of Class Representative Service Payment that is less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for all employee taxes owed on her Class Representative Service Payment.
- 3.2.2. To Class Counsel: A Fee Award, subject to Court approval, in an amount up to one-third (1/3) of the Gross Settlement Amount (including one-third of an increase pursuant to Paragraph 9, which will compensate Class Counsel for all work performed and to be performed in the Action. The Fee Award is currently estimated to be \$133,333.33, In addition, Class Counsel shall, subject to Court approval, request reimbursement of the Class Counsel Expense Payment, up to \$32,000.00. Phillips will not oppose requests for these payments that do not exceed these amounts. The Administrator will pay the Fee Award and Class Counsel Litigation Expense Payment using IRS

Forms 1099. Class Counsel assumes full responsibility and liability for taxes owed on the Fee Award and the Class Counsel Litigation Expenses Payment and holds Released Parties harmless, and indemnifies Released Parties, from any dispute or controversy regarding any division or sharing of these Payments.

3.2.3. To the Administrator: Settlement Administration costs shall not exceed \$10,000, except for a showing of good cause and as approved by the Court. To the extent the Settlement Administration costs are less, or the Court approves payment of less than \$10,000, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period, and (b) multiplying the result by the total Workweeks worked by each Participating Class Member during the Class Period.

3.2.4.1. Tax Allocation of Individual Class Payments. 33% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on IRS Form W-2. The remaining 67% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS Forms 1099. Each Participating Class Member assumes full responsibility and liability for any employee taxes owed on his or her Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. However, Non-Participating Class Members will still receive an Individual PAGA Payment (to the extent otherwise applicable based on the terms of this Settlement) regardless of whether they submit a valid and timely Request for Exclusion).

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the total amount of \$30,000 to be paid from the Gross Settlement Amount. 75% of PAGA Penalties (\$22,500) shall be allocated to the LWDA PAGA Payment, and 25% of PAGA Penalties (\$7,500) shall be allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees, and (b) multiplying the result

by the total PAGA Pay Periods worked by each Aggrieved Employee. Each Aggrieved Employee assumes full responsibility and liability for any taxes owed on his or her Individual PAGA Payment.

- 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS Forms 1099.

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

- 4.1. Estimated Class Workweeks and PAGA Pay Periods. Based on a review of its records to date, Phillips estimates that as of August 30, 2022 there were approximately 405 Class Members who collectively worked a total of 55,848 Workweeks during the Class Period, and 264 Aggrieved Employees who collectively worked a total of 16,368 PAGA Pay Periods during the PAGA Period.
- 4.2. Delivery of Class Data. Within 15 days after the Order granting Preliminary Approval is entered and served, Phillips will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Phillips has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data to the Administrator as soon as reasonably feasible. Without any extension of the deadline by which Phillips must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Phillips shall fully fund the Gross Settlement Amount, including all amounts necessary to fully pay Phillips' share of payroll taxes, by transmitting such funds to the Administrator no later than 10 business days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 10 business days after Phillips funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fee Award, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fee Award, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to all Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members, including those whose Class Notices were returned undeliverable. The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved Employees, and including those Aggrieved Employees whose Class Notices were returned undeliverable. The Administrator may send Participating Class Members who are also Aggrieved Employees a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Participating Class Members and Aggrieved Employees whose checks are returned undeliverable without USPS forwarding addresses. Within 3 business days of receiving a returned check, the Administrator must re-mail checks to the forwarding address provided by USPS, or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employees whose re-mailed checks are returned as undeliverable. The Administrator shall promptly send a replacement check requested by any Participating Class Member or Aggrieved Employee whose original check was lost or misplaced prior to the check void date.
- 4.4.3. For any Participating Class Member whose Individual Class Payment check is uncashed and cancelled after the void date, and for any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the Controller's Unclaimed Property Fund, in the name of the Participating Class Member and/or Aggrieved Employee, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure § 384(b). Participating Class Members whose Individual Class Payment checks are cancelled shall, nevertheless, be bound by the Class Settlement. Aggrieved Employees whose Individual PAGA Payment checks are cancelled shall, nevertheless, be bound by the Released PAGA Claims.
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Phillips to confer any additional benefits or make any additional payments to Class Members or Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Phillips fully funds the entire Gross Settlement Amount, which includes all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees, and Class Counsel will release claims against all Released Parties as follows:

