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Attorneys for Defendant
SHARMAC CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

Dona Moise, an individual, on behalf of herself
and on behalf of all persons similarly situated,

Plaintiff,

v.

Sharmac Corporation, a California Corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 21CV001533

CLASS ACTION

Assigned to the Hon. Noël Wise (Dept. 21)

**JOINT STIPULATION AND
SETTLEMENT AGREEMENT**

Complaint Filed: November 2, 2021
FAC Filed: January 13, 2022
Trial Date: Not Set

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to its terms and conditions and the approval of the Court, this Joint Stipulation and Settlement Agreement (hereinafter the “Settlement Agreement” or “Agreement”) is made and entered into by and among Plaintiff Dona Moise (hereinafter the “Plaintiff” or “Moise” or “Named Plaintiff”), individually and on behalf of the Settlement Class, as defined herein, and Defendant Sharmac Corporation (hereinafter the “Defendant” or “Sharmac”). Plaintiff and Defendant are jointly referred to in this Settlement Agreement as the “Parties,” and each of them as a “Party.”

1. DEFINITIONS

1.1 The term “**Agreement**” means this Settlement Agreement.

1.2 The term “**Attorneys’ Fees and Costs**” means the amount of attorneys’ fees and costs and expenses to be requested by Class Counsel, subject to Court approval, in accordance with Subsection 4.4 of this Agreement, and includes all such fees, costs, expenses incurred as of the date this Settlement Agreement is executed, as well as such fees, costs, expenses incurred in documenting the Settlement, securing approval of the Settlement, administering and obtaining a judgment in the Action before the Court. Attorneys’ Fees and Costs shall be paid from the Class Settlement Amount.

1.3 The terms “**Claimant**” and “**Settlement Class Member**” mean any Class Member who does not opt-out of the Settlement.

1.4 The term “**Claims Administrator**” means Phoenix Settlement Administrators (hereinafter “PSA”), the entity agreed to by the Parties, subject to Court approval, which will perform the duties of, among other things: (i) translating the Notice into Spanish; (ii) mailing the Notice in English and Spanish to Class Members; (iii) performing an NCOA search and skip-tracing; (iv) tracking and addressing Opt-Out Letters, Objections, and workweek disputes/LC 203 subclass eligibility/PAGA eligibility; (v) notifying the Parties regarding submitted Opt-Out Letters, Objections, and workweek count/LC 203 subclass eligibility/PAGA eligibility disputes consistent with this Agreement; (vi) issuing payments consistent with this Agreement; and, (vii) determining any appropriate tax withholdings from the wage portion of payments to Settlement Class Members, making the appropriate

1 payments based on withholdings and the employer's share of payroll taxes, and issuing any
2 required tax paperwork.

3 1.5 The term "***Claims Period***" means the thirty (30) day time-period for Settlement Class
4 members to submit an Opt-Out Letter, an Objection to the Settlement, or to dispute the
5 workweeks/LC 203 subclass eligibility/PAGA eligibility listed on the Class Notice.

6 1.6 The term "***Claims Deadline***" is the last day of the Claims Period.

7 1.7 The term "***Complaint***" or "***Operative Complaint***" means the First Amended Complaint
8 ("FAC") filed on January 13, 2022, styled as *Dona Moise v. Sharmac Corporation* (Case
9 No. 21CV001533) in the Superior Court of the State of California, County of Alameda.

10 1.8 The term "***Class Counsel***" means the following counsel who, subject to Court approval,
11 shall act as counsel for the Settlement Class: Dychter Law Offices, APC.

12 1.9 The term "***Class***" or "***Class Member***" means all current and former non-exempt hourly
13 employees of Defendant Sharmac Corporation in California at any time since November
14 2, 2017 *through* December 31, 2023.

15 a. "***LC 203 subclass***" means Class Members who separated their
16 employment from Defendant at any time between November 2, 2018
17 *through* December 31, 2023.

18 1.10 The term "***Class Settlement Amount***" means the gross sum of Three Hundred and Twenty-
19 Five Thousand Dollars (\$325,000), which, in addition the employer's share of corporate
20 payroll tax obligation set forth herein, shall be the maximum sum paid by Defendant to
21 settle this Litigation. The Class Settlement Amount includes, without limitation, the
22 combined total of any Attorneys' Fees and Costs approved by the Court, any Service
23 Enhancement approved by the Court to the named Plaintiff, any Settlement Administration
24 Costs approved by the Court, any payment to the State of California Labor and Workforce
25 Development Agency ("LWDA") pursuant to the California Private Attorneys General Act
26 ("PAGA"), and all amounts paid to Settlement Class Members, all of which shall come out
27 of the Class Settlement Amount and shall not exceed the Class Settlement Amount. The
28 corporate payroll tax obligation on the "wage" portion of the settlement to the Settlement

Class Members shall be paid by Defendant *separate and apart* from the Class Settlement Amount and is not included in the Class Settlement Amount.

1.11 The term “**Court**” means the Superior Court of the State of California, County of Alameda, and any appellate court that may review any orders entered by the Court related to this Settlement.

1.12 The term “**Execution**” refers to the signing of this Agreement by all signatories hereto.

1.13 The term “**Final Judgment**” refers to the final judgment entered by the Court.

1.14 “**Final Approval Hearing**” means a hearing for the purpose of: (i) determining the fairness, adequacy, and reasonableness of the Settlement Agreement, including but not limited to with respect to allocations for attorneys’ fees and costs, pursuant to class action procedures and requirements; (ii) determining the good faith of the Settlement Agreement; and (iii) entering Judgment. This hearing is intended to be the final approval hearing required under California Rule of Court 3.769(a).

1.15 The term “**Litigation**” means *Dona Moise v. Sharmac Corporation (Case No. 21CV001533)* which is pending in the Superior Court of the State of California, County of Alameda.

1.16 The term “**Named Plaintiff**” means the named plaintiff in the Litigation, Ms. Dona Moise. The Named Plaintiff will seek to be designated as Settlement Class Representative for the Settlement Class.

1.17 The term “**Net Settlement Amount**” means the Class Settlement Amount minus the combined total of any Attorneys’ Fees and Costs approved by the Court, the amount for Settlement Administration Costs approved by the Court, the Service Enhancement approved by the Court, and the payments to the LWDA and PAGA Members pursuant to the PAGA statute, and any other costs of any kind associated with the settlement with the exception of the employer’s share of corporate payroll tax. The employer’s share of corporate payroll tax obligations on the “wage” portion of the settlement to the Settlement Class Members shall be paid *separate and apart* by Defendant. In the event that the Court reduces the Attorneys’ Fees and Costs, expenses, Service Enhancement, or either increases

or decreases the amount allocated to PAGA penalties, the Net Settlement Amount shall be adjusted accordingly and allocated to Settlement Class Members.

1.18 The term “**Notice**” means a document that has been mutually agreed to by the Parties and subject to the Court’s approval and that the Claims Administrator will mail to each Class Member, in both English and Spanish, explaining the terms of the Settlement, identifying their respective weeks worked during the Class Period, their eligibility status regarding being an LC 203 Subclass Class Member, their eligibility status regarding being a PAGA Member, their estimated share of the Net Settlement Amount, the opt-out procedure, the objection procedure, and the procedure related to disputing the stated number of eligible work weeks, LC 203 Subclass eligibility, and/or PAGA Member eligibility during the Class Period.

1.19 The term “**Notice and Administration Costs**” or “**Settlement Administration Costs**” means all costs incurred by the Claims Administrator, including but not limited to the cost to: compare the class list against the National Change of Address (“NCOA”) database maintained by the United States Postal Service; typeset, translate into Spanish, print, and mail the Notice (in both English and Spanish) to all Class Members; perform skip-tracing of returned mailings; calculate, tabulate, and mail out Settlement Disbursement Payments; payment of postage required to comply with this Agreement; responding to Class Member inquiries and addressing any challenges to the stated number of workweeks, LC 203 Subclass status and/or PAGA Member eligibility; and all other expenses, including tax reporting and fees to be paid by the Claims Administrator, necessary to administer the Settlement in accordance with this Agreement. Settlement Administration Costs shall not exceed \$13,000 or such other amount as approved by the Court. Settlement Administration Costs shall be paid from the Class Settlement Amount.

