

THE MARKHAM LAW FIRM

David R. Markham (SBN 71814)
dmarkham@markham-law.com
Lisa R. Brevard (SBN 323391)
lbrevard@markham-law.com
888 Prospect Street, Suite 200
La Jolla, CA 92037
Telephone: (619) 399-3995/Facsimile: (619) 615-2067

COHELAN KHOURY & SINGER

Isam C. Khoury (SBN 58759)
ikhoury@ckslaw.com
Michael D. Singer (SBN 115301)
msinger@ckslaw.com
Maggie K. Realin (SBN 263639)
mrealin@ckslaw.com
605 C Street, Suite 200
San Diego, CA 92101
Telephone: (619) 595-3001/ Facsimile: (619) 595-3000

[Additional counsel listed on following page]
Attorneys for Plaintiff MICHELLE TOWNSEND

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

MICHELLE TOWNSEND, an Individual, on
behalf of herself and all others similarly
situated,

Plaintiff,

vs.

MAXIM HEALTHCARE STAFFING
SERVICES, INC., a Maryland Corporation;
AMERGIS HEALTHCARE STAFFING,
INC., a Maryland Corporation;

Defendants.

Case No. 22-CV-005450

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Peter Borkon

Department 15

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

Date: May 8, 2025

Time: 2:30 p.m.

Reservation No.: 022201370779

Complaint Filed: January 14, 2022
Trial Date: Not Set

1 **UNITED EMPLOYEES LAW GROUP**

2 Walter L. Haines (SBN 71075)
3 whaines@uelglaw.com
4 8605 Santa Monica Blvd., #63354
West Hollywood, CA 90069
Telephone: (562) 256-1047/Facsimile: (562) 256-1006

5 Attorneys for Plaintiff MICHELLE TOWNSEND

6 **EPSTEIN BECKER & GREEN, P.C.**

7 Michael S. Kun (SBN 208684)
8 mkun@ebglaw.com
1925 Century Park East, Suite 500
Los Angeles, CA 90067-2506
Telephone: (310) 556-8861/Facsimile: (310) 553-2165

9 Attorneys for Defendant MAXIM HEALTHCARE STAFFING SERVICES, INC.
10 (incorrectly identified as MAXIM HEALTHCARE SERVICES, INC.)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. This Joint Stipulation of Class Action and PAGA Settlement and Release (“**Agreement**” or “**Stipulation**”) is made by and between Plaintiff Michelle Townsend, on behalf of herself and all others similarly situated and the general public, on behalf of herself and all members of the Settlement Class, as defined below, and as proxies for the State of California (“**Plaintiff**”), on the one hand, and Defendant Maxim Healthcare Staffing Services, Inc. (incorrectly identified as Maxim Healthcare Services, Inc. and now known as Amergis Healthcare Staffing, Inc.) (“**Defendant**”), on the other hand (collectively, “**the Parties**”), in the above-captioned matter.

DEFINITIONS

2. In addition to the terms defined above, the terms below shall have the following meanings:

A. **“Action”** means Plaintiff’s lawsuit captioned *Townsend v. Maxim Healthcare Services, Inc.*, case number 22-CV-005450, pending in Alameda Superior Court, as this Complaint will be amended in accordance with the settlement terms set forth below.

B. **“Class” or “Settlement Class”** means all Recruiters who are employed by, or formerly were employed by, Defendant in California between November 3, 2020 and February 14, 2025.

C. **“Class Counsel”** means David Markham and Lisa Brevard of The Markham Law Firm, Isam C. Khoury, Michael D. Singer and Maggie Realin of Cohelan Khoury & Singer, and Walter Haines of United Employees Law Group. The term “Class Counsel” shall be used synonymously with the term “Plaintiff’s Counsel.”

D. **“Class Counsel Fees” and “Class Counsel Costs”** means the amount to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action and their related litigation expenses incurred in connection with the Action.

E. **“Class Data”** means information regarding Class Members that Defendant shall compile from its records, as authorized by the Court, and transmit securely to the Settlement Administrator, including each Class Member’s name, last known mailing address; Social Security

1 number; last known telephone number; dates of employment, and other information necessary for
2 the Settlement Administrator to calculate the number of Compensable Workweeks worked during
3 the Class and PAGA Periods.

4 F. **“Class Member”** or **“Settlement Class Member”** means a member of the Class,
5 as either a Participating Class Member or Non-Participating Class Member (including a Non-
6 Participating Class Member who qualifies as a PAGA-Eligible Employee).

7 G. **“Class Members’ Released Claims”** means the claims being released by the
8 Participating Class Members, as described in Paragraph 20 below.

9 H. **“Class Notice”** means the Court-Approved Notice of Pendency of Class Action
10 and PAGA Settlement and Final Hearing, to be mailed to Class Members in the form, without
11 material variation, attached as Exhibit 1 and incorporated by reference into this Agreement.

12 I. **“Class Period”** means the period from November 3, 2020 to February 14, 2025.

13 J. **“Class and PAGA Period End Date”** means February 14, 2025.

14 K. **“Class Representative”** means Michelle Townsend, the named Plaintiff in the in
15 the Action, who is seeking Court approval to serve as the Class Representative.

16 L. **“Class Representative’s Service Award”** means the amount to be paid to the
17 Class Representative for initiating the Action and providing services in support of the Action, as
18 approved by the Court.

19 M. **“Compensable Workweeks”** means the number of calendar weeks that a Class
20 Member performed work for Defendant as a Recruiter in California at any time during the Class
21 Period, including the PAGA Period.

22 N. **“Court”** means the Alameda County Superior Court presiding over the settlement
23 approval process in the Action.

24 O. **“Defense Counsel”** means Michael S. Kun and Kevin D. Sullivan of Epstein
25 Becker & Green, P.C.

26 P. **“Effective Date”** is the date on which the Settlement becomes “Final,” which
27 means the latest date on which the following events have occurred: (i) the Superior Court has
28 granted Final Approval and entered its Final Judgment approving the Settlement, without material

1 modification, if there are no objections to the Settlement or if any and all objections have been
2 withdrawn by the time of the Final Approval order; or (ii) if there are any objections, and they
3 have not been withdrawn by the time of the Final Approval order, the day after the deadline for
4 filing a notice of appeal from the Final Judgment has passed without a timely appeal having been
5 filed; or (iii) if a timely appeal from the Final Judgment is filed, the day after the appellate court
6 affirms the Judgment and issues a remittitur.

7 Q. **“Final Approval”** means the Court’s order granting final approval of the
8 Settlement.

9 R. **“Final Approval Hearing”** means the Court’s hearing on the motion for Final
10 Approval of the Settlement.

11 S. **“Final Judgment”** means the Judgment entered by the Court upon granting Final
12 Approval of the Settlement.

13 T. **“Individual Class Payment”** means the Participating Class Member’s pro rata
14 share of the Net Settlement Amount calculated according to the number of Compensable
15 Workweeks worked during the Class Period, as explained below in Paragraph 16.

16 U. **“Individual PAGA Payment”** means the pro rata share of 25% of the PAGA
17 Payment, calculated according to the number of Compensable Workweeks worked during the
18 PAGA Period by the eligible Class Members, whether or not they requested to be excluded from
19 the Settlement, as explained below in Paragraph 17.

20 V. **“LWDA”** means the California Labor and Workforce Development Agency.

21 W. **“LWDA PAGA Payment”** means the 75% share of the PAGA Payment paid to
22 the LWDA under Labor Code section 2699(i).