5.1. **Plaintiff's Release.** Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties, in exchange for consideration provided in this Agreement, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, interest, attorneys' fees, costs, liabilities, expenses, and losses arising from or related to all facts, transactions, and occurrences which occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged based on the facts alleged in the Action and facts alleged in Plaintiff's PAGA Notice; (b) all claims that were, or reasonably could have been, ascertained during the Action, and (c) all claims released pursuant to Paragraph 5.4 below ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or to claims or actions based on occurrences outside the Class Period. Plaintiff acknowledges that she may discover facts or law different from, or in addition to, the facts or law that she now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts, her discovery of those facts.

5.1.1. **Plaintiff's Waiver of Rights Under California Civil Code Section 1542.** For purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

**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.**

5.2. **Release by Participating Class Members:** All Participating Class Members Who Are Not Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge Released Parties, in exchange for consideration provided in this Agreement, from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, interest, attorneys' fees, costs, liabilities, expenses, and losses arising from or related to the acts, facts, transactions, theories, occurrences, representations, or omissions that were alleged, or reasonably could have been alleged, in the operative First Amended Complaint based on the factual Class Period facts alleged in the operative First Amended Complaint, including but not limited to: (a) any alleged failure by Phillips to provide meal or rest periods or to pay meal or rest period premiums (including, but not limited to, failure

to correctly calculate the regular rate of pay used to calculate meal and/or rest period premium pay); (b) any alleged failure by Phillips to provide compliant wage statements; (c) any right or claim for unfair business practices in violation of California Business & Professions Code §§ 17200 *et seq.*; (d) any right or claim for civil penalties (except PAGA Penalties) pursuant to the California Labor Code or Wage Order; (e) any violation or breach of the California Labor Code arising from or related to the conduct or omission alleged, or could have reasonably been alleged based on the Class Period facts alleged including without limitation, any violation or breach of California Labor Code § 203 solely based on the failure to timely pay all meal period and rest period premiums due at the time of separation of employment, 226, 226.7, 512, 516, 558, 1174, or any other similar state or local statute, wage order, rule, regulation, ordinance, or authority, or similar causes of action arising from or relating to the conduct alleged (“Released Class Claims”). Except as set forth in Paragraph 5.4 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

- 5.3. Release by Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA civil penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the operative First Amended Complaint and the PAGA Notice, including, but not limited to, any right or claim for PAGA penalties predicated on: (a) any alleged failure by Phillips to provide meal or rest periods or to pay meal or rest period premiums (including, but not limited to, failure to correctly calculate the regular rate of pay used to calculate meal and/or rest period premium pay); (b) any alleged failure by Phillips to provide compliant wage statements; (c) any right or claim for civil penalties pursuant to the California Labor Code or Wage Order; (d) any violation or breach of the California Labor Code arising from or related to the conduct or omission alleged, or could have reasonably been alleged based on the PAGA Period facts stated in the operative First Amended Complaint and the PAGA Notice and the conduct or omission ascertained in the course of the operative First Amended Complaint, including without limitation, any violation or breach of California Labor Code § 203 solely based on the failure to timely pay all meal period and rest period premiums due at the time of separation of employment, 204, 226, 226.7, 512, 516, 558, 1174, or any other similar wage orders (“Released PAGA Claims”).
- 5.4. Release by Participating Class Members Who Are Aggrieved Employees: All Participating Class Members who are Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge Released Parties, in exchange for consideration provided in this Agreement, from all Released Class

Claims set forth in Paragraph 5.2 above and all Released PAGA Claims set forth in Paragraph 5.3 above.