1.20 The term “**Opt-Out Letter**” refers to a written request to “opt-out” or “exclude” oneself from the Settlement sent by any Class Member who elects to be excluded from the Settlement Class. A Class Member must submit a valid opt-out letter to the Claims Administrator to exclude himself or herself from the Settlement and from the release of

claims pursuant to this Settlement. Those who submit a valid and timely Opt-Out Letter will not be considered part of the Settlement Class after their valid and timely Opt-Out Letter is received by the Claims Administrator and will have no standing to object to the Settlement. Those who submit a valid and timely Opt-Out Letter shall still be bound by the release of PAGA claims, as set forth herein.

1.21 “**Order Granting Final Approval of Class Action Settlement**” shall mean the order and judgment to be entered by the Court titled “Order Granting Motion for Final Approval of Class Action Settlement” and “Judgment.” The “Judgment,” shall constitute approval pursuant to California Rules of Court 3.769(a).

1.22 The term “**Parties**” means the Named Plaintiff and Defendant.

1.23 The term “**PAGA**” means the California Labor Code Private Attorneys General Act (California Labor Code §§ 2698, *et seq.*).

1.24 The term “**PAGA Members**” means those Class Members who worked at any time between November 2, 2020 *through* December 31, 2023.

1.25 The term “**Released Claims**” has the definition provided in ¶ 7.1, below.

1.26 The term “**Service Enhancement**” means the amount of money to be requested by Class Counsel on behalf of Named Plaintiff Dona Moise, subject to Court approval, to compensate Named Plaintiff for the efforts and risks she undertook on behalf of the Settlement Class. Any Service Enhancement shall be paid from the Class Settlement Amount.

1.27 The term “**Settlement**” means the compromise and settlement of the Litigation, as contemplated by this Agreement.

1.28 The term “**Settlement Class**” means all Claimants.

1.29 The term “**Settlement Class Period**” means the period of time from November 2, 2017 through December 31, 2023 which is the period of time applicable to the claims being released pursuant to Section 7 hereafter.

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- 1.30 The term “***Settlement Class Representative***” means Dona Moise, who Class Counsel shall request be appointed by the Court as class representative for purposes of the Settlement Class.
- 1.31 The term “***Settlement Disbursement Payment***” means the disbursements made by the Claims Administrator to Settlement Class Members, PAGA Members, Class Counsel, the Settlement Class Representative, the Claims Administrator, and the LWDA, pursuant to the Settlement, as specified in Section 6.3, below.
- 1.32 “***Final Effective Date***” or “***Effective Date***” means the date when the latest of all of the following events have occurred (1) the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; or (2) any appeal, writ or other appellate proceeding related to the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (3) any appeal, writ or other appellate proceeding has upheld the Court’s final order with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court’s order approving the Settlement is completely final, and there is no further recourse by any appellant or objector who seeks to contest the Settlement. It is further agreed by the Parties that this Settlement will not become effective if Defendant is required to pay more than the Class Settlement Amount (in addition to employer’s share of payroll tax) under any circumstances, unless otherwise agreed by the Parties in writing. It is further agreed by and between the Parties that this Settlement shall not become effective, and Defendant shall not have any obligation (monetary or otherwise) under the terms of this Settlement, unless and until any objections, writs and/or appeals, and any rights of appeal with respect to any objections or the judgment, have been finally exhausted and resolved upholding the terms of this Settlement, except that Defendant shall be responsible one half any and all Notice and Administration Costs that have already been incurred, as indicated in Subsection 4.5.
- 1.33 For purposes of determining the Final Effective Date, the Parties agree that only California Courts have jurisdiction over any such appeals, except for any appellate procedure over which the United States Supreme Court may exercise jurisdiction.

1 **2. RECITALS**

2 2.1 On November 2, 2021, Plaintiff Dona Moise filed suit in the Superior Court of the State
3 of California, County of Alameda, against Defendant Sharmac Corporation (Case No.
4 21CV001533) on behalf of a proposed class of all non-exempt hourly employees working
5 for Defendant in the State of California at any time since November 2, 2017 through the
6 present date, for multiple wage and hour claims, including but not limited to, failure to
7 pay all straight-time and overtime wages for all work performed; failure to pay all
8 bonuses; failure to provide compliant duty-free meal periods; failure to authorize and
9 permit compliant duty-free rest periods; failure to reimburse all incurred business
10 expenses; derivative claims for the failure to provide accurate itemized wage statements
11 and failure to pay all wages upon separation of employment; and claims under the
12 Business & Professions Code § 17200, *et seq.* (“UCL”). On November 2, 2021, Plaintiff
13 Moise submitted a notice of new claim to the LWDA in order to pursue a claim under the
14 PAGA based on the same claims. On January 13, 2022, after exhausting the
15 administrative requirements under the PAGA, Plaintiff filed a First Amended Complaint
16 (“FAC”) to include her PAGA claim. This case was originally assigned to the Honorable
17 Evelio Grillo (Dept. 21) and thereafter re-assigned to the Honorable Noël Wise (Dept.
18 21). Counsel for Defendant filed an Answer to the FAC on or about February 11, 2022.
19 The Court conducted an Initial Case Management Conference on March 2, 2022.

20 Plaintiff initiated formal written discovery in March 2022, propounding Special
21 Interrogatories and Requests for Production of Documents. Defendant served responses
22 to the outstanding discovery in June 2022. Defendant thereafter served amended
23 responses to the Special Interrogatories. In September 2023, Plaintiff served Requests for
24 Admission and Supplemental Special Interrogatories and Supplemental Requests for
25 Production of Documents. As part of the formal discovery process, the Parties conducted
26 a *Belaire Notice*, which resulted in Plaintiff receiving a class list of employee names and
27 contact information for all individuals who did not submit an opt-out request. The Parties
28 also met and conferred regarding Plaintiff’s formal requests for all time-punch records

1 and pay records for the Class, agreeing to a sample of time and pay data, which was
2 eventually analyzed by Plaintiff's expert and ultimately utilized at the private mediation.

3 Eventually, the Parties began discussing private class-wide mediation of this
4 matter and agreed to mediate with Ms. Kristin E. Rizzo, Esq. on September 11, 2023.
5 Although the Parties did not resolve the matter on the date of mediation, they continued
6 to engage both with the mediator and via direct settlement discussions over the next
7 several months until ultimately reaching a resolution in December 2023 for an "all-in"
8 non-reversionary settlement amount of Three Hundred and Twenty-Five Thousand
9 Dollars (\$325,000), with the corporate payroll tax obligation on the "wage" portion of the
10 Settlement to the Settlement Class Members to be paid by Defendant, separate and apart
11 from the Class Settlement Amount.

12 2.2 Named Plaintiff and her Counsel believe this Litigation is meritorious based on applicable
13 law or an extension thereof. Class Counsel represents that they have conducted a thorough
14 investigation into the facts of this case and have diligently pursued an investigation of the
15 claims against Defendant. Based on their own independent investigation and evaluation,
16 Class Counsel are of the opinion that the Settlement is fair, reasonable, and adequate and
17 is in the best interest of the Class Members in light of all known facts and circumstances,
18 including the risk of significant delay, the defenses asserted by Defendant, class
19 certification risk, trial risk, and appellate risk.

20 2.3 Defendant has also actively investigated the facts surrounding the claims brought by the
21 Plaintiff on behalf of the putative class and has actively and aggressively defended itself
22 from said claims. Defendant denies any liability or wrongdoing of any kind associated
23 with the claims alleged. Defendant further asserts that they have complied with all
24 applicable provisions of California statutory, regulatory, and common law and have a good
25 faith belief based on existing law that its practices were and are in compliance. Defendant
26 also has denied and continues to deny, *inter alia*, the allegations that the Class Members
27 have suffered damage; that Defendant in any way failed to pay Class Members for all hours
28 worked and at the lawful rate of pay; that Defendant violated any laws regarding bonus

1 compensation; that Defendant violated the law regarding meal periods and rest breaks; that
2 Defendant failed to reimburse all incurred business expenses; that Defendant failed to
3 timely pay Class Members all wages owed upon termination/resignation or otherwise when
4 due; that Defendant failed to comply with the law with respect to itemized wage statements;
5 that Defendant engaged in any unlawful, unfair or fraudulent business practices; that
6 Defendant engaged in any wrongful conduct as alleged in the Litigation; or that Class
7 Members were harmed by the conduct alleged in the Litigation. Neither this Agreement,
8 nor any document referred to or contemplated herein, nor any action taken to carry out this
9 Agreement, is, may be construed as, or may be used as an admission, concession or
10 indication by or against Defendant of any fault, wrongdoing or liability whatsoever.