23 X. **“Maximum Settlement Amount”** means One Million Two Hundred Thousand
24 Dollars and Zero Cents (\$1,200,000.00), which is the total amount Defendant shall have to pay
25 under the Settlement, except as provided in Paragraph 19 below regarding employer payroll taxes
26 on the wage payments being made under the Settlement. The Maximum Settlement Amount will
27 be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA
28 Payment, the Class Counsel Award for fees and costs, the Class Representative’s Service Award,

1 and the Settlement Administration Costs. This excludes the employer's contribution of payroll
2 taxes due on the settlement payments apportioned as wages, which Defendant will pay outside of
3 the Maximum Settlement Amount.

4 Y. **"Net Settlement Amount"** means the Maximum Settlement Amount, less the
5 Class Counsel Fees, the Class Counsel Costs, the Class Representative's Service Award, the
6 PAGA Payment, and the Settlement Administration Costs.

7 Z. **"Non-Participating Class Member"** means any Class Member who opts out of
8 the Settlement by sending the Settlement Administrator a valid and timely Request for Exclusion.

9 AA. **"Objection"** means a Class Member's valid and timely submission of a written
10 objection to the Settlement to the Settlement Administrator within the Response Deadline,
11 provided that the Class Member did not submit a Request for Exclusion.

12 BB. **"PAGA"** means the California Private Attorneys General Act of 2004, Labor
13 Code §§ 2698. *et seq.*

14 CC. **"PAGA-Eligible Employees"** means all Recruiters who are employed by, or
15 formerly were employed by, Defendant in California at any time from November 3, 2020 through
16 February 14, 2025.

17 DD. **"PAGA Payment"** means Sixty Thousand Dollars and No Cents (\$60,000.00),
18 which is the total amount of PAGA civil penalties to be paid from the Maximum Settlement
19 Amount, subject to the Court's approval, in settlement of the PAGA claims in this Action. Of
20 this amount, 75% (\$45,000.00) will be paid to the LWDA and 25% (\$15,000.00) will be
21 distributed as the Individual PAGA Payments to the PAGA-Eligible Employees, whether or not
22 they opt out of the Class Settlement.

23 EE. **"PAGA Period"** means the period from November 3, 2020 through February 14,
24 2025.

25 FF. **"PAGA-Released Claims"** means the PAGA claims being released as described
26 in Paragraph 21 below.

27 GG. **"Participating Class Member"** means a Class Member who does not submit a
28 valid and timely Request for Exclusion from the Settlement.

1 HH. **“Preliminary Approval Order”** means the Court’s Order granting preliminary
2 approval of the Settlement.

3 II. **“Released Parties”** means Defendant and all of its former and present parents,
4 corporate members, subsidiaries, divisions, and affiliated companies, and their respective officers,
5 directors, employees, partners, shareholders, agents, insurers, successors, assigns, and legal
6 representatives.

7 JJ. **“Request for Exclusion”** means a Class Member’s valid and timely submission of
8 a written request to the Settlement Administrator to be excluded from the Class Settlement,
9 signed by the Class Member.

10 KK. **“Response Deadline”** means 60 days after the Settlement Administrator mails the
11 Class Notice to the Class Members, and shall be the last date on which Class Members may mail
12 or fax (1) Requests for Exclusion from the Settlement, (2) an Objection to the Settlement, or (3) a
13 dispute over the number of Compensable Workweeks attributed to them in the Class Notice,
14 unless the Response Deadline is extended by up to fifteen calendar days as the result of a re-
15 mailing of the Class Notice, as explained below in Paragraph 30.

16 LL. **“Settlement”** means the final and complete disposition of the Action effected by
17 this Agreement and the Judgment.

18 MM. **“Settlement Administrator”** or **“Administrator”** means Simpluris, Inc., the
19 neutral entity the Parties have agreed to appoint to administer the Settlement, subject to approval
20 by the Court.

21 NN. **“Settlement Administration Costs”** means the Court-approved fees and
22 reasonable costs incurred by the Settlement Administrator to administer the Settlement, currently
23 estimated at \$8,150 to be reimbursed to the Settlement Administrator from the Maximum
24 Settlement Amount.

25 **RECITALS**

26 3. **Procedural History.** On June 6, 2022, Plaintiff Michelle Townsend filed a
27 representative action Complaint on behalf of Recruiters, asserting the following claims under
28 PAGA: (1) failure to pay wages including overtime wages; (2) failure to reimburse necessarily

1 incurred business expenses; (3) failure to furnish accurate, itemized wage statements; (4) failure
2 to pay all wages due at termination; and (5) failure to pay wages timely within Labor Code
3 section 204.

4 4. **Mediation.** On October 23, 2024, the Parties participated in a full-day, arms-
5 length mediation before Mediator Kevin Barnes, Esq. With the assistance of the mediator, the
6 Parties were able to agree to a total settlement of the claims in the Action, subject to the Court's
7 approval.

8 5. **Benefits of Settlement to Plaintiffs and the Class Members.** Plaintiff and Class
9 Counsel recognize the expense and length of continued proceedings necessary to litigate
10 Plaintiff's disputes in this Action through trial and through any possible appeals. Plaintiff has
11 also taken into account the uncertainty and risks of the outcome of further litigation, and the
12 difficulties and delays inherent in such litigation. Plaintiff and Class Counsel also are aware of
13 the burdens of proof necessary to establish liability for the claims asserted in the Action, both
14 generally and in response to Defendant's defenses thereto, and the difficulties in establishing
15 damages, penalties, restitution and other relief sought in the Action. Plaintiff and Class Counsel
16 also have taken into account Defendant's agreement to enter into a settlement that confers
17 substantial benefits upon the Class Members. Based on the foregoing, Plaintiff and Class
18 Counsel have determined that the Settlement set forth in this Agreement is fair, adequate, and
19 reasonable and is in the best interests of all Class Members.

20 6. **Defendant's Reasons for Settlement.** Defendant has concluded that further
21 defense of the Action would be protracted and expensive. Substantial amounts of Defendant's
22 time, energy, and resources have been, and unless this Settlement is completed, shall continue to
23 be, devoted to the defense of the claims asserted by Plaintiff. Defendant also has taken into
24 account the risks of further litigation in reaching its decision to enter into this Settlement. Even
25 though Defendant contends that it is not liable for any of the claims alleged by Plaintiff in the
26 Action and denies any liability whatsoever, Defendant, nonetheless, has agreed to settle in the
27 manner and upon the terms set forth in this Stipulation and to fully and finally put to rest the
28 claims alleged in the Action.

1 **AMENDMENT OF COMPLAINT AND CERTIFICATION OF SETTLEMENT CLASS**

2 7. **Amendment of Complaint.** In connection with this Settlement Agreement and
3 filing of Preliminary Approval, the Parties will file a stipulation and proposed order requesting
4 approval for Plaintiff to file an amended Complaint incorporating all class and PAGA allegations
5 released in Paragraphs 20 and 21, including claims for alleged meal and rest period violations, for
6 purposes of seeking approval of the Settlement. Defendant need not submit a responsive pleading
7 to this amended complaint.

8 8. **Stipulated Settlement Class.** Solely for purposes of settling the Action, the
9 Parties have agreed to the certification of a Settlement Class as defined herein.