**6. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

- 6.1. Phillip’s Declaration in Support of Preliminary Approval. Within 10 business days of the full execution of this Agreement, Phillips will prepare and deliver to Class Counsel a signed Declaration from Phillips and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Phillips shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code § 2699 (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with any Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve as Class Representative and disclosing all facts relevant to any actual or potential conflicts of interest with any Class Members and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class; its timely transmission to the LWDA of all necessary PAGA documents, including Plaintiff’s PAGA Notice, the Operative Complaint, this Agreement; (vii) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their respective Declarations, Plaintiff and Class Counsel shall state whether they are aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval, which they expect will occur no later than 30 days after the full execution of this Agreement. Class Counsel are responsible for obtaining from the Court a prompt hearing date for the Motion for Preliminary Approval and appearing in Court to advocate in favor of the Motion for Preliminary Approval, delivering the Court’s

Preliminary Approval to the Administrator, and submitting copies of the Motion for Preliminary Approval of the Settlement to the LWDA on the same day that it is filed with the Court.

- 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

## **7. SETTLEMENT ADMINISTRATION.**

- 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4. Notice to Class Members.
- 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.
- 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate (1) the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and (2) the number of Workweeks and/or PAGA Pay Periods

used to calculate these amounts. Before mailing Class Notices, the Administrator shall update the Class Members' addresses using the National Change of Address database.

- 7.4.3. No later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undeliverable, the Administrator shall re-mail the Class Notice, via first-class USPS mail, using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notices are returned by the USPS a second time.
- 7.4.4. For all Class Members whose Class Notices are re-mailed after having been returned to the Administrative as undeliverable, their Response Deadline to submit written objections, challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended by an additional 14 days beyond the Response Deadline otherwise provided in the Class Notice. The Administrator shall inform the Class Member in writing of the extended Response Deadline with the re-mailed Class Notice.
- 7.4.5. If the Administrator, Phillips, or Class Counsel are contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement no later than 14 days after their respective receipt of the Class Notices, or the Response Deadline provided in the Class Notices, whichever is later.

7.5. Class Members' Requests for Exclusion (Opt-Outs).

- 7.5.1. Class Members who wish to exclude themselves from (or opt-out of) the Settlement's release of class action claims must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion no later than the Response Deadline – *i.e.*, 45 days after the Administrator mails the Class Notice (plus an additional 14 days for any Class Member whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's choice to be excluded from the Settlement and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. A Class Member who does not request timely exclusion

from the Class Settlement will be deemed a Settlement Class Member and will be bound by all terms of the Class Settlement, if the Settlement is granted Final Approval by the Court.

- 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all of the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2, 5.3 and 5.4 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are also Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and will still receive an Individual PAGA Payment based on the terms of this Agreement.
- 7.5.5. Challenges to Calculation of Workweeks and PAGA Pay Periods. Each Class Member and Aggrieved Employee shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed after having been returned undeliverable to the Administrator) to challenge the number of Workweeks and/or PAGA Pay Periods allocated to the Class Member in the Class Notice. The Class Member and/or Aggrieved Employee may communicate such challenge with the Administrator via fax, email, or mail. The Administrator must encourage the challenging Class Member and/or Aggrieved Employee to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or each Aggrieved Employee's allocation of PAGA Pay Periods shall be final and not appealable or otherwise

susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.6. Objections to Class Action Components of the Settlement.

7.6.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Fee Award, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment.

7.6.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline – *i.e.* 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed after having been returned as undeliverable).

7.6.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.7. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.7.1. Website, Email Address, and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time, and location for the Final Approval Hearing, and copies of the Settlement Agreement, the Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fee Award, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment, the Final Approval, and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.7.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. No later than five (5) days after the expiration of the Response Deadline, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (the "Exclusion List"); (b) the names and other identifying information of Class

Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion submitted (whether valid or invalid).