11 2.4 The entry of Final Judgment in this Litigation shall resolve all claims that were alleged in
12 the operative FAC filed in the Litigation, or which could have been alleged based upon the
13 facts set forth in the operative FAC, with the exception of any claims which might be
14 retained by Settlement Class Members who exclude themselves from the Settlement. The
15 Parties agree to cooperate and take all steps necessary and appropriate to obtain Preliminary
16 Approval and Final Approval of this Settlement, and to effectuate its terms.

17 2.5 Each of the forgoing Recitals is incorporated into this Agreement as if fully set forth in the
18 body of the Agreement.

19 **3. CERTIFICATION OF SETTLEMENT CLASS**

20 3.1 The Settlement Class shall consist of *all current and former non-exempt hourly employees*
21 *of Sharmac Corporation in California at any time since November 2, 2017 through*
22 *December 31, 2023.*

23 3.2 The Parties and Class Counsel agree that, if approved, certification of the Settlement Class
24 is a conditional certification for settlement purposes only, and that if, for any reason, the
25 Court does not grant final approval of the Settlement, or if final approval is not given
26 following the appeal of any order by the Court, or if for any reason the Settlement Effective
27 Date does not occur, the certification of the Settlement Class for settlement purposes shall
28 be deemed null and void without further action by the Court or any of the Parties, each

1 Party shall retain all of their respective rights and shall be returned to their relative legal
2 positions as they existed prior to execution of this Agreement, and neither this Agreement,
3 nor any of its accompanying exhibits or any orders entered by the Court in connection with
4 this Agreement shall be admissible or used for any purpose in this Litigation or any other
5 legal proceeding, except for the enforcement of same.

6 3.3 The Parties and Class Counsel agree that, if approved, certification of the Settlement Class
7 for settlement purposes is in no way an admission by Defendant that class certification is
8 proper in any other wage and hour litigation, or any other litigation, against Defendant.

9 **4. TERMS OF SETTLEMENT**

10 4.1 Subject to the other terms and conditions contained in this Agreement, and in consideration
11 of the contemplated pleadings, releases and dismissals set forth in this Agreement, and
12 subject to Court approval, Defendant agrees that the Class Settlement Amount shall be
13 Three Hundred and Twenty-Five Thousand Dollars (\$325,000.00).

14 4.1.1 Defendant will provide the Claims Administrator with all names, last known home
15 mailing addresses, social security numbers, and all hire and separation dates for
16 each Class Member within ten (10) business days of the Court granting Preliminary
17 Approval of the Settlement, so the Claims Administrator can determine the number
18 of workweeks for each Class Member during the Class Period, as well as both their
19 LC 203 Subclass eligibility and PAGA Member eligibility.

20 4.2 Except for those Class Members who opt-out of the Settlement, all Settlement Class
21 Members shall recover a share of the Net Settlement Amount. The Net Settlement Amount
22 shall be allocated as set forth below:

23 4.2.1 Each Settlement Class Member shall be awarded a pro-rata share based
24 upon a percentage equal to the number of each Class Member's weeks
25 worked (rounded up to the next whole number) during the Class Period
26 divided by the total of all Settlement Class Members' weeks worked
27 during the Class Period. Each Settlement Class Member's respective
28 share of the Net Settlement Amount shall be calculated by multiplying the

1 Net Settlement Amount, less all amounts to be paid to the LC 203
2 Subclass, as addressed in Subsection 4.2.2 below, by a fraction, the
3 numerator of which is the individual Settlement Class Member's weeks
4 worked during the Class Period, and the denominator of which is the total
5 of all aggregate weeks worked during the Class Period by all Settlement
6 Class Members during the Settlement Class Period. Each resulting
7 product shall be the amount that each respective Settlement Class Member
8 is eligible to receive, notwithstanding any additional amount as a Member
9 of the LC 203 Subclass and/or as a PAGA Member.

10 4.2.2 The Parties agree to allocate the sum of One Hundred Dollars (\$100.00)
11 to each Settlement Class Member who is also an LC 203 Subclass
12 Member for purposes of California Labor Code Section 203 penalties (the
13 "Section 203 Settlement Amount"), which shall be deducted **before** the
14 Net Settlement Amount is allocated across Settlement Class Members
15 based on the number of weeks worked, in Subsection 4.2.1. In the event
16 that the Court determines that the Section 203 Settlement Amount needs
17 to be modified in some manner, the parties mutually agree to cooperate to
18 make said revision and reallocation within the Net Settlement Amount,
19 without the necessity for a revised Settlement Agreement.

20 4.2.3 The anticipated share of each Class Member who elects to "opt-out" of
21 the Settlement shall be re-distributed on a *pro rata* basis to all
22 participating Settlement Class Members based on their respective work
23 weeks during the Settlement Class Period. Likewise, the anticipated share
24 of each respective LC 203 Subclass Member who elects to "opt-out" of
25 the Settlement shall be returned for inclusion in the Net Settlement
26 Amount and distributed on a *pro rata* basis to all participating Settlement
27 Class Members based on their respective work weeks during the
28 Settlement Class Period.

1 4.3 Class Counsel may request, subject to Court approval, that the Settlement Class
2 Representative be paid a maximum Service Enhancement of up to Eight Thousand Five
3 Hundred Dollars (\$8,500.00), which shall be paid from the Class Settlement Amount. This
4 request shall not be opposed by Defendant. In the event that the Court does not award the
5 full requested Service Enhancement, the remainder shall be re-distributed on a *pro rata*
6 basis to all participating Settlement Class Members on the basis of their respective work
7 weeks during the Settlement Class Period. The Service Enhancement shall be paid to
8 Plaintiff in addition to her *pro rata* share of the Net Settlement.

9 4.4 Class Counsel shall apply to the Court for an award of Attorneys' Fees and Costs, which
10 shall be paid from the Class Settlement Amount. Defendant will not oppose Class
11 Counsel's application for an award of Attorneys' Fees in an amount up to one-third
12 (33.33%) of the Class Settlement Amount comprising One Hundred and Eight Thousand
13 Three Hundred and Thirty-Three Dollars (\$108,333), plus Costs not to exceed Thirteen
14 Thousand Dollars (\$13,000.00). In the event that the Court does not award the full
15 requested Attorneys' Fees and/or Costs, the remainder(s) shall be re-distributed on a *pro*
16 *rata* basis to all participating Settlement Class Members on the basis of their respective
17 work weeks during the Settlement Class Period.

18 4.4.1 The Parties agree that the Court's approval or denial of any request for
19 Attorneys' Fees and/or Costs and/or the Named Plaintiff's Service
20 Enhancement are not conditions to this Agreement and are to be considered
21 by the Court separately from the fairness, reasonableness, adequacy, and
22 good faith of the settlement. Any order or proceeding relating to the
23 application by Class Counsel of an award for Attorneys' Fees and Costs or
24 for Service Enhancement shall not operate to terminate or cancel this
25 Agreement, but in no event shall Defendant be required to pay more than
26 the Class Settlement Amount.

27 4.4.2 Class Counsel agree that they are responsible for allocating the Attorneys'
28 Fees and Costs approved by the Court among themselves and any other

counsel that may have any other agreement with them. If a lien is asserted, the Claims Administrator will tender the Attorneys' Fees and Cost award to the Court and shall thereafter be released from any claim related to those payments. Class Counsel warrants and represents that there are no liens on the amounts to be paid pursuant to the terms of this Agreement and that no assignments of the claims to be released or the Attorneys' Fees and Costs to be paid pursuant to this Agreement have been made or attempted. Class Counsel agrees to defend, indemnify and hold harmless Defendant from any liability resulting from a breach of these representations and/or any lien or assignment.

4.5 The Parties agree that, subject to Court approval, payment to the Claims Administrator shall not exceed Thirteen Thousand Dollars (\$13,000.00). The Claims Administration costs shall be paid from the Class Settlement Amount. In the event the Settlement Effective Date does not occur, any portion of the Settlement Administration Costs already incurred by the Claims Administrator shall be allocated so that Class Counsel and Defendant will each be responsible for one-half of said expenses. Any dispute relating to the Claims Administrator's ability and need to perform its duties shall be referred to the Court if it cannot be resolved by the Parties. The Claims Administrator shall regularly and accurately report to the Parties, in written form when requested, on the substance of the work performed. To the extent that the Claims Administrator Costs ultimately exceed \$13,000.00 and are approved by the Court, any additional amount will be deducted from the Class Settlement Amount.

4.6 The Parties agree that Claims paid to Claimants shall be correctly and appropriately allocated as follows:

4.6.1 The entirety of the Section 203 Settlement Amount and PAGA penalties to PAGA Members shall be allocated to "penalties" and characterized as 1099 income.