10 9. **Certification Is for Settlement Only.** For purposes of this Settlement, the Parties
11 stipulate and agree that the requisites for establishing class certification with respect to the Class
12 have been met and are met. More specifically, for purposes of settlement only, the Parties
13 stipulate and agree that the Settlement Class is ascertainable and so numerous as to make it
14 impracticable to join all Class Members; and that there are common questions of law and fact,
15 including, but not limited to, whether Recruiters were misclassified as exempt employees;
16 whether Defendant failed to provide meal periods and/or to pay meal premiums in lieu thereof at
17 the correct regular rate of compensation as required under Labor Code section 226.7; whether
18 defendant failed to authorize and permit rest breaks and/or to pay rest break premiums in lieu
19 thereof as required under Labor Code section 226.7; whether Defendant failed to pay all wages
20 owed, including overtime; whether Defendant failed to furnish accurate, itemized wage
21 statements to all Class Members in accordance with Labor Code section 226; and whether
22 Defendant is liable to the Class Members for derivative waiting time penalties pursuant to Labor
23 Code section 203, among other common issues.

24 10. **Certification Stipulation Nullified if Settlement Not Approved.** Should this
25 Settlement not become Final, for whatever reason, the fact that the Parties were willing to
26 stipulate provisionally to class certification as part of the Settlement shall have no bearing on, and
27 shall not be admissible in a non-settlement context in the Action. Defendant expressly reserves
28 its right to oppose class certification should this Settlement not become final.

1 **MONETARY TERMS OF THE SETTLEMENT**

2 11. **Maximum Settlement Amount.** The claims of all members of the Settlement
3 Class and the PAGA-Eligible Employees, collectively, are settled for a maximum sum of One
4 Million Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.00) (“the Maximum
5 Settlement Amount”). This Maximum Settlement Amount is inclusive of the Class Counsel Fees
6 and Class Counsel Costs; the Class Representative’s Service Award to Plaintiff; the Settlement
7 Administration Costs; and the PAGA Payments to the LWDA and the PAGA-Eligible
8 Employees, all as approved by the Court. This excludes the employer’s contribution of payroll
9 taxes due on the settlement payments apportioned as wages, which Defendant will pay outside of
10 (in addition to) the Maximum Settlement Amount.

11 12. **Class Counsel Fees and Class Counsel Costs.** Class Counsel shall be entitled to
12 request attorneys’ fees in an amount not to exceed Thirty-Three and One-Third Percent (33.33%)
13 of the Maximum Settlement Amount – that is, Four Hundred Thousand (\$400,000.00) plus
14 reasonable costs not to exceed Twenty-Five Thousand Dollars (\$25,000). Class Counsel’s
15 request for such attorneys’ fees and costs shall be subject to approval by the Court. In the event
16 the Court awards Class Counsel less than these (or any other) requested amounts, the difference
17 shall become part of the Net Settlement Amount and shall be distributed to Participating Class
18 Members as part of their Individual Settlement Awards. Class Counsel shall be solely and legally
19 responsible to pay all applicable taxes due on the Class Counsel Award. Class Counsel shall
20 provide the Settlement Administrator with properly completed and signed copies of IRS Form W-
21 9 for each firm in order for the Settlement Administrator to process the Class Counsel Award
22 approved by the Court. The Settlement Administrator shall issue an IRS Form 1099 to Class
23 Counsel for the amount of the Class Counsel Award.

24 13. **Class Representative’s Service Award.** For purposes of this Settlement only, the
25 Parties agree to the designation of Plaintiff Michelle Townsend as the Class Representative. In
26 recognition of her time and effort in bringing and presenting the Action and for releasing the
27 Plaintiff’s Released Claims, Plaintiff shall request a Class Representative’s Service Award not to
28 exceed Twelve Thousand Dollars (\$12,000.00). Plaintiff’s request for such award shall be

1 subject to approval by the Court. Defendant agrees not to oppose or object to Plaintiff's request
2 for the Class Representative's Service Award that does not exceed this amount. The Class
3 Representative's Service Award will be in addition to Plaintiff's Individual Settlement Payments
4 paid pursuant to the Settlement. Plaintiff shall provide a general release of all known and
5 unknown claims she may have against Defendant and its current and former affiliates and
6 subsidiaries. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for her
7 Class Representative Service Award. Plaintiff shall be solely and legally responsible to pay any
8 and all applicable taxes due on her Class Representative Service Award. Any amount requested
9 by Plaintiff for the Class Representative Service Award and not awarded by the Court shall
10 become part of the Net Settlement Amount and shall be distributed to Participating Class
11 Members as part of their Individual Settlement Awards.

12 14. **Settlement Administration Costs.** Subject to the Court's approval, Defendant
13 shall reimburse the Settlement Administration Costs, which are estimated at Eight Thousand One
14 Hundred Fifty Dollars (\$8,150.00), to be paid from the Maximum Settlement Amount. Prior to
15 the filing of Plaintiff's Motion for Final Approval of the Settlement, the Settlement Administrator
16 shall provide the Parties with a statement detailing the Settlement Administration Costs to date.
17 Any amount requested to reimburse Settlement Administration Costs and not awarded by the
18 Court shall become part of the Net Settlement Amount and shall be distributed to Participating
19 Class Members as part of their Individual Settlement Awards.

20 15. **PAGA Payments.** Defendant shall pay a total of Sixty Thousand Dollars and No
21 Cents (\$60,000.00), which is the total amount of PAGA civil penalties to be paid from the
22 Maximum Settlement Amount, subject to the Court's approval, in settlement of the PAGA claims
23 in this Action. Of this amount, 75% (\$45,000) will be paid to the LWDA and 25% (\$15,000) will
24 be distributed as the Individual PAGA Payments to the PAGA-Eligible Employees, whether or
25 not they opt out of the Class Settlement.

26 16. **Individual Class Payments.** The Settlement Administrator will determine the
27 Net Settlement Amount by deducting the Class Counsel Fees and Costs, the Class
28 Representative's Service Award, the PAGA Payment, and the Settlement Administration Costs

1 from the Maximum Settlement Amount. The Settlement Administrator will distribute the
2 Individual Class Payments to the Participating Class Members from the Net Settlement Amount.
3 The Administrator will calculate each Participating Class Member's Individual Class Payment by
4 determining the total number of Compensable Workweeks worked by all Participating Class
5 Members during the Class Period, dividing that number into the Net Settlement Amount to
6 determine the per-workweek value of each Compensable Workweek, and then multiplying that
7 sum by the number of Compensable Workweeks worked by each Participating Class Member
8 during the Class Period.

9 17. **Individual PAGA Payments.** The Settlement Administrator will calculate each
10 eligible employee's Individual PAGA Payment by dividing the 25% portion of the PAGA
11 Payment to be distributed to those individuals, i.e. \$15,000.00, by the total number of
12 Compensable Workweeks worked by all of the PAGA-Eligible Employees during the PAGA
13 Period to derive the per-workweek value of the Individual PAGA Payments, and then multiplying
14 that sum by the number of Compensable Workweeks worked by each such employee during the
15 PAGA Period.

16 18. **Tax Treatment of Individual Class and PAGA Payments.** Individual
17 Settlement Awards shall be allocated as follows: 20% as alleged unpaid wages subject to all
18 applicable tax withholdings and 80% as alleged unpaid interest and penalties. The Settlement
19 Administrator shall issue an IRS Form W-2 to each Participating Class Member for the portion of
20 each Individual Settlement Award allocated as unpaid wages. These payments shall be subject to
21 all applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to
22 each Participating Class Member for the remaining portion of each Individual Settlement Award.
23 The Settlement Administrator shall also issue an IRS Form 1099 for the Individual PAGA
24 Payments. The non-wage portions of the Individual Settlement Awards and the entirety of the
25 Individual PAGA Payments will be allocated as non-wage penalties and interest and shall not be
26 subject to payroll tax withholdings.