- 7.7.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned as undeliverable, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.7.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges to the calculation of Workweeks and/or all Aggrieved Employee challenges to the calculation of Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.7.5. Administrator’s Declaration. No later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undeliverable, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.7.6. Final Report by Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS ESTIMATES AND ESCALATOR CLAUSE.** Based on a review of its records to date, Phillips estimates that as of August 30, 2022 there were approximately 405 Class Members who collectively worked a total of 55,848 Workweeks during the Class Period, and 264 Aggrieved

Employees who collectively worked a total of 16,368 PAGA Pay Periods during the PAGA Period. If the number of workweeks during the Class Period increases by more than 10% above 55,848 (i.e., if there are 61,432 or more workweeks worked by the Class Members), Defendant will at its option either (a) agree to increase the Gross Settlement Amount on a proportional basis (i.e., if there was 10% increase in the number workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 10%), or (b) agree to shorten and close the Class Period on the date that is closest to without exceeding 61,432 workweeks worked by the Class Members so as to eliminate the need to increase the Gross Settlement Amount. If Defendant elects to shorten the Class Period if this provision is triggered, the PAGA Period will also close on the date that the Class Period closes. Defendant will notify Plaintiff's counsel of its election after the hearing date of the preliminary hearing motion is known and within seven (7) days of being notified by the Administrator that the Escalator Clause has been triggered.

9. **PHILLIPS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the Class, Phillips may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Phillips withdraws, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement, except that Phillips will remain responsible for paying all Settlement Administration Expenses actually incurred up to that time. Phillips must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** No later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code § 2699(l), a Proposed Final Approval Order, and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel no later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
  - 10.1. **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
  - 10.2. **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fee Award, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

- 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or the Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fee Award and Class Counsel Litigation Expenses Payment set forth in this Agreement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the reviewing Court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after any such remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
11. **AMENDED JUDGMENT.** If any amended judgment is required under California Code of Civil Procedure § 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.
12. **ADDITIONAL PROVISIONS.**
- 12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Phillips that any of the allegations in the Operative Complaint have merit or that Phillips has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Phillips' defenses in the Action have merit. The Parties agree that class certification and representative treatment are for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval, or enter Judgment, Phillips reserves the

right to contest certification of any class, and the manageability of any representative claim, for any reasons, and Phillips reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Phillips' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation, except for proceedings to enforce or effectuate the Settlement and this Agreement

- 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Phillips and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; (5) in response to an inquiry or subpoena issued by a state or federal government agency; or (6) to the extent disclosure is required, as determined by a Party's counsel, by applicable law or regulation. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Phillips and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of the Settlement, to object to the Settlement, or appeal from the Judgment. Nothing in this Paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members
- 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibit(s) shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party concerning the Settlement or the Action.
- 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Phillips, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably

required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 12.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of Mr. Lerman and/or the Court for resolution.
- 12.8. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.9. No Tax Advice. Neither Plaintiff, Class Counsel, Phillips, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.
- 12.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court. A waiver or amendment of any provisions of this Agreement will not constitute a waiver of any other provision.
- 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibit(s) will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.
- 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was its drafter or participated in its drafting.
- 12.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Phillips in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to

this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final disbursement of the Gross Settlement Amount, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Phillips unless, prior to the Court's discharge of the Administrator's obligation, Phillips makes a written request to Class Counsel for the return, rather than the destructions, of Class Data, except that Class Counsel may keep one copy for their files.

- 12.16. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.17. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.18. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed delivered by United States mail, by overnight mail, by email, or by messenger, to the addresses set forth below:

To Plaintiff Laura Torres: **LIDMAN LAW, APC**

Scott M. Lidman ([slidman@lidmanlaw.com](mailto:slidman@lidmanlaw.com))  
Elizabeth Nguyen ([enguyen@lidmanlaw.com](mailto:enguyen@lidmanlaw.com))  
Milan Moore ([mmoore@lidmanlaw.com](mailto:mmoore@lidmanlaw.com))  
2155 Campus Drive, Suite 150  
El Segundo, CA

**HAINES LAW GROUP, APC**

Paul K. Haines ([phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com))  
2155 Campus Drive, Suite 180  
El Segundo, CA

To Phillips:

**BAKER & HOSTETLER LLP**

Sabrina L. Shadi ([sshadi@bakerlaw.com](mailto:sshadi@bakerlaw.com))  
Nicholas D. Poper ([npoper@bakerlaw.com](mailto:npoper@bakerlaw.com))  
Matthew J. Goodman ([mgoodman@bakerlaw.com](mailto:mgoodman@bakerlaw.com))  
11601 Wilshire Boulevard, Suite 1400  
Los Angeles, CA 90025-0509