4.6.2 Of the Net Settlement Amount remaining and to be distributed *pro rata* based on workweeks, 1/3 shall be allocated to "wages", and 2/3 shall be allocated to

“penalties and interest”, such that 1/3 shall be characterized as W-2 income and 2/3 shall be characterized as 1099 income. Defendant’s share of any employer-side payroll taxes allocated to the payment of “wages” will be calculated based on the portion allocated to the payment of “wages” and paid by Defendant separate and apart from the Class Settlement Amount. The Claims Administrator will be responsible for calculating and paying the payroll taxes and withholdings owed, after informing Defendant of the specific amount required to be paid for the corporate payroll tax obligation.

4.6.3. Tax Liability. Defendant and Class Counsel make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Settlement Class Representative is not relying on any statement or representation by Defendant or Class Counsel in this regard. Settlement Class Representative understands and agrees that Class Members will be solely responsible for the sufficiency of the payment of employee’s taxes predicated on the payments described herein, with the understanding that the Claims Administrator is distributing the payroll tax withholdings and employers’ share of the wage portion of the payments, but not making any tax payment for the penalties / interest.

4.6.4 Tax Reporting. The Settlement Administrator will be solely responsible for all tax reporting, including issuing to each Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the penalties and interest allocations.

4.7 The Parties agree to allocate a total of Twenty Thousand Dollars (\$20,000.00) towards PAGA penalties. The Claims Administrator shall issue and mail a check to the State of California LWDA in the amount of Fifteen Thousand Dollars (\$15,000.00) (*i.e.* 75% share). The Claims Administrator shall determine who is an eligible PAGA Member (*i.e.* anyone who worked at any time during the time period of November 2, 2020 *through* December 31, 2023) and shall pay each eligible PAGA Member an equal share of the Five Thousand Dollars (\$5,000.00) (*i.e.* the 25% share). The allocated PAGA penalties shall

1 be paid from the Class Settlement Amount. Should the Court at the Preliminary Approval
2 hearing or the LWDA deem that additional PAGA penalties need to be allocated, the
3 Parties agree to revise the allocated PAGA penalties amount as deemed necessary without
4 the need for a revised Settlement Agreement, the funds of which shall be paid from the
5 Class Settlement Amount, reducing the Net Settlement Amount accordingly.

6 4.8 The payments made to Claimants pursuant to this Agreement are not being made for any
7 other purpose and shall not be construed as compensation for purposes of determining
8 eligibility for any health and welfare benefits or unemployment compensation, and no
9 benefit, including but not limited to pension and/or 401(k), shall increase or accrue as a
10 result of any payment made as a result of this Settlement or Agreement.

11 4.9 Subject to Court Approval, checks issued to Claimants pursuant to this Agreement shall
12 remain negotiable for a period of ninety days (90) days from the date of mailing by the
13 Claims Administrator. Thereafter, the Claims Administrator shall cancel any uncashed
14 checks and the corresponding amount shall be sent in each respective Claimant's name to
15 the Controller of the State of California to be held pursuant to the Unclaimed Property Law,
16 California Code of Civil Procedure §§ 1500, *et seq.*, in the name of the Claimant and for
17 the benefit of the Claimant until the Claimant claims his or her property. The Parties agree
18 that this disposition results in no "unpaid residue or unclaimed or abandoned class member
19 funds" as discussed in California Code of Civil Procedure section 384, subd.(b). The
20 Parties agree and acknowledge that such uncashed funds shall be in a non-interest bearing
21 Qualified Settlement Fund Account created pursuant to Internal Revenue Code Section
22 1.468B-1 up until the time of disbursement to the Controller of the State of California. No
23 interest will have accrued prior to disbursement because the account has to be a checking
24 account (non-interest bearing) in order to disburse. The Parties understand and agree that
25 because no interest will have accrued on the uncashed funds prior to disbursement there
26 will be no obligation on the part of Defendant, the Claims Administrator, or any other
27 person to pay any interest upon disbursement of the uncashed funds to the Controller of
28 the State of California under California Code of Civil Procedure Section 384.

1 **5. NOTICE OF THE SETTLEMENT**

2 5.1 Within ten (10) business days after the Court grants Preliminary Approval of this
3 Settlement, Defendant shall provide to the Claims Administrator a listing of all Class
4 Members, including the following information/data, in a Microsoft Excel spreadsheet:
5 1) full name; 2) last known mailing address; 3) telephone number (*if available*); 4) Social
6 Security Number; and 5) dates of employment as a Class Member (including all separations
7 and re-hires during the Class Period); in order for the Claims Administrator to be able to
8 calculate the workweeks (rounded-up to the next whole number), LC 203 Subclass
9 eligibility, PAGA Member eligibility, and each Class Member's preliminary respective
10 settlement share (hereinafter the "*Class List*"). The "Class List" shall be based on the data
11 kept in the ordinary course of business in Defendant's business records. The Parties agree
12 that the contents of the Class List are confidential and shall not be shared with third parties
13 other than the Claims Administrator, who shall also agree to maintain the confidentiality
14 of the Class List and agree the Class List shall not be used for any purpose other than to
15 administer the Class Settlement.

16 5.2 Subject to Court approval, the "Notice" shall be sent by the Claims Administrator to all
17 Class Members, in both English and Spanish, by first class mail within seven (7) business
18 days of receipt of the Class List, except that the Notice relating to Named Plaintiff shall be
19 e-mailed to Class Counsel.

20 5.3 Prior to mailing the Notice, the Claims Administrator shall process the Class List against
21 the National Change of Address ("NCOA") Database maintained by the United States
22 Postal Service ("USPS"). It shall be conclusively presumed that if the Notice is not
23 returned as "undeliverable," the Class Member received the Notice. With respect to any
24 Notice that are returned as "undeliverable," if a forwarding address is provided by the
25 USPS, the Claims Administrator shall re-mail the Notice within three (3) business days. If
26 a Notice is "undeliverable" and no forwarding address is provided, the Claims
27 Administrator shall employ a more substantive skip-tracing procedure in order to obtain
28 updated address information and shall re-mail the Notice to those Class Members for whom

1 a new address is located. All such re-mailing shall occur within five (5) calendar days of
2 the Administrator's receipt of the returned notice and no later than the last day of the Claims
3 Period. If the Notice is returned after skip-tracing and re-mailing occurs, there shall be no
4 further skip-tracing but the Class Member shall still be bound by the release set forth in
5 Subsection 7.1 and all other terms of this Settlement.

6 5.4 It will be conclusively presumed that if an envelope has not been returned within thirty
7 (30) calendar days of the mailing that the Class Member received the Notice.

8 **6. OPT-OUT, OBJECTION, AND DISTRIBUTION PROCESS**

9 6.1 The Notice shall set a date of thirty (30) calendar days from the original mailing date as
10 the deadline by which members of the Settlement Class may submit their Opt-Out Letter,
11 Objection to the Settlement, or Dispute related to the stated weeks worked during the Class
12 Period and/or LC 203 Subclass eligibility and/or PAGA Member eligibility. No opt-out
13 requests or objections will be honored if postmarked after the Claims Deadline. All written
14 Opt-Out Letters shall be sent to the Claims Administrator only. All written Objections
15 shall be sent to the Claims Administrator. If a claimant mistakenly sends a written Opt-
16 Out Letter or Objection to Class Counsel and/or to Defendant's Legal Counsel, the
17 respective party will forward the documents, including the mailing envelope evidencing
18 the postmark date, to the Claims Administrator as soon as possible.

19 6.2 Each Settlement Class Member shall automatically be entitled to their respective share of
20 the Settlement. The amount that each Settlement Class Member is eligible to receive under
21 this Settlement shall be determined in accordance with the formulas set forth in Subsections
22 4.2 and 4.7, where applicable.

23 6.3 Defendant will provide the Claims Administrator with sufficient funds via wire transfer to
24 pay the Class Settlement Amount within ten (10) business days of the Final Effective Date.
25 No later than ten (10) business days after Defendant provides the Claims Administrator
26 with sufficient funds via wire transfer to pay the Class Settlement Amount, the Claims
27 Administrator shall disburse the Settlement Disbursement Payments, as specified in this
28 Agreement and approved by the Court.