27 19. **Employer Payroll Taxes.** The Maximum Settlement Amount shall resolve,
28 satisfy and completely extinguish all of Defendant's liability with respect to the Class Members,

1 except that Defendant shall be responsible for paying the employer's share of payroll taxes on the
2 portion of the Individual Settlement Awards that constitute wages. Defendant will pay these
3 taxes, as calculated by the Settlement Administrator, in addition to the Maximum Settlement
4 Amount. Upon Defendant's funding of the Maximum Settlement Amount and the employer's
5 portion of payroll taxes on the portion of the Individual Settlement Awards that constitute wages,
6 Defendant shall have no further payment or defense obligation whatsoever with respect to any
7 claims covered by this Settlement made or asserted by any person or entity anywhere in the world
8 in connection with the Class Members.

9 RELEASES

10 20. **Class Members' Released Claims.** Effective on the date when Defendant fully
11 funds the Maximum Settlement Amount and its share of employer-side payroll taxes owed on the
12 wage portion of the Settlement Payments, Plaintiff and all Participating Class Members will fully,
13 finally and forever release, settle, compromise, relinquish, and discharge Defendant and all of the
14 Released Parties from any and all claims, rights, demands, liabilities, and causes of action of
15 every nature and description, arising from November 3, 2020 through the Class and PAGA Period
16 End Date, including statutory, contractual, or common law claims for wages, damages, penalties,
17 liquidated damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief –
18 whether asserted under the California Labor Code, Business and Professions Code §§ 17200 *et*
19 *seq.*, the applicable wage orders at California Code of Regulations, Title 8, Section 11000 *et seq.*,
20 or otherwise – that arise out of or are reasonably related to the factual allegations that were
21 alleged or reasonably could have been alleged in Plaintiff's operative Complaints (including any
22 amended complaints filed pursuant to this agreement) relating to Plaintiff's claims, including but
23 not limited to: (a) failure to pay minimum, regular and overtime wages; (b) failure to provide
24 lawful meal periods and/or failure to pay meal premiums in lieu thereof; (c) failure to authorize
25 and permit rest breaks and/or failure to pay rest break premiums in lieu thereof; (d) failure to
26 reimburse necessarily incurred business expenses; (e) failure to timely pay wages during
27 employment; (f) failure to timely pay wages owed upon separation from employment; (g) failure
28 to provide accurate, itemized wage statements and/or to comply with applicable recordkeeping

1 requirements; and (h) violation of the Unfair Competition Law (Bus. & Prof. Code § 17200 et
2 seq; and (g) any and all claims for attorneys' fees and costs.

3 **21. PAGA-Released Claims by Plaintiff and the State of California.** Effective on
4 the date when Defendant fully funds the Maximum Settlement Amount and its share of employer-
5 side payroll taxes owed on the wage portion of the Settlement Payments, Plaintiff, as agent and
6 proxy of the State of California, and the State of California (including the LWDA), acting on
7 behalf of the PAGA-Eligible Employees, shall release Defendant and all the Released Parties
8 from any and all claims for PAGA civil penalties arising during the PAGA Period, based on any
9 of the underlying claims and factual allegations that were alleged, or reasonably could have been
10 alleged, based on the facts contained in Plaintiff's operative Complaint, as amended, and/or in
11 Plaintiff's notices provided to the LWDA in connection with this Action, and including all the
12 claims enumerated in the preceding Paragraph 20 for (a) failure to pay minimum, regular and
13 overtime wages; (b) failure to provide lawful meal periods and/or failure to pay meal premiums in
14 lieu thereof; (c) failure to authorize and permit rest breaks and/or failure to pay rest break
15 premiums in lieu thereof; (d) failure to reimburse necessarily incurred business expenses; (e)
16 failure to timely pay wages during employment; (f) failure to timely pay wages owed upon
17 separation from employment; (g) failure to provide accurate, itemized wage statements and/or to
18 comply with applicable recordkeeping requirements; and (h) any and all claims for attorneys' fees
19 and costs. It is understood and agreed that PAGA-Eligible Employees will not have the
20 opportunity to opt out of this PAGA Release even if they have requested to be excluded from the
21 Class Settlement. It is the intent of the Parties that, to the fullest extent permitted by law, the
22 PAGA-Eligible Employees will be deemed to have released all such PAGA claims arising during
23 the PAGA Period.

24 **22. Plaintiff's Additional Release.** In addition to the Class Members' Released
25 Claims, Plaintiff, in her individual capacity, agrees to release the Released Parties from any and
26 all claims they may have, known and unknown, under federal, state and/or local law, statute,
27 ordinance, regulation, common law, or other source of law, arising as of the date of execution of
28 this Agreement, including but not limited to claims arising from or related to her employment

1 with Defendant, her termination, her compensation while in Defendant's employ, and all other
2 dealings she may have had with the Released Parties. Plaintiff expressly waives and relinquishes
3 all rights and benefits of section 1542 of the Civil Code of the State of California, and do so
4 understanding and acknowledging the significance and consequence of specifically waiving her
5 rights under section 1542 not to otherwise release unknown claims. Section 1542 of the Civil
6 Code of the State of California states as follows:

7
8 A general release does not extend to claims that the creditor or
9 releasing party does not know or suspect to exist in his or her favor
10 at the time of executing the release and that, if known by him or
11 her, would have materially affected his or her settlement with the
12 debtor or released party.

13 Notwithstanding the provisions of section 1542, and to implement a full and complete
14 release and discharge of the Released Parties, Plaintiff expressly acknowledges that this
15 Agreement is intended to include in its effect, without limitation, all claims that Plaintiff does not
16 know or suspect to exist in her favor at the time of signing this Agreement, and that this
17 Agreement contemplates the extinguishment of any such claims. For clarity, this release does not
18 apply to vested employment benefits, such as 401k, and any other claims that cannot be released
19 as a matter of law, such as disability or workers' compensation, nor to any claims that arise after
20 execution of this Agreement.

21 **MOTION FOR PRELIMINARY APPROVAL**

22 23. **Mutual Duty of Cooperation to Seek Approval.** The Parties agree to work
23 diligently and cooperatively to have this Settlement expeditiously presented to the Court for
24 preliminary approval. Class Counsel shall prepare a draft motion for preliminary approval,
25 including a proposed Preliminary Approval Order, and will circulate the draft to Defense Counsel
26 at least five (5) business days in advance of its filing. Upon filing the motion for preliminary
27 approval, Class Counsel shall also timely submit any required notices of this Agreement to the
28 LWDA as may be required by Labor Code sections 2699(1)(2) and (3) or other provisions of
PAGA.

1 24. **Contents of Preliminary Approval Order.** As part of the motion for preliminary
2 approval, the Parties shall apply to the Court for the entry of an Order as follows:

- 3 a. Certifying the Settlement Class for settlement purposes only;
- 4 b. Approving, as to form and content, the proposed Class Notice (**Exhibit 1**
5 attached hereto);
- 6 c. Approving the manner and method for Class Members to object to or
7 request exclusion from the Settlement, as contained herein and within the Class Notice;
- 8 d. Directing the mailing of the Class Notices to Class Members, by first class
9 mail;
- 10 e. Preliminarily approving the Settlement, subject only to the objections of
11 Class Members and final review by the Court; and
- 12 f. Setting a date and time for the Final Approval Hearing.

13 25. **Resolution of Court Concerns.** If the Court does not initially grant preliminary
14 approval or conditions preliminary approval on any material change to this Agreement, Class
15 Counsel and Defense Counsel will expeditiously work together in good faith to modify the
16 Agreement and/or otherwise satisfy the Court's concerns.