- 12.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (e.g., DocuSign), or scanned copies of the signature page which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be on and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.20. Stay of Litigation. The Parties agree to hold in abeyance all proceedings in the Action (including with respect to California Code of Civil Procedure § 583.310), except such proceedings necessary to implement and complete the Settlement. The Parties further agree that upon the signing of this Agreement that pursuant to California Code of Civil Procedure § 583.310 to extend the date to bring this case to trial under California Code of Civil Procedure § 583.310 for the entire period of this settlement process.
- 12.21. No Signature Required by Class Members. Only the Plaintiff will be required to execute this Settlement Agreement. The Settlement Notice will advise all Class Members of the binding nature of the release, and such shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.
- 12.22. Submissions to the LWDA. At the same time as they submit this Settlement Agreement to the Court for Preliminary Approval, Class Counsel shall submit a copy of this Agreement to the LWDA, as required by California Labor Code § 2699(1)(2). Within ten (10) days following the Effective Date, Class Counsel shall submit a copy of the Final Approval Order and Judgment entered by the Court to the LWDA, as required by California Labor Code § 2699(1)(3).
- 12.23. Invalidity of Any Provision; Severability. Before declaring any provision of this Settlement invalid, the Parties request that the Court first attempt to construe the provisions valid, to the fullest extent possible, consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected.

**IT IS SO AGREED.**

**For Plaintiff Laura Torres:**

Dated: 01/08/2024, 2024

  
Laura Torres (Jan 8, 2024 11:01 PST)  
LAURA TORRES

**For Defendant:**

Dated: \_\_\_\_\_, 2024

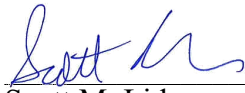
R.A. PHILLIPS INDUSTRIES, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**APPROVED AS TO FORM**

Dated: 1/8/2024, 2024

LIDMAN LAW, APC

By: \_\_\_\_\_  
Scott M. Lidman  
Elizabeth Nguyen  
*Attorneys for Plaintiff*

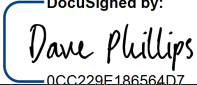
BAKER & HOSTETLER LLP

Dated: \_\_\_\_\_, 2024

By: \_\_\_\_\_  
Sabrina L. Shadi  
Nicholas D. Poper  
*Attorneys for Defendant*

Dated: 1/24/2024 | 11:58 AM PST  
\_\_\_\_\_, 2024

R.A. PHILLIPS INDUSTRIES, INC.

DocuSigned by:  
  
0CC229E186564D7  
By: \_\_\_\_\_  
Its: Executive Vice President

**APPROVED AS TO FORM**

Dated: \_\_\_\_\_, 2024

LIDMAN LAW, APC

By: \_\_\_\_\_  
Scott M. Lidman  
Elizabeth Nguyen  
*Attorneys for Plaintiff*

BAKER & HOSTETLER LLP

Dated: January 24, 2024

By:  \_\_\_\_\_  
Sabrina L. Shadi  
Nicholas D. Poper  
*Attorneys for Defendant*

# COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

*Laura Torres v. R.A. Phillips Industries, Inc., Case No. 21STCV41572*

***The Superior Court for the State of California authorized this Notice. Read it carefully!  
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against R.A. Phillips Industries, Inc. (“Phillips”) for alleged wage and hour violations. The Action was filed by a former employee Laura Torres (“Plaintiff”) and seeks payment of unpaid wages and penalties for Phillips alleged failure to provide meal periods, failure to authorize and permit rest periods, and failure to provide accurate itemized wage statements for a class of all current and former hourly-paid or non-exempt employees (“Class Members”) who worked for Phillips during the Class Period from November 10, 2017 to [date of Preliminary Approval (unless the Escalator Clause is triggered and Defendant elects to close the Class Period earlier)] and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former hourly-paid or non-exempt employees who worked for Phillips during the PAGA Period from November 10, 2020 to [date of Preliminary Approval (unless the Escalator Clause is triggered and Defendant elects to close the PAGA Period earlier)] (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Phillips to fund Individual Class Payments, and (2) a PAGA Settlement requiring Phillips to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Phillips’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$\_\_\_\_\_ (less withholding) and your Individual PAGA Payment is estimated to be \$\_\_\_\_\_**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Phillips’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Phillips’ records showing that **you worked \_\_\_\_\_ workweeks** during the Class Period and **you worked \_\_\_\_\_ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Phillips to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Phillips.