1 6.4 Three (3) calendar days before the Settlement Disbursement Payment, Class Counsel shall
2 deliver to the Claims Administrator written instructions signed by Class Counsel that
3 describe the manner and mode of payment of such Attorneys' Fees and Costs (and, in the
4 absence of such instructions, such attorneys' fees and costs shall be sent by U.S. Mail), and
5 a fully-executed Form W-9 with respect to each entity to whom the Attorney's Fees and
6 Costs shall be paid. The Claims Administrator will issue to Class Counsel an IRS Form
7 1099 for such amounts paid for attorneys' fees under this Settlement.

8 6.5 No person shall have any claim against Defendant, Defense Counsel, Plaintiff, Class
9 Counsel, or the Settlement Administrator based on mailings, distributions, payments or
10 reports made in accordance with or pursuant to this Agreement. This provision does not,
11 however, prevent a Party from seeking enforcement of this Agreement.

12 6.6 Without prejudice to any other remedies, the Settlement Administrator shall agree to be
13 responsible for any breach of its obligations (whether committed by the Settlement
14 Administrator or its agents) and to indemnify and hold the Parties and their counsel
15 harmless from and against all liabilities, claims, causes of action, costs and expenses
16 (including legal fees and expenses) arising out of any breach committed by the Settlement
17 Administrator or its agents.

18 6.7 Opt-Out Letters.

19 6.7.1 A Class Member who wishes to opt-out from this Settlement, and from the release
20 of claims pursuant to this Settlement, shall submit a signed, written "Opt-Out
21 Letter" directly to the Claims Administrator. The Opt-Out Letter must include the
22 Class Member's full legal name (or the name to which the Notice was sent, if
23 different), home address, telephone number, and last four digits of their social
24 security number (*for identity verification purposes*) and must state in substance: "I
25 have read the Notice and I wish to opt out of the Settlement reached in the Moise
26 case against Sharmac Corporation (Case No. 21CV001533). I understand that by
27 opting out of the Settlement I will not be bound by any judgment in the case and
28 will not be entitled to receive any payment from the Settlement other than any

1 payment under PAGA to which I may be entitled.” Opt-Out Letters must also
2 include a statement that he/she understands that he/she is still bound by the release
3 of the PAGA claims upon final approval of the Settlement and a signature under
4 penalty of perjury of the Class Member requesting exclusion. The Opt-Out Letter
5 must be returned by mail to the Settlement Administrator at the specified address.
6 Any such Request must be made in accordance with the terms set forth in the
7 Notice. A Opt-Out Letter will be timely only if postmarked by the Claims Deadline
8 unless the Parties otherwise agree in writing. A Opt-Out Letter may not be
9 submitted on behalf of a group. Any Class Member who timely requests exclusion
10 in compliance with these requirements: (i) will not have any rights under this
11 Agreement (other than a right to receive a payment under the PAGA, if they are a
12 PAGA Member), including the right to object, appeal, or comment on the
13 Settlement; (ii) will not be entitled to receive any payments under this Agreement
14 (other than a payment under the PAGA, if they are a PAGA Member); and (iii) will
15 not be bound by this Agreement, or the Judgment, except as to the release of PAGA
16 claims herein. The Parties to this Agreement and their counsel agree that they will
17 not solicit or encourage Class Members to opt-out or to object to this Settlement
18 Agreement. Upon request, the Claims Administrator shall promptly send a
19 copy/scan of any Opt-Out Letter (including a copy/scan of the mailing envelope)
20 to Class Counsel and Defense Counsel. For an Opt-Out Letter to be accepted it
21 must be timely and valid. To be timely it must be postmarked by the Claims
22 Deadline.

23 6.7.2 A Class Member who submits an Opt-Out Letter is not eligible to recover a share
24 of the Net Settlement Amount. Further, a Class Member who submits an Opt-Out
25 Letter shall have no standing to object to the Settlement, or to appear at the Final
26 Approval Hearing.

27 6.7.3 The Claims Administrator shall maintain a list of persons who have excluded
28 themselves and shall provide such list to Class Counsel and Defense Counsel

promptly upon request. The Claims Administrator shall retain the originals of all Opt-Out Letters (including the envelopes with the postmarks) received and shall make copies or the originals available to Class Counsel or Defendant's Counsel upon request.

6.7.4 All members of the Settlement Class who are not included in the exclusion list approved by the Court shall be bound by this Settlement, and all their claims shall be released as provided for herein, even if they never received actual notice of the Action or this proposed Settlement. Notwithstanding the submission of a timely Opt-Out Letter, Class Members will still be bound by the settlement and release of the PAGA claims or remedies under the Final Judgment pursuant to *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Opt-Out Letters do not apply to the PAGA claims.

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

6.8 Objection to Settlement. A Class Member who has not opted-out of the Settlement who wishes to object to the Settlement must notify the Claims Administrator of their objection, in writing, on or before the Claims Deadline. The right to object to the proposed Settlement must be exercised individually by a Settlement Class Member or through counsel, and not as a member of a group, subgroup, class, or subclass. The objection must state the Settlement Class Member's: (i) full legal name, home address, telephone number, last four digits of their social security number (*for identity verification purposes*); (ii) the words "Notice of Objection" or "Formal Objection"; (iii) in clear and concise terms the legal and factual arguments supporting the objection; (iv) a list identifying any witness(es) the objector may call to testify at the Final Approval Hearing; and (v) true and correct copies

1 of any exhibit(s) the objector intends to offer at the Final Approval Hearing. If a Settlement
2 Class Member files a timely and valid Objection and wishes to speak at the Final Approval
3 Hearing, that individuals written submission must include a request to be heard, and the
4 Court will determine whether the objecting Settlement Class Member will be permitted to
5 speak. Any Settlement Class Member who fails to make an objection at the Final Approval
6 Hearing shall be deemed to have waived his or her right to object to the Settlement. Any
7 Settlement Class Member whose objection is overruled will be deemed to be subject to the
8 terms of this Settlement and the Court's Order of Final Approval. Any Class Member who
9 "opts-out" of the Settlement shall not have standing to "object" to the Settlement, or to
10 appear at the Final Approval hearing. The Settlement Administrator shall provide
11 objections, if any, to Class Counsel and Defense Counsel within three (3) days of receipt,
12 and the Settlement Administrator shall attach the same to its declaration of due diligence
13 that will be filed with the Court prior to the Final Approval Hearing. Any Class Member
14 who files an objection remains eligible to receive monetary compensation from the
15 Settlement. Plaintiff and Defendant or their attorneys shall not be responsible for any fees,
16 costs, or expenses incurred by any Class Member and/or his or her counsel related to any
17 objections to the Settlement. Submitting an objection does not preserve the right to appeal
18 a final judgment. Rather, the right to appeal is preserved by becoming a party of record by
19 timely and properly intervening or filing a motion to vacate the judgment under Code of
20 Civil Procedure § 663. Any Settlement Class Member who does not timely and properly
21 become a party of record by intervening or filing a motion to vacate the judgment waives
22 any and all rights to appeal from the Judgment, including all rights to any post-judgment
23 proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new
24 trial, a motion under California Code of Civil Procedure section 473, and extraordinary
25 writs. Counsel for the Parties may file a response to any objections submitted by Objecting
26 Class Members at least three (3) court days before the date of the Final Approval Hearing.

27 6.9 All Class Members who do not timely request exclusion from the Settlement will
28 automatically receive payment under this Settlement as described above in Subsection 4.2,

1 which will be in the form of a Settlement Payment check and shall be bound by the release
2 set forth in Section 7 and all other pertinent terms of the Settlement.

3 6.10 Disputes Regarding Class Data. Class Members are deemed to participate in the
4 Settlement, unless they opt-out. The Notice will inform Class Members of his/her
5 estimated individual settlement amount and the number of Weeks Worked during the Class
6 Period. Class Members may dispute their Weeks Worked if they feel they were employed
7 more workweeks in the Class Period in California than Defendant's records show by timely
8 submitting evidence to the Settlement Administrator. Defendant's records will be
9 presumed determinative absent reliable evidence to rebut Defendant's records, but the
10 Settlement Administrator will evaluate the evidence submitted by the Class Member and
11 provide the evidence submitted to Class Counsel and Defense Counsel, who agree to meet
12 and confer in good faith about the evidence to determine the Class Member's actual number
13 of Weeks Worked and estimated individual settlement amount. If Class Counsel and
14 Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement
15 Administrator to render a final decision. Class Members will have until the Claims
16 Deadline to dispute Weeks Worked, unless extended by the Court. In the event that the
17 Settlement Administrator increases the number of Weeks Worked for any Settlement Class
18 Member, then the Settlement Administrator will recalculate all individual settlement
19 amounts; accordingly, in no event will Defendant be required to increase the Class
20 Settlement Amount, nor shall the Parties be required to re-notice the Class.