17 **SETTLEMENT ADMINISTRATION**

18 26. **Selection of Settlement Administrator.** The Parties have jointly selected
19 Simpluris to serve as the Settlement Administrator and verified that, as a condition of
20 appointment, Simpluris agrees to perform, as a fiduciary, all duties specified in this Agreement in
21 exchange for payment of the Settlement Administration Costs. The Parties and their Counsel
22 represent that they have no interest or relationship, financial or otherwise, with the Settlement
23 Administrator other than a professional relationship arising out of prior experiences administering
24 settlements.

25 27. **Qualified Settlement Fund.** The Settlement Administrator shall establish a
26 settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under U.S.
27 Treasury Regulation section 468B-1. The Administrator shall have and use its own Employer
28

1 Identification Number for purposes of calculating payroll tax withholdings and providing reports
2 to state and federal tax authorities, except as otherwise required or permitted by law.

3 28. **Transmission of Class Data to Administrator.** Within fourteen (14) calendar
4 days after notice of entry of the Court's order granting preliminary approval of the Settlement, to
5 the extent practicable, Defendant will securely provide the Settlement Administrator with the
6 necessary Class Data, including the names, last known addresses and telephone numbers, and
7 social security numbers of the Class Members. In addition, Defendant will provide the
8 Settlement Administrator with data indicating the number of workweeks/pay periods worked by
9 each Class Member during the Class Period and PAGA Period, as reflected in Defendant's
10 records. The Settlement Administrator will retain the Class Data and will not share it with Class
11 Counsel except as otherwise permitted herein.

12 29. **Mailing of Class Notices.** Within fourteen (14) calendar days after receiving the
13 Class Data from Defendant, the Settlement Administrator shall mail copies of the Court-approved
14 Class Notice to all Class Members via regular First-Class U.S. Mail. The Settlement
15 Administrator shall exercise its best judgment to determine the current mailing address for each
16 Class Member as informed by the parties' input. The address identified by the Settlement
17 Administrator as the current mailing address shall be presumed to be the most current mailing
18 address for each Class Member. The Settlement Administrator shall perform a search based on
19 the National Change of Address Database maintained by the United States Postal Service to
20 update and correct any known or identifiable address changes. The Parties agree that this
21 procedure for notice provides the best notice practicable to Class Members and fully complies
22 with due process.

23 30. **Undeliverable Class Notices.** Any Settlement Notice returned to the Settlement
24 Administrator as non-deliverable on or before the Response Deadline shall be re-mailed to the
25 forwarding address affixed thereto within five (5) calendar days of receipt of the returned Class
26 Notice by the Settlement Administrator. If no forwarding address is provided, the Administrator
27 shall attempt to determine a correct address by the use of skip-tracing, or other type of automated
28 search, using the name, address and/or Social Security number of the Class Member involved,

1 and shall then perform a re-mailing to the Class Member whose Class Notice was returned as
2 non-deliverable within five (5) calendar days of receipt of the returned Notice by the
3 Administrator, assuming another mailing address is identified by the Administrator. The
4 deadlines for Class Members to submit written Objections, Requests for Exclusion, or challenges
5 to Compensable Workweeks will be extended an additional fifteen (15) calendar days from the
6 date of the re-mailing, even if this results in an extension of the otherwise-applicable 60-day
7 Response Deadline. If these procedures are followed, notice to Class Members shall be deemed
8 to have been fully satisfied, and if the intended recipient of the Settlement Notice does not receive
9 the Class Notice, the intended recipient shall nevertheless remain a Class Member and shall be
10 bound by all terms of the Settlement and the Final Order and Judgment.

11 **31. Determination of Individual Settlement Awards and Individual PAGA**
12 **Payments.** The Settlement Administrator shall determine the eligibility for, and the amounts of,
13 each Individual Class Payment and Individual PAGA Payment under the terms of this Agreement
14 based on the number of Compensable Workweeks worked by each Class Member in the
15 applicable Class and/or PAGA Periods. The Administrator will then include the estimated
16 number of Compensable Workweeks and the individual payment amounts in each Class
17 Member's Class Notice.

18 **32. Workweek Disputes.** Class Members who wish to dispute the number of eligible
19 Compensable Workweeks set forth in the Notice, or assert that they should have been included as
20 a member of the Class, may submit a written statement to the Settlement Administrator within the
21 Response Deadline setting forth the number of Compensable Workweeks they believe should be
22 credited to them within the applicable Class or PAGA Period, accompanied by any supporting
23 documentation of their claim. The Settlement Administrator, in consultation with Class Counsel
24 and Defense Counsel, will review the pertinent payroll records, which Defendant agrees to make
25 available to the Settlement Administrator as needed. Defendant's payroll records will be
26 presumed to be correct unless a Class Member proves otherwise by credible evidence. The
27 Settlement Administrator's decision as to the total number of eligible Compensable Workweeks
28

1 shall be final and non-appealable, subject to the ultimate oversight and approval of the Court if
2 necessary.

3 **33. Objections to the Settlement.** Any Participating Class Member may object to the
4 Settlement by submitting a written objection to the Settlement Administrator which must be
5 mailed (postmarked) by the 60-day Response Deadline, unless that deadline has been extended by
6 a re-mailing of the Class Notice. An objection should include: (a) the objector's full name,
7 signature, address, and telephone number; (b) a written statement of the grounds for the objection
8 accompanied by any legal support for such objection; and (c) copies of any papers, briefs, or
9 other documents upon which the objection is based. Objecting Class Members may appear at the
10 Final Approval Hearing either in person, or through counsel retained at Class Member's own
11 expense, to have their objection heard, whether or not they had submitted a prior written objection
12 as specified in this section. The Court will rule on any objections to the Settlement at the Final
13 Approval Hearing. An objection may be withdrawn at any time. The Settlement Administrator
14 shall provide objections, if any, to Class Counsel and Defense Counsel via email within three (3)
15 calendar days of receipt, and the Settlement Administrator shall attach any objections to its
16 declaration of due diligence, which is to be filed with the Court prior to the Final Approval
17 Hearing. Class Counsel and/or Defense Counsel may file responses to any properly filed
18 objections at least five (5) court days before the Final Approval Hearing. Any Participating Class
19 Member who files an objection remains eligible to receive monetary compensation from the
20 Settlement. At no time shall any of the Parties, Class Counsel, or Defense Counsel solicit or
21 otherwise encourage or discourage Class Members from submitting a Notice of Objection or
22 filing an appeal from the Final Order and Judgment. Class Members who submit a Request for
23 Exclusion are ineligible to object to the Settlement.

24 **34. Requests for Exclusion.** Any Class Member may request to be excluded from
25 ("opt out of") the Settlement by submitting a signed, written request to the Settlement
26 Administrator, clearly communicating that the Class Member wishes to be excluded from the
27 Settlement. To be timely and valid, the Request for Exclusion must be mailed (postmarked) by
28 the Response Deadline, 60 days from the Settlement Administrator's mailing of the Class Notice,

1 unless that deadline has been extended by a re-mailing of the Class Notice. The Request for
2 Exclusion should contain the Class Member's name, address, signature, date, telephone number
3 or email address, and the name of the case. Persons who submit a timely Request for Exclusion
4 will be referred to as Non-Participating Class Members. The Settlement Administrator will
5 accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
6 identity of the person as a Class Member and the Class Member's desire to be excluded. Non-
7 Participating Class Members will not be entitled to receive an Individual Class Payment under the
8 Settlement, will not be bound by the terms and conditions of the Class Settlement, and will not be
9 releasing any of the Class Members' Released Claims. However, Non-Participating Class
10 Members who are PAGA-Eligible Employees will still receive Individual PAGA Payments and
11 are precluded from bringing PAGA-Released Claims that are released by Plaintiffs and the State
12 of California, as described in Paragraph 21. Any Class Member who does not submit a timely
13 Request for Exclusion will be deemed to be a Participating Class Member and will be bound by
14 the terms and conditions of the Settlement.