If you worked for Phillips during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Phillips.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Phillips, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

**Phillips will not retaliate against you for any actions you take with respect to the proposed Settlement.**

#### **SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

|                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                  | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Phillips that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is _____</b> | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Phillips must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |

|                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b><br><br><b>Written Objections Must be Submitted by</b> | All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice. |
| <b>You Can Participate in the _____ Final Approval Hearing</b>                                                                                          | The Court’s Final Approval Hearing is scheduled to take place on _____. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.                                                                                                                                                                                                                                                            |
| <b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b><br><br><b>Written Challenges Must be Submitted by</b>                            | The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Phillips’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.                                                                                                                                                  |

## 1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Phillips employee. The Action accuses Phillips of violating California labor laws by failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Scott M. Lidman, Elizabeth Nguyen and Milan Moore of Lidman Law, APC and Paul Haines of Haines Law Group, APC (“Class Counsel.”)

Phillips strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

## 2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Phillips or Plaintiff is correct on the merits. In the meantime, Plaintiff and Phillips hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to

jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Phillips have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Phillips does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Phillips has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

1. Phillips Will Pay \$400,000 as the Gross Settlement Amount (Gross Settlement). Phillips has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Phillips will fund the Gross Settlement no later than 10 business days after the Effective Date. "Effective Date" means the earliest date by which both of the following have occurred: (a) the Court enters a Judgment based on its Final Approval of the Settlement; and (b) the Judgment becomes final. The Judgment becomes final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members object to the Settlement, the first day when the Judgment can no longer be appealed, which is either (i) the day after the deadline for filing a notice of appeal from the Judgment, if no timely appeal from the Judgment is filed, or (ii) the day after the appellate court affirms the Judgment and issues a remittitur, if an appeal from the Judgment is timely filed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$133,333.33 (1/3 of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$32,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$5,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
  - C. Up to \$10,000 to the Administrator for services administering the

Settlement.

- D. Up to \$30,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Phillips are asking the Court to approve an allocation of 33% of each Individual Class Payment to taxable wages (“Wage Portion”) and 67% to the Non-Wage Portion. The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Phillips will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Phillips have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than \_\_\_\_\_, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the \_\_\_\_\_ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class

Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Phillips.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Phillips based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Phillips have agreed that, in either case, the Settlement will be void: Phillips will not pay any money and Class Members will not release any claims against Phillips.
8. Administrator. The Court has appointed a neutral company, Phoenix Class Action Administration Solutions (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Phillips has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Phillips or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, interest, attorneys’ fees, costs, liabilities, expenses, and losses arising from or related to the acts, facts, transactions, theories, occurrences, representations, or omissions that were alleged, or reasonably could have been alleged, in the operative First Amended Complaint based on the factual Class Period facts alleged in the operative First Amended Complaint, including but not limited to: (a) any alleged failure by Phillips to provide meal or rest periods or to pay meal or rest period premiums (including, but not limited to, failure to correctly calculate the regular rate of pay used to calculate meal and/or rest period premium pay); (b) any alleged failure by Phillips to provide compliant wage statements; (c) any right or claim for unfair business practices in violation of California Business & Professions Code §§ 17200 *et seq.*; (d) any right or claim for civil penalties (except PAGA Penalties) pursuant to the California Labor Code or Wage Order; (e) any violation or breach of the California Labor Code arising from or related to the conduct or omission alleged, or could have