21 6.11 In the event that Final Approval of this Settlement Agreement is not granted by the Court,
22 neither the Settlement Agreement, nor any documents related to this Settlement or
23 negotiations leading to the Settlement may be used as evidence for any purpose, and
24 Defendant shall retain the right to challenge all claims and allegations in the Litigation,
25 including but not limited to challenging class certification for any purpose other than
26 settlement, and to assert all applicable defenses.

27 6.12 Should the Court decline to approve this Agreement in any material respect (except for
28 approval of the award of Class Counsel's Attorneys' Fees and/or Costs, the Service

Enhancement, and/or the amount allocated to PAGA), Defendant shall have no obligation to make any payment under this Agreement, and in the event that Defendant has made any such payment, such monies shall be returned promptly by the Claims Administrator to Defendant (minus Defendant's one-half share of any Administration Costs already reasonably incurred by the Claims Administrator; the other one-half share of any Administration Costs to be paid by Class Counsel).

7. **COMPREHENSIVE WAIVER AND RELEASE**

7.1 Subject to final approval by the Court of the Settlement and upon the Settlement Effective Date, Named Plaintiff and Settlement Class Members, will each be deemed to have, and by operation of the Order of Final Approval will have, expressly and irrevocably released, acquitted, and forever discharged Defendant, its members, shareholders, officers, directors, agents, current and former employees, partners, attorneys, insurers, ERISA plan administrators, subsidiaries, affiliates, and their respective predecessors, successors, and assigns (collectively referred to as the "Released Parties") from any and all claims, rights, demands, damages, debts, accounts, duties, costs (including attorneys' fees, other than those costs and fees required to be paid pursuant to this Settlement Agreement), liens, charges, complaints, causes of action, obligations, liabilities, penalties, interest, or causes of action arising between November 2, 2017 and December 31, 2023, and that were alleged in the operative FAC in the matter of *Dona Mouse v. Sharmac Corporation* (Case No. 21CV001533), or that could have been alleged or otherwise raised based on the factual allegations pled in the operative pleading in the Lawsuit, including without limitation: (i) any and all claims involving any alleged failure to pay minimum, straight-time and/or overtime wages for work performed or at the lawful rate of pay; (ii) any and all claims involving any alleged failure to authorize and permit legally compliant rest breaks, or to pay premiums for non-compliant rest breaks, or to pay such premiums at the regular rate of compensation; (iii) any alleged claims involving any alleged failure to provide legally compliant meal periods, or to pay premiums for non-compliant meal periods, or to pay such premiums at the regular rate of compensation; (iv) any and all claims involving unpaid

1 monetary bonuses; (v) any and all claims involving any alleged failure to pay all owed
2 wages each and every pay period; (vi) any and all claims involving any allegation that
3 Defendant allowed or required employees to bear any of the costs associated with the
4 operation of Defendant's business, including but not limited to any claims arising under
5 California Labor Code §§ 2800 and 2802; (vii) any and all claims involving any alleged
6 failure to timely pay wages, including but not limited to any claim that Defendant violated
7 California Labor Code §§ 201 or 202, and any claim for waiting time penalties under
8 California Labor Code § 203; (viii) any and all claims involving any alleged failure to keep
9 accurate records or to issue proper wage statements to employees, including but not limited
10 to any claim that Defendant's wage statements do not comply with California Labor Code
11 § 226; (ix) any and all claims for failure to comply with the Unfair Competition Law
12 (Business and Professions Code § 17200 *et seq.*) with regard to the aforementioned
13 California Labor Code provisions; (x) any and all penalties pursuant to the Private
14 Attorneys General Act ("PAGA"), California Labor Code § 2699 *et seq.* arising out of any
15 or all of the aforementioned claims, facts or allegations; and (xi) all damages, penalties,
16 interest, costs (including attorneys' fees) and other amounts recoverable under said claims
17 or causes of action as to the facts and/or legal theories alleged or which could have been
18 pled as wage and hour violations under California law based on the factual allegations set
19 forth in the Operative Complaint (collectively, the "Released Claims"). This Release also
20 covers all claims for interest, attorneys' fees and costs related to the Class Action and all
21 claims for failure to timely pay final wages to all separated Settlement Class Members who
22 are members of the LC 203 Subclass. The Releasing Settlement Class Members will be
23 deemed to have specifically acknowledged that this Release reflects a compromise of
24 disputed claims.

25 7.1.1 With regard to the Released Claims, the Releasing Settlement Class Members also
26 waive and release all claims for attorneys' fees and costs incurred by Releasing
27 Settlement Class Members or by Class Counsel in connection with the Litigation
28 and the Settlement of the Litigation.

1 7.1.2 Each Releasing Settlement Class Member will be deemed to have made the
2 foregoing Release as if by manually signing it.

3 7.1.3 Named Plaintiff Dona Moise, on behalf of herself and the Releasing Settlement
4 Class Members, acknowledges and agrees that the claims as alleged in the
5 Operative Complaint are disputed, and that the payments set forth herein constitute
6 payment resolving all sums allegedly due. Named Plaintiff Dona Moise, on behalf
7 of herself and the Settlement Class, acknowledges and agrees that California Labor
8 Code Section 206.5 is not applicable to the Parties hereto. Section 206.5 provides
9 in pertinent part as follows:

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

13 7.1.4 Plaintiff and Defendant intend that the Settlement described in this Agreement will
14 release and preclude any further claim, whether by lawsuit, administrative claim or
15 action, arbitration, demand, or other action of any kind, by each and all of the
16 Releasing Class Members to obtain a recovery based on, arising out of, and/or
17 related to any and all of the Released Claims. This paragraph does not apply to any
18 Class Member who timely and validly opts-out of the Settlement.

19 7.1.1.1. In addition to Named Plaintiff's release of the Released Claims, as a
20 material term of this Agreement, Named Plaintiff Dona Moise in her
21 individual capacity and with respect to her individual claims only, hereby
22 agrees to release the Released Parties from all claims, demands, rights,
23 liabilities and causes of action of any and every nature and description
24 whatsoever, known or unknown, suspected or unsuspected, asserted or
25 that might have been asserted, whether in tort, contract, or for violation of
26 any state or federal statute, rule or regulation arising out of, relating to, or
27 in connection with any act or omission by or on the part of any of the
28 Released Parties committed or omitted prior to the execution hereof,

1 including a waiver of California Civil Code § 1542.

2 This General Release includes any unknown claims that Named
3 Plaintiff Dona Moise does not know or suspect to exist in her favor at the
4 time of the General Release, which, if known by her, might have affected
5 her Settlement with, and release of, the Released Parties or might have
6 affected her decision not to object to this Settlement or the General
7 Release.

8 With respect to the General Release, Named Plaintiff Dona Moise
9 stipulates and agrees that, upon the execution of this Agreement, she shall
10 be deemed to have, and by operation of the Final Judgment shall have,
11 expressly waived and relinquished, to the fullest extent permitted by law,
12 the provisions, rights and benefits of Section 1542 of the California Civil
13 Code, or any other similar provision under state or federal law as to the
14 generally released claims. Named Plaintiff Dona Moise acknowledges,
15 understands and agrees that this Settlement is binding notwithstanding
16 any facts of which she may later become aware, any change in the law
17 that might have affected her decision to enter into this Settlement or any
18 discovery that the facts or the law relative to the matters released herein
19 are different from what were understood at the time of signing this
20 Settlement. Section 1542 provides as follows:

21 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT**
22 **THE CREDITOR OR RELEASING PARTY DOES NOT KNOW**
23 **OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME**
24 **OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY**
25 **HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS**
26 **OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED**
27 **PARTY.**

28 ///

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all parties, Named Plaintiff Dona Moise and Class Counsel expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that the Class Representative knew of, as well as all claims that she does not know or suspect to exist in her favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such Class Representative's claims.

8. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY COURT APPROVAL

8.1 Upon execution of this Agreement, Class Counsel shall apply to the Court for the entry of an order granting Preliminary Approval of the Settlement substantially in the following form:

8.1.1 Scheduling a Final Approval hearing on the question of whether the proposed Settlement should be finally approved as fair, reasonable, and adequate as to the proposed Settlement Class;

8.1.2 Approving as to form and content the proposed Class "Notice;"

8.1.3 Directing the mailing of the Notice by first class mail, in English and Spanish, to the Class Members;

8.1.4 Preliminarily approving the Settlement; and

8.1.5 Approving Dychter Law Offices, APC as Class Counsel, approving Ms. Dona Moise as Settlement Class Representative, and approving Phoenix Settlement Administrators as the Claims Administrator.