15 **35. Revocation of Settlement by Defendant.** If five percent (5%) or more of the
16 Class Members request to be excluded from the Class, Defendant shall have the sole and absolute
17 discretion to revoke the Settlement Agreement. The Settlement Administrator shall provide a list
18 of the Requests for Exclusion within seven calendar (7) days after the Response Date. If
19 Defendant elects to revoke/rescind the Settlement Agreement, it shall provide written notice of
20 such revocation to Class Counsel within fourteen calendar (14) days after receiving the final list
21 of Requests for Exclusion from the Settlement Administrator. Defendant agrees to meet and
22 confer in good faith with Class Counsel before rescinding or voiding the Settlement Agreement.
23 Such rescission shall have the same effect as a termination of this Settlement Agreement for
24 failure to satisfy a condition of settlement, and the Settlement Agreement shall become null and
25 void and have no further force or effect. No Party will encourage any class member to opt out of
26 the Settlement.

27 **36. Workweek And Pay Period Count.** This settlement is based on Defendant's
28 estimate of 66,876 pay periods/workweeks between the time period of November 3, 2020 through

1 October 23, 2024. If the actual number of pay periods/workweeks for the time period of
2 November 3, 2020 through October 23, 2024 exceeds this amount by more than 10% – that is, if
3 there were 73,564 or more pay periods between the time period of November 3, 2020 through
4 October 23, 2024 – then Defendant shall have the option in its sole discretion to either: (a)
5 increase the Gross Settlement Amount proportionately for each additional pay period worked by
6 Class Members over 73,564 pay periods/workweeks; or (b) agree that the Class and PAGA Period
7 shall cut off as of the date the number of pay periods/workweeks worked by Class Members is up
8 to 73,563.

9 **37. Weekly Status Reports.** Following the mailing of the Class Notice, the
10 Settlement Administrator will provide Class Counsel and Defense Counsel with weekly reports
11 of, among other things, the number of Class Notices mailed or re-mailed, Class Notices returned
12 undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, and
13 challenges to the number of Compensable Workweeks received and/or resolved. The
14 Administrator will promptly provide counsel for the Parties with copies of any objections
15 received. Additionally, the Settlement Administrator will provide to counsel for the Parties any
16 other updated reports regarding the administration of the Settlement as may be needed or
17 requested from time to time, including any declarations required by the Court.

18 **38. Other Duties of the Settlement Administrator.** The Settlement Administrator
19 shall perform such other duties as may be necessary from time to time, as directed by Counsel or
20 the Court. This shall include, among other things, (1) maintaining and monitoring an email
21 address and toll-free telephone number to receive Class Member calls, faxes and emails; (2)
22 establishing and maintaining an internet website to post necessary information for Class Members
23 regarding this Agreement and the Final Approval Hearing, among other things; (3) providing
24 Counsel for the Parties with a declaration suitable for filing in Court at least 14 calendar days
25 before Plaintiffs are required to file their motion for Final Approval of the Settlement, attesting to
26 the Administrator's compliance with all of its obligations under the Agreement and other
27 necessary information regarding the Class Notices, Requests for Exclusion, and objections; and
28 (4) providing a final report and compliance declaration suitable for filing with the Court

1 following the Administrator's disbursement of all the payments required by this Agreement, in
2 accordance with any deadlines set by the Court.

3 **MOTION FOR FINAL APPROVAL**

4 **39. Final Settlement Approval Hearing and Entry of Final Order and Judgment.**

5 Following expiration of the Response Deadline, Plaintiff shall prepare and file a motion on behalf
6 of all Parties seeking final approval of the Settlement, including a request for approval of the
7 PAGA settlement under Labor Code section 2699(1)(2), a proposed Final Approval Order, and a
8 proposed Judgment. Plaintiff shall provide drafts of the motion for final approval and proposed
9 Final Order and Judgment to Defense Counsel not later than five (5) business days prior to filing
10 the motion. Plaintiff's motion for Final Approval shall be accompanied by a declaration from the
11 Settlement Administrator, as referenced above, describing the process and results of the
12 administration of the Settlement to date. Plaintiff will prepare and include with the Final
13 Approval motion a request seeking approval of Plaintiff's request for reimbursement of Class
14 Counsel's attorneys' fees and costs incurred in this matter and Plaintiff's request for the Class
15 Representative's Service Award. Plaintiff's motion will specify how counsel the total award of
16 attorneys' fees and costs is to be apportioned among Plaintiff's counsel in the Action.

17 **40. Contents of Proposed Final Order and Judgment.** The proposed Final Order
18 and Judgment will include, among other things:

- 19 a. Final Approval of the Settlement, adjudging the terms thereof to be fair,
20 reasonable and adequate, and directing consummation of its terms and provisions;
- 21 b. Approval of Class Counsel's application for an award of attorneys' fees
22 and costs;
- 23 c. Approval of the Class Representative's Service Award payment to
24 Plaintiff;
- 25 d. Approval of the Settlement Administration Costs;
- 26 e. Approval of the PAGA Payment;
- 27 f. The setting of a date when the Parties shall submit the Final Report
28 regarding the distribution of the Maximum Settlement Amount pursuant to California Code of

1 Civil Procedure section 384, and, if necessary, a date for a final accounting hearing following its
2 receipt of the Final Report;

3 g. The entering of a judgment in the Action that is intended to preclude any
4 Class Members from pursuing any individual, class or representative claims against any of the
5 Released Parties that have been released herein pursuant to the Settlement Agreement, upon
6 satisfaction of all payments and obligations hereunder, excluding the Class claims of those
7 persons who submitted valid and timely Requests for Exclusion.

8 41. **Duty to Cooperate.** If the Court does not grant Final Approval or conditions
9 Final Approval on any material change to the Settlement, the Parties will expeditiously work
10 together in good faith to address the Court's concerns, including, if necessary, by revising the
11 Agreement to obtain Final Approval. The Court's decision to award less than the amounts
12 requested for the Class Representative's Service Payment, Class Counsel Award of fees and
13 costs, PAGA amounts, and/or Settlement Administration Costs shall not constitute a material
14 modification of the Agreement within the meaning of this Paragraph.

15 42. **Jurisdiction of the Court Following Judgment.** Following entry of the Final
16 Order and Judgment, the Court shall retain jurisdiction solely with respect to the interpretation,
17 implementation, and enforcement of the terms of this Agreement and all orders and judgments
18 entered in connection therewith; and addressing any other settlement administration and
19 compliance matters that may require its attention. If any Party brings an action to enforce the
20 terms of this Agreement, the prevailing Party shall be entitled to its/their reasonable attorneys'
21 fees and costs.

22 **SETTLEMENT FUNDING AND PAYMENTS**

23 43. **Information from Settlement Administrator Regarding Funding.** Not later
24 than seven (7) calendar days after the Court's grant of Final Approval of the Settlement, the
25 Settlement Administrator will provide Defense Counsel with an accounting of all anticipated
26 payments from the QSF as specified in this Agreement and approved by the Court, including all
27 necessary routing and payment instructions to the QSF, and including the amount due for the
28 employer's share of payroll taxes on the wage payments to be made outside the Maximum

1 Settlement Amount. The Settlement Administrator will also provide counsel for the Parties with
2 at least seven (7) calendar days, whether before or after the funding date but before the scheduled
3 distribution date, in which to review the Administrator's proposed payment calculations.