reasonably been alleged based on the Class Period facts alleged including without limitation, any violation or breach of California Labor Code § 203 solely based on the failure to timely pay all meal period and rest period premiums due at the time of separation of employment, 226, 226.7, 512, 516, 558, 1174, or any other similar state or local statute, wage order, rule, regulation, ordinance, or authority, or similar causes of action arising from or relating to the conduct alleged (“Released Class Claims”). Except as set forth in Section 5.4 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.<sup>viii</sup>.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Phillips has paid the Gross Settlement and separately paid the employer-side payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against Phillips, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Phillips or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA civil penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the operative First Amended Complaint and the PAGA Notice, including, but not limited to, any right or claim for PAGA penalties predicated on: (a) any alleged failure by Phillips to provide meal or rest periods or to pay meal or rest period premiums (including, but not limited to, failure to correctly calculate the regular rate of pay used to calculate meal and/or rest period premium pay); (b) any alleged failure by Phillips to provide compliant wage statements; (c) any right or claim for civil penalties pursuant to the California Labor Code or Wage Order; (d) any violation or breach of the California Labor Code arising from or related to the conduct or omission alleged, or could have reasonably been alleged based on the PAGA Period facts stated in the operative First Amended Complaint and the PAGA Notice and the conduct or omission ascertained in the course of the operative First Amended Complaint, including without limitation, any violation or breach of California Labor Code § 203 solely based on the failure to timely pay all meal period and rest period premiums due at the time of separation of employment, 204, 226, 226.7, 512, 516, 558, 1174, or any other similar wage orders (“Released PAGA Claims”).

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by

all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$ \_\_\_\_\_ by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Phillips's records, are stated in the first page of this Notice. You have until \_\_\_\_\_ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Phillips' calculation of Workweeks and/or Pay Periods based on Phillips' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Phillips' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

## **5. HOW WILL I GET PAID?**

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).
3. **Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

## **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as \_\_\_\_\_, and include your identifying information (full name, address, telephone number, approximate dates

of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by \_\_\_\_\_, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Phillips are asking the Court to approve. At least \_\_\_\_\_ days before the \_\_\_\_\_ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website \_\_\_\_\_ (url) or the Court's website \_\_\_\_\_ (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is \_\_\_\_\_.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action \_\_\_\_\_ and include your name, current address, telephone number, and approximate dates of employment for Phillips and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on \_\_\_\_\_ at (time) in Department 14] of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website \_\_\_\_\_ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Phillips and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to \_\_\_\_\_ (specify entity) \_\_\_\_\_'s website at \_\_\_\_\_ (url) \_\_\_\_\_. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No.21STCV41572. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

### **DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

Scott M. Lidman  
Elizabeth Nguyen  
Milan Moore  
Lidman Law, APC  
2155 Campus Drive, Suite 150  
El Segundo, California 90245  
Telephone: (424) 322-4772  
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El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355  
Email: [phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)

Settlement Administrator: Name  
of Company:  
Email Address:  
Mailing Address:  
Telephone:  
Fax Number:

## **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

## **11. WHAT IF I CHANGE MY ADDRESS?**

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

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# 2024-01-08 Torres v. R.A. Phillips - Amended Class Action and PAGA Settlement Agreement - FINAL

Final Audit Report

2024-01-08

|                 |                                              |
|-----------------|----------------------------------------------|
| Created:        | 2024-01-08                                   |
| By:             | Dana Joudi (djoudi@lidmanlaw.com)            |
| Status:         | Signed                                       |
| Transaction ID: | CBJCHBCAABAAeYa0W7gogwlrDvPrwCB-j1VdTbQHAXJE |

## "2024-01-08 Torres v. R.A. Phillips - Amended Class Action and PAGA Settlement Agreement - FINAL" History

-  Document created by Dana Joudi (djoudi@lidmanlaw.com)  
2024-01-08 - 6:52:28 PM GMT- IP address: 206.169.56.234
-  Document emailed to Laura Torres (lauratb87@gmail.com) for signature  
2024-01-08 - 6:52:34 PM GMT
-  Email viewed by Laura Torres (lauratb87@gmail.com)  
2024-01-08 - 6:57:14 PM GMT- IP address: 172.226.186.11
-  Document e-signed by Laura Torres (lauratb87@gmail.com)  
Signature Date: 2024-01-08 - 7:01:07 PM GMT - Time Source: server- IP address: 76.32.158.21
-  Agreement completed.  
2024-01-08 - 7:01:07 PM GMT