8.2 Defendant and their counsel shall cooperate with Class Counsel as necessary to obtain Preliminary Approval and Final Approval of this Settlement.

8.3 In addition, concurrent with applying to the Court for the entry of an order granting Preliminary Approval of the Settlement, Class Counsel shall take all necessary steps to

1 inform the LWDA of the Settlement Agreement in accordance with Labor Code section
2 2699(1)(2).

3 **9. DUTIES OF THE PARTIES FOLLOWING PRELIMINARY COURT**
4 **APPROVAL**

5 9.1 Following Preliminary Approval by the Court of the Settlement, Class Counsel will submit
6 a proposed Final Judgment. The proposed Final Judgment shall:

7 9.1.1 Approve the Settlement, adjudging the terms thereof to be fair, reasonable, and
8 adequate and directing consummation of its terms and provisions;

9 9.1.2 Approve an award of attorneys' fees and reimbursement of costs to Class Counsel;

10 9.1.3 Approve any Service Enhancement to the Settlement Class Representative;

11 9.1.4 Certify the Settlement Class for settlement purposes only in accordance with
12 Section 3 of this Agreement; and

13 9.1.5 Permanently bar the Settlement Class Representative and all Releasing Settlement
14 Class Members from further prosecuting any of the Released Claims against
15 Defendant. Named Plaintiff Dona Moise shall have been deemed to have executed
16 a full and final release, pursuant to Civil Code Section 1542, and shall not be
17 permitted to submit an opt-out or objection to the Settlement.

18 9.2 Defendant and their Counsel shall cooperate with Class Counsel as necessary to obtain
19 Final Approval and the Court's final judgment.

20 9.3 Within ten (10) calendar days after either (1) Final Approval, if the Settlement is approved
21 or (2) entry of order denying the Settlement, if the Court does not approve the Settlement,
22 Plaintiff's Counsel will provide a copy of the Court's judgment or order to the LWDA,
23 pursuant to Labor Code Section 2699(1)(3).

24 **10. MUTUAL FULL COOPERATION**

25 10.1 The Parties agree to cooperate fully with each other to accomplish the terms of this
26 Settlement, including but not limited to, execution of all necessary documents and to take
27 such other action as may reasonably be necessary to implement the terms of this Settlement.
28 The Parties shall use their best efforts, including all efforts contemplated by this Agreement

and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate the terms of this Settlement. As soon as practicable after execution of this Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and their counsel, take all necessary steps to secure the Court's Final Judgment.

10.2 If a Party cannot reasonably comply with an obligation under this Agreement by the deadline set forth herein applicable to that obligation, that Party may apply to the Court for a reasonable extension of time to fulfill that obligation. Consent to such a request for an extension will not be unreasonably withheld by the other Party.

11. **STATEMENT OF NO ADMISSION**

11.1 Nothing contained in this Agreement shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of Defendant and Defendant denies liability therefor. Nor shall this Agreement constitute an admission by Defendant as to any interpretation of laws or as to the merits, validity, or accuracy of any claims made against it in the Litigation or the propriety of class certification for any purpose other than settlement. Likewise, nothing in this Agreement shall be construed or deemed an admission with regards to the validity of any of Defendant's denials, defenses or affirmative defenses. Each of the Parties has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

11.2 This Agreement, and all related documents, and all other actions taken in implementation of the Settlement, including any statements, discussions, or communications, and any materials prepared, exchanged, issued, or used during the course of the negotiations leading to this Agreement are settlement documents and shall be inadmissible in evidence and shall not be used for any purpose in any judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, including any wage and hour or other litigation against Defendant, for any purpose, except in an action or proceeding to approve, interpret, or enforce the terms of this Agreement, and/or except as required by Court Order.

11.3 The Notice, Opt-Out Letters, and any other evidence produced or created by any Class Member in connection with the claims procedures pursuant to this Settlement, and any

actions taken by Defendant in response to such Opt-Out Letters, the calculations by the Claims Administrator, or other evidence, do not constitute, are not intended to constitute, and will not be deemed to constitute an admission by Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity.

11.4 In the event that this Agreement is not approved by the Court, any appellate court, or otherwise fails to become effective and enforceable, or is terminated, Defendant will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Litigation.

12. VOIDING THE AGREEMENT

12.1 In the event that this Settlement is not approved, or if for any reason the Settlement Effective Date does not occur, the Settlement shall be deemed null, void and unenforceable and shall not be used nor shall it be admissible in any subsequent proceedings either in this Court or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding, including without limitation any wage and hour, or other litigation against Defendant. In any such event, all orders entered in connection with the Settlement, including the certification of the Settlement Class, shall be vacated without prejudice to any Party's position on the issue of class certification, or any other issue, in this Action or any other action, and the Parties shall be restored to their litigation positions existing on the date of execution of this Settlement; and all matters covered by this Settlement and the releases contained herein shall be null and void. In such event, nothing in this Settlement or any draft thereof, or of the discussion, negotiation, documentation, or other part or aspect of the Parties' settlement discussions leading to the execution of this Settlement shall have any effect, nor shall any such matter be admissible in evidence for any purpose in the Action or in any other proceeding or forum nor shall any such matter be used or construed by or against any Party as a determination, admission, or concession of any issue of law or fact in this or any other litigation or proceeding, and the Parties do not waive, and instead expressly reserve, their respective rights with respect to the prosecution

1 and defense of the Action as if this Settlement never existed. Except for purposes of this
2 settlement, Defendant expressly reserves all rights to contest all class action allegations at
3 any time and in any proceeding or forum.

4 12.2 If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no
5 further obligations under the Settlement, including any obligation by Defendant to pay the
6 Class Settlement Amount, or any amounts that otherwise would have been owed under
7 this Settlement. However, if the Settlement is voided or fails for any reason, any costs
8 incurred by the Settlement Administrator shall be borne equally by Defendant and Class
9 Counsel.

10 12.3 In the event that Defendant has already provided funds to the Settlement Administrator in
11 accordance with this Settlement Agreement, and (i) the Settlement is not approved, is
12 overturned, or is materially modified by the Court or on appeal, (ii) the Judgment does not
13 become Final, or (iii) this Settlement is terminated, cancelled, or fails to become effective
14 for any reason, then within five (5) business days after written notice is provided by
15 Defendant's counsel to the Settlement Administrator, all funds provided pursuant to this
16 Settlement, less any Settlement Administration Costs already incurred but not yet paid,
17 shall be returned to Defendant.
18

19 12.4 In the event that the Court does not approve the Attorneys' Fees and Costs in the amount
20 requested by Class Counsel, or in the event that the Attorneys' Fees and Costs requested
21 by Class Counsel are reduced, that finding shall not be a basis for rendering the entire
22 Agreement null, void, or unenforceable. Class Counsel retains their right to appeal any
23 decision by the Court regarding the Attorneys' Fees and Costs. In the event Class Counsel
24 does file an appeal in this regard the Class Settlement Amount shall be maintained by the
25 TPA and disbursed pursuant to this Agreement until any appeal is fully and finally resolved
26 and confirmed in a writing to the TPA by both Class Counsel and Counsel for Defendant.

27 12.5 If 3.5% or more of the Class Members submit valid and timely Opt-Out Letters, then
28 Defendant, at their sole option, may withdraw from this Settlement by giving notice to

1 Class Counsel and the Claims Administrator within three (3) business days of receipt by
2 Defendant's Counsel of the final report of the number of opt-outs from the Claims
3 Administrator after the Opt-Out Submission Deadline. If Defendant exercises such option,
4 they will be solely responsible for all Settlement Administration Costs incurred. Defendant
5 shall not be responsible for paying any of the Attorneys' Fees and Costs set forth in this
6 Settlement, or any other fees and/or costs incurred by Class Counsel to effectuate this
7 Settlement. Other than the obligation of Defendant to pay the entirety of Settlement
8 Administration Costs, Defendant's termination of this Settlement shall have the same effect
9 as would non-approval of the Settlement by the Court: the Parties shall revert to their
10 previous positions, with all parties to this Settlement to stand in the same position, without
11 prejudice, as if this Settlement had been neither entered into nor filed with the Court.

12 13. **PARTIES' AUTHORITY**

13 13.1 The respective signatories to this Agreement each represent that they are fully authorized
14 to enter into this Settlement and bind the respective Parties to its terms and conditions.