4 **44. Funding of Settlement.** Defendant shall pay the Maximum Settlement Amount,
5 together with the amount the Settlement Administrator has determined or estimated to be
6 Defendant's share of employer taxes due on the wages being paid under the Settlement, in one
7 lump sum payment within fourteen (14) calendar days after the Effective Date. Defendant shall
8 provide the Maximum Settlement Amount to the Settlement Administrator in any feasible
9 manner, including, but not limited to, a wire transfer or a check.

10 **45. Timing of Settlement Disbursements.** Within fourteen (14) calendar days after
11 Defendant has provided the Settlement Administrator with the Maximum Settlement Amount, the
12 Settlement Administrator will distribute the payments to Plaintiff for her Class Representative
13 Service Award payment, to Class Counsel for their awarded attorneys' fees and costs, to the
14 LWDA, to the Participating Class Members for their Individual Class Payments, to all PAGA-
15 Eligible Employees for their Individual PAGA Payments, and to itself for the Settlement
16 Administration Costs.

17 **46. Method of Individual Payments.** The Settlement Administrator shall mail the
18 Individual Class Payment and Individual PAGA Payments by regular First-Class U.S. Mail to
19 each person's last known mailing address. Prior to mailing the payments, the Settlement
20 Administrator shall perform a search based on the National Change of Address Database
21 maintained by the United States Postal Service to update and correct any known or identifiable
22 address changes.

23 **47. Non-Reversionary Settlement; No Claim Necessary.** Participating Class
24 Members shall not be required to submit a claim in order to receive a share of the Net Settlement
25 Amount, and no portion of the Maximum Settlement Amount shall revert to Defendant. To the
26 extent the Court does not approve the full requested attorneys' fees, litigation costs, the Class
27 Representative's Service Award or Settlement Administration Costs, the Net Settlement Amount
28 will increase accordingly by the difference between the requested amounts and the amounts

1 awarded by the Court. If this Settlement is not finally approved by the Court in full, or is
2 terminated, rescinded, canceled or fails to become effective for any reason, or if the Effective
3 Date does not occur, then no portion of the Maximum Settlement Amount shall be paid.

4 **48. Disposition of Uncashed Checks.** All Individual Settlement Payment checks
5 and/or Individual PAGA Payment checks issued by the Settlement Administrator must be cashed
6 within one hundred eighty (180) days after issuance. After the expiration of the 180-day period,
7 the Settlement Administrator will void any uncashed checks, and, subject to the Court's approval,
8 the total amount of any uncashed settlement checks will be transmitted to the State Controller's
9 Unclaimed Property Fund to permit the affected Participating Class Members and/or PAGA-
10 Eligible Employees to claim the funds in the future, pursuant to California Code of Civil
11 Procedure section 384(b).

12 **49. Settlement Binding Even If Checks Not Cashd.** In the event a Participating
13 Class Member or Participating PAGA Member fails to cash/deposit his or her Individual Class
14 Payment check and/or Individual PAGA Payment check, for whatever reason, that person shall
15 nevertheless remain bound by the Class Settlement and, if applicable, the PAGA Release.

16 **ADDITIONAL PROVISIONS**

17 **50. Nullification of Settlement for Other Reasons.** In the event: (i) the Court does
18 not enter the Preliminary Approval Order; (ii) the Court does not grant Final Approval of the
19 Settlement; (iii) the Court does not enter the Final Order and Judgment; or (iv) the Settlement
20 does not become final for any other reason, this Agreement shall be rendered null and void, and
21 any order or judgment entered by the Court in furtherance of this Agreement shall be treated as
22 void from the beginning. In such a case, this Agreement and any documents related to it shall not
23 be used by any Class Member or Class Counsel to support any claim or request for class
24 certification in the Action, and shall not be used in any other civil or administrative action against
25 Defendant or any of the other Released Parties.

26 **51. Plaintiff's Waiver of Right to Be Excluded.** Plaintiff agrees that by signing this
27 Agreement, she will be bound by the terms herein. Plaintiff further agrees that, upon signing this
28

1 Agreement, she will not request to be excluded from this Settlement, and that any such request for
2 exclusion by Plaintiff will be void and of no force or effect.

3 **52. Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms
4 and conditions of this Agreement, the Parties, their respective counsel, and all Participating Class
5 Members who did not object to the Settlement as provided in this Agreement waive all rights to
6 appeal from the Judgment. If an objector appeals the Judgment, the Parties' obligations to
7 perform under this Agreement will be suspended until the appeal is finally resolved and the
8 Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement
9 Amount. However, nothing in this Agreement shall preclude Plaintiff from appealing a court
10 order denying or failing to grant in full their requests for attorneys' fees, costs, or service award.
11 Any order reducing the Class Counsel Award or the Class Representative's Service Award will
12 not be grounds on Plaintiff's part to nullify or void this Settlement.

13 **53. No Credit Towards Defendant's Benefit Plans.** Neither the terms of this
14 Settlement nor any of the amounts paid to Plaintiff or any Class Member shall have any effect on
15 the eligibility or calculation of any employee benefits under Defendant's benefit plans. Any
16 Individual Class Payments or Individual PAGA Payments paid under the Settlement do not
17 represent any modification of a recipient's previously-credited hours of service or other eligibility
18 criteria, and will not be utilized to calculate any additional benefits, vesting or credit under any
19 bonus or compensation plan, employee pension benefit plan, employee welfare benefit plan, or
20 any other program or policy sponsored by Defendant or any Maxim affiliates. It is the intent of
21 the Parties that the Individual Class Payments and Individual PAGA Payments provided for in
22 this Agreement are the sole payments to be made by Defendant to Class Members and others in
23 connection with this Settlement, and that the Class Members are not entitled to any new or
24 additional compensation or benefits as a result of having received the Individual Class Payments
25 and/or Individual PAGA Payments.

26 **54. No Admission of Liability, Class Certification or Representative**
27 **Manageability for Other Purposes.** Defendant denies all claims alleged in the Action and
28 denies all wrongdoing whatsoever by Defendant. Defendant further denies that any of its

1 employees has been “aggrieved” by a violation of the Labor Code. Neither this Agreement, nor
2 any of its terms and conditions, nor any of the negotiations connected with it, is a concession or
3 admission, and none shall be used against Defendant as an admission or indication with respect to
4 any claim of any fault, concession, or omission by Defendant or that class certification is proper
5 under the standard applied to contested certification motions. The Parties agree that certification
6 of the proposed class, and representative treatment under PAGA, are for purposes of this
7 Settlement only. This Agreement will not be admissible in this or any other proceeding as
8 evidence that either a class action should be certified, that Plaintiffs’ PAGA claims are
9 manageable for trial, or that Defendant is liable to Plaintiff or any Class Member, other than
10 according to the terms of this Agreement.

11 **55. Publicity and Confidentiality.** The Parties and their counsel will treat the terms
12 of this Settlement as strictly confidential prior to the filing of the preliminary approval motion.
13 Both before and after the filing of the preliminary approval motion, the Parties and their counsel
14 will not issue any press releases or initiate any contact with the media about this case and/or the
15 fact, amount, or terms of the Settlement. If, after the filing of the preliminary approval motion,
16 counsel for either Party receives an inquiry about the Settlement from the media, counsel may
17 respond but must limit such response to “no comment” or words to that effect. After the filing of
18 the preliminary approval motion, Plaintiff’s counsel shall be permitted to discuss the terms of the
19 Settlement with any Settlement Class members who inquire about the terms.