15 14. **NO PRIOR ASSIGNMENTS**

16 14.1 The Parties represent, covenant, and warrant that they have not directly or indirectly,
17 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
18 person or entity any portion of any liability, claim, demand, action, cause of action, or right
19 released and discharged in this Settlement.

20 15. **NOTICES**

21 15.1 Unless otherwise specifically provided herein, all notices, demands, or other
22 communications given hereunder shall be in writing and shall be deemed to have been duly
23 given as of: (i) the date given, if given by hand delivery; (ii) within one business day, if
24 sent by overnight delivery services such as Federal Express or similar courier; or (iii) on
25 the third business day after mailing by United States registered or certified mail, return
26 receipt requested. All notices given under this Agreement shall be addressed as follows:

27 ///

28 ///

15.1.1 **To the Class:**

Alexander I. Dychter, Esq.
Dychter Law Offices, APC
180 Broadway, Suite 1835
San Diego, California 92101
Telephone: (619) 487-0777
Facsimile: (619) 330-1827
E-Mail: Alex@DychterLaw.com

15.1.2 **To Defendant:**

Lyne A. Richardson, Esq.
Steven T. Mannix, Esq.
Ogletree, Deakins, Nash, Smoak & Stewart
19191 S. Vermont Ave., Ste. 950
Torrance, California 90502
Telephone: (213) 330-8626
Facsimile: (213) 239-9045
E-Mail: lyne.richardson@ogeltree.com
E-Mail: steven.mannix@ogletreedeakins.com

16. **CONFIDENTIALITY**

16.1 Named Plaintiff and Class Counsel agree that prior to the filing of the Motion for Preliminary Approval, they will keep the terms of this Settlement confidential except for purposes of communicating with Defendant, the Court, or a prospective Settlement Administrator. Except as set forth in Subsection 16.2 below, any confidentiality associated with the terms of this Settlement shall expire upon the filing by Class Counsel of the Motion for Preliminary Approval with the Court, except that the negotiations and discussions preceding submission of the Settlement to the Court for preliminary approval shall remain strictly confidential, unless otherwise agreed to by the Parties, necessary for providing a *Kular* analysis to the Court for purposes of Final Approval, or unless otherwise ordered by the Court.

16.2 Plaintiff and Class Counsel agree not to issue a press release, post on a website or any form of social media, or to advertise the terms of the settlement with Defendant. Plaintiff and Class Counsel further agree that if contacted by the press regarding this case, they will only state that the lawsuit exists and has been resolved, subject to necessary approvals.

17. **MISCELLANEOUS PROVISIONS**

17.1 **Interim Stay of Proceedings.** Pending completion of all of the prerequisites necessary to

1 effectuate this Settlement, the Parties agree, subject to Court approval, to a stay of all
2 proceedings and deadlines in the Litigation except such as are necessary to effectuate the
3 Settlement.

4 17.2 Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the
5 Parties, at least twenty-five (25) days prior to the final approval hearing, a declaration of
6 due diligence and proof of mailing with regard to the mailing of the Notice.

7 17.3 Res Judicata. The Released Parties shall have the right to file this Settlement, the Final
8 Approval Order and Judgment, and any other documents or evidence relating to the
9 Settlement in any action that may be brought against them in order to support a defense or
10 counterclaim based on principles of res judicata, collateral estoppel, release, good-faith
11 settlement, judgment bar, reduction, or any other theory of claim preclusion or issue
12 preclusion or similar defense or counterclaim.

13 17.4 Dispute Resolution. Prior to instituting legal action to enforce the provisions of this
14 Agreement or to declare rights and/or obligations under this Agreement, a Party shall
15 provide written notice to the other Party and allow an opportunity to cure the alleged
16 deficiencies, and Plaintiff and Defendant agree to seek the help of the mediator to resolve
17 any dispute they are unable to resolve informally. During this period, the Parties shall
18 bear their own attorneys' fees and costs. This provision shall not apply to any legal action
19 or other proceeding instituted by any person or entity other than Plaintiff or Defendant.

20 17.5 Construction. The Parties agree that the terms and conditions of this Agreement are the
21 result of lengthy, intensive arms-length negotiations between the Parties and that this
22 Agreement shall not be construed in favor of or against any party by reason of the extent
23 to which any party or her or his counsel participated in the drafting of this Agreement.

24 17.6 Captions and Interpretations. Section titles or captions contained in this Agreement are a
25 matter of convenience and for reference, and in no way define, limit, extend, or describe
26 the scope of this Settlement or any provision. Each term of this Agreement is contractual
27 and not merely a recital.

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1 17.7 Modification. This Settlement may not be changed, altered, or modified, except in a
2 writing signed by the Parties, and approved by the Court. Notwithstanding the forgoing,
3 the Parties agree that any dates contained in this Agreement may be modified by
4 agreement of the Parties without Court approval if the Parties agree and cause exists for
5 such modification. This Settlement may not be discharged except by performance in
6 accordance with its terms or by a writing signed by the Parties.

7 17.8 Integration Clause. This Agreement and any other documents delivered pursuant hereto
8 contain the entire agreement between the Parties relating to the resolution of the Litigation,
9 and all prior or contemporaneous agreements, understandings, representations, and
10 statements, whether oral or written and whether by a Party or such Party's legal counsel,
11 are merged in this Agreement. No rights under this Settlement may be waived except in
12 writing and signed by the Party against whom such waiver is to be enforced.

13 17.9 Binding on Assigns. This Settlement shall be binding upon, and inure to the benefit of,
14 the Parties and their respective heirs, trustees, executors, administrators, successors, and
15 assigns.

16 17.10 Class Counsel and Settlement Class Representative Signatories. It is agreed that because
17 the Settlement Class Members are so numerous, it is impossible or impractical to have
18 each Settlement Class Member execute this Settlement. The Notice will provide all
19 Settlement Class Members with a summary of the Settlement and will advise all
20 Settlement Class Members of the binding nature of the release. The Notice shall have the
21 same force and effect as if this Settlement were executed by each Settlement Class
22 Member.

23 17.11 Counterparts and Electronic Signatures. This Agreement may be executed by facsimile
24 signature, *pdf* signature, or signature in compliance with the Uniform Electronic
25 Transaction Act, and in any number of counterparts, and when each party has signed and
26 delivered at least one such counterpart, each counterpart shall be deemed an original, and,
27 when taken together with other signed counterparts, shall constitute one and the same
28 Agreement, which shall be binding upon and effective as to all Parties.

1 17.12 Applicable Law. This Agreement shall be governed by California law without regard to
2 its choice of law or conflicts of law principles or provisions.

3 17.13 Enforcement of the Settlement Agreement. In the event that one or more of the Parties to
4 this Settlement Agreement institutes any legal action, arbitration, or other proceeding
5 against any other Party or Parties to enforce the provisions of this Settlement Agreement
6 or to declare rights and/or obligations under this Settlement Agreement, the successful
7 Party or Parties shall be entitled to recover from the unsuccessful Party or Parties
8 reasonable attorneys' fees and costs, including expert witness fees incurred in connection
9 with any enforcement actions, provided that the successful Party or Parties has complied
10 in good faith with Subsection 17.4.

11 17.14 Retention of Jurisdiction by the Court. Following approval of the Settlement and the
12 Court's entry of the Order of Final Approval, the Court shall retain jurisdiction for the
13 purpose of addressing any issues which may arise with respect to the administration of the
14 Settlement or the enforcement of the Settlement's terms pursuant to California Code of
15 Civil Procedure section 664.6.

16 ***[Remainder of this Page Intentionally Left Blank; Signature Page Follows]***
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1 IT IS SO STIPULATED:

2 Individually and on behalf of the Class

3 Dated: 03/02/2024

Dona Moise
Dona Moise (Mar 4, 2024 23:54 PST)
Dona Moise

6 Dated: March 15, 2024

Defendant Sharmac Corporation

By: [Signature]
Sohan Sharma
On Behalf of Sharmac Corporation

10 Dated: MARCH 5, 2024

DYCHTER LAW OFFICES, APC

By: [Signature]
Alexander I. Dychter, Esq.
Counsel for Plaintiff Dona Moise and
the Class

15 On Behalf of Defendant

16 Dated: March 15, 2024

Ogletree, Deakins, Nash, Smoak & Stewart

By: [Signature]
Lyne A. Richardson, Esq.
Steven T. Mannix, Esq.
Counsel for Defendant Sharmac
Corporation