20 **56. Tax Liability.** The Parties and their counsel make no representations as to the tax
21 treatment or legal effect of the payments specified herein, and Class Members are not relying on
22 any statement or representation by the Parties, Class Counsel or Defense Counsel in this regard.
23 Participating Class Members, PAGA-Eligible Employees, Class Counsel, and Plaintiff shall be
24 solely and legally responsible for the payment of all applicable taxes and penalties assessed on the
25 payments specified herein other than the employer’s share of the payroll taxes due on the
26 payments designated as wages.

27 **57. Circular 230 Disclaimer.** The Parties acknowledge and agree that (i) no
28 provision of this Agreement, and no written communication or disclosure between or among the

1 Parties, Class Counsel or Defense Counsel and other advisors, is or was intended to be, nor shall
2 any such communication or disclosure constitute or be construed or be relied upon as, tax advice
3 within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
4 amended); (ii) the acknowledging party (a) has relied exclusively upon his, her, or its own,
5 independent legal and tax counsel for advice (including tax advice) in connection with this
6 Agreement, (b) has not entered into this Agreement based upon the recommendation of any other
7 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
8 communication or disclosure by any attorney or advisor to any other party to avoid any tax
9 penalty that may be imposed on the acknowledging party; and (iii) no attorney or advisor to any
10 other party has imposed any limitation that protects the confidentiality of any such attorney's or
11 advisor's tax strategies (regardless of whether such limitation is legally binding) upon disclosure
12 by the acknowledging party of the tax treatment or tax structure of any transaction, including any
13 transaction contemplated by this Settlement.

14 **58. Authorization to Enter into Agreement.** Class Counsel and Defense Counsel
15 warrant and represent that they are expressly authorized by the Parties whom they represent to
16 negotiate this Agreement and to take all appropriate actions required or permitted to be taken by
17 the Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents
18 required to effectuate its terms. The person signing this Agreement on behalf of Defendant
19 represents and warrants that he/she is authorized to sign this Agreement on behalf of Defendant.
20 Plaintiff represents and warrants that she is authorized to sign this Agreement on behalf of
21 themselves and the Class, and as proxies for the State of California, and that they have not
22 assigned any claim or part of a claim covered by this Agreement to a third party.

23 **59. Cooperation to Effectuate Settlement.** The Parties, Class Counsel and Defense
24 Counsel shall cooperate with each other and use their best efforts to effect the implementation of
25 this Settlement. In the event the Parties are unable to reach agreement on the form or content of
26 any document needed to implement the Settlement, or on any supplemental provisions that may
27 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of
28 the Court to resolve such disagreement.

1 60. **Invalidity of Any Provision.** In the event the Court declares any material
2 provision of this Agreement invalid, the Agreement will be void and its terms will be of no force
3 and effect, except as otherwise agreed to by the Parties in writing, subject to the Court's approval.
4 Before the Court concludes that any term or provision of this Agreement is invalid, the Parties
5 will request that the Court first attempt to construe the terms or provisions valid to the fullest
6 extent possible consistent with applicable precedents so as to define all provisions of this
7 Agreement as valid and enforceable. The Parties further agree to meet and confer in an attempt to
8 resolve any issues or concerns the Court may have as to the validity of any provision in an effort
9 to effectuate the essential terms of this Settlement, and to discuss any possible amendments to this
10 Agreement or its Exhibit 1 needed to obtain the Court's approval of the Settlement.

11 61. **Binding Nature of Notice of Class Action Settlement.** It is agreed that, because
12 the Class Members are so numerous, it is impossible or impractical to have each Class Member
13 execute the Agreement. The Class Notice shall advise all Class Members of the binding nature of
14 the Settlement, and the release of the Class Members' Released Claims as described above in
15 Paragraph 20 shall have the same force and effect as if this Agreement were executed by each
16 Participating Class Member.

17 62. **Entire Agreement.** This Agreement and its attached Exhibit 1 constitute the
18 entire agreement between the Parties, and no oral or written representations, warranties, or
19 inducements have been made to Plaintiff or Defendant concerning this Agreement or Exhibit 1
20 other than the representations, warranties, and covenants contained and memorialized in this
21 Agreement and Exhibit 1. No other prior or contemporaneous written or oral agreements may be
22 deemed binding on the Parties.

23 63. **Cooperation in Drafting.** The Parties have cooperated in the drafting and
24 preparation of this Agreement. This Agreement will not be construed against any Party on the
25 basis that the Party was the drafter or participated in the drafting.

26 64. **Amendment or Modification.** This Agreement may be amended or modified
27 only by a written instrument signed by counsel for all Parties or their successors-in-interest and
28 approved by the Court.

1 65. **Governing Law.** All terms of this Agreement and its exhibit shall be governed by
2 and interpreted according to the laws of the State of California, without regard to conflict of law
3 principles.

4 66. **Binding on Successors and Assigns.** This Agreement shall be binding upon, and
5 inure to the benefit of, the successors and assigns of the Parties.

6 67. **Headings.** The descriptive heading of any section or paragraph of this Agreement
7 is inserted for convenience of reference only and does not constitute a part of this Agreement.

8 68. **Counterparts.** This Agreement may be executed in one or more counterparts by
9 facsimile, electronically (i.e., DocuSign), or email, which for purposes of this Agreement shall be
10 accepted as an original. All executed counterparts and each of them shall be deemed to be one
11 and the same instrument if counsel for the Parties exchange between themselves signed
12 counterparts. Any executed counterpart will be admissible in evidence to prove the existence and
13 contents of this Agreement.

14 IN WITNESS WHEREOF, the Parties hereto have knowingly and voluntarily executed
15 this Joint Stipulation of Class Action and PAGA Settlement and Release on the dates set forth
16 below:

17
18 DATED: _____

19
20 _____
MICHELLE TOWNSEND, Plaintiff

21
22 DATED: _____

23 MAXIM HEALTHCARE STAFFING
24 SERVICES, INC.
(incorrectly identified as Maxim Healthcare
Services, Inc. and now known as Amergis
Healthcare Staffing, Inc.)

25 By: _____
26 Name: _____
27 Title: _____
28

1
2
3
4
5
6
7 APPROVED AS TO FORM AND CONTENT:
8

9 DATED: 4/16/2025
10

THE MARKHAM LAW FIRM

11 By: 
12 DAVID R. MARKHAM
LISA BREVARD

13 Attorneys for Plaintiff
14 MICHELLE TOWNSEND, the Class and the
15 Aggrieved Employees

16 DATED: _____

COHELAN KHOURY & SINGER

17 By: _____
18 ISAM C. KHOURY
19 MICHAEL D. SINGER
MAGGIE REALIN

20 Attorneys for Plaintiff
21 MICHELLE TOWNSEND, the Class and the
22 Aggrieved Employees

23 DATED: _____

UNITED EMPLOYEES LAW GROUP

24 By: _____
25 WALTER L. HAINES

26 Attorneys for Plaintiff
27 MICHELLE TOWNSEND, the Class and the
28 Aggrieved Employees

1 DATED: _____
2
3

EPSTEIN BECKER & GREEN, P.C.

4 By: _____

MICHAEL S. KUN

KEVIN D. SULLIVAN

Attorneys for Defendant

MAXIM HEALTHCARE STAFFING

SERVICES, INC. (now known as Amergis

Healthcare Staffing, Inc.)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28