

O'HAGAN MEYER
KATHERINE C. DEN BLEYKER, SB# 257187
E-Mail: kdenbleyker@ohaganmeyer.com
550 S. Hope Street, Suite 2400
Los Angeles, CA 90071
Telephone: 714.545.9200

Attorneys for Defendants, PROJECT M.
WORLDWIDE L.P. DBA MCDONALD'S, a
California corporation, PMW ACQUISITION,
L.P. DBA MCDONALD'S, a California
corporation, SAMOD, L.P. DBA
MCDONALD'S, a California corporation

[Additional counsel listed on the following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

SKYLAR WARFIELD, on behalf of the State
of California and other aggrieved persons,

Plaintiff,

vs.

PROJECT M. WORLDWIDE L.P. DBA
MCDONALD'S, a California corporation,
PMW ACQUISITION, L.P. DBA
MCDONALD'S, a California corporation,
SAMOD, L.P. DBA MCDONALD'S, a
California corporation, and DOES 1 through
10 inclusive,

Defendants.

Case No. 37-2021-00046190-CU-OE-CTL

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

1 Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com

2 Christina M. Le (SBN 237697)
cle@wilshirelawfirm.com

3 Arsiné Grigoryan (SBN 319517)
agrigoryan@wilshirelawfirm.com

4 WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
5 Los Angeles, California 90010
Telephone: (213) 381-9988
6 Facsimile: (213) 381-9989

7 Attorneys for Plaintiff Skylar Warfield

8 Farzad Rastegar (SBN 155555)

9 farzad@rastegarlawgroup.com

Douglas W. Perlman (SBN 167203)

10 douglas@rastegarlawgroup.com

RASTEGAR LAW GROUP, APC

11 22760 Hawthorne Blvd., Suite 200
Torrance, CA 90505
12 Tel.: (310) 961-9600
Fax: (310) 961-9094

13 Attorneys for Plaintiff Gloria Serrano

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between Plaintiffs Skylar Warfield and Gloria Serrano (“Plaintiffs”) and Defendants Project M.
3 Worldwide L.P., PMW Acquisition, L.P., and Samod L.P. (“Defendants”). The Agreement refers
4 to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

5 **1. DEFINITIONS**

6 1.1. “Action” means Plaintiffs’ First Amended Complaint alleging wage and hour violations
7 against Defendants captioned: 1) *Skylar Warfield v. Project M Worldwide, Inc., et al.*, San Diego
8 Superior Court, Case No. 37-2021-00046190-CU-OE-CTL.

9 1.2. “Administrator” means CPT Group, Inc., the neutral entity the Parties have agreed to appoint
10 to administer the Settlement.

11 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from
12 the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
13 Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval
14 of the Settlement.

15 1.4. “Aggrieved Employee” means an individual who worked for Defendants as a non-exempt,
16 hourly-paid employee in California at any time during the PAGA Period.

17 1.5. “Class” means all individuals who worked for Defendants as non-exempt, hourly-paid
18 employees in California at any time during the Class Period.

19 1.6. “Class Counsel” means Justin F. Marquez, Christina M. Le, Arsiné Grigoryan of Wilshire
20 Law Firm, PLC, and Farzad Rastegar and Douglas W. Perlman of Rastegar Law Firm, APC.

21 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the
22 amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses,
23 respectively, incurred to prosecute the Action.

24 1.8. “Class Data” means Class Member identifying information in Defendants’ possession
25 including the Class Member’s: (1) name; (2) last known mailing address(es); (3) last known
26 telephone number(s); (4) Social Security Number; and (5) dates of employment, including hire date,
27 and, if applicable, re-hire date(s), last date(s) worked, separation date(s), and/or date(s) of any
28 transition between non-exempt and exempt status.

1 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a
2 Participating Class Member or Non-Participating Class Member (including a Non-Participating
3 Class Member who qualifies as an Aggrieved Employee).

4 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
5 current Class Member mailing addresses using all reasonably available sources, methods, and means
6 including, but not limited to, the National Change of Address database, skip traces, and direct
7 contact by the Administrator with Class Members.

8 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
9 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class
10 Members in English and Spanish in the form, without material variation, attached as Exhibit A and
11 incorporated by reference into this Agreement.

12 1.12. “Class Period” means the period from October 29, 2017, to the respective dates of sale of
13 Defendants’ California restaurant locations.¹

14 1.13. “Class Representative” means the named Plaintiffs in the First Amended Complaint in the
15 Action seeking Court approval to serve as a Class Representative.

16 1.14. “Class Representative Service Payment” means the payment to the Class Representative for
17 initiating the Action and providing services in support of the Action.

18 1.15. “Court” means the Superior Court of California, County of San Diego.

19 1.16. “Defendants” means Defendants Project M. Worldwide L.P. DBA McDonald’s, PMW
20 Acquisition, L.P. DBA McDonald’s, and Samod L.P. DBA McDonald’s.

21 1.17. “Defense Counsel” means Katherine C. Den Bleyker of O’Hagan Meyer.

22 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court
23 enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is
24 final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating
25 Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more
26

27 _____
28 ¹ The date of sale for restaurant locations number 5204, 5416, 5579, 25166, and 25567 is December 30, 2019. The
date of sale for restaurant locations number 1230, 2902, 3929, 11206, and 34847 is May 1, 2022.

1 Participating Class Members objects to the Settlement, the day after the deadline for filing a notice
2 of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the
3 appellate court affirms the Judgment and issues a remittitur.

4 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

5 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of
6 the Settlement.

7 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final Approval.

8 1.22. “Gross Settlement Amount” means \$2,100,000.00 (Two Million One Hundred Thousand
9 Dollars and Zero Cents) which is the total amount Defendants agree to pay under the Settlement,
10 except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage
11 Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay
12 Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel
13 Fees, Class Counsel Expenses, Class Representative Service Payment, and the Administrator’s
14 Expenses.

15 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
16 Net Settlement Amount calculated according to the number of Workweeks worked during the Class
17 Period.

18 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the
19 PAGA Penalties calculated according to the number of Workweeks worked during the PAGA
20 Period.

21 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

22 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
23 entitled, under Labor Code section 2699, subd. (i).

24 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under
25 Labor Code section 2699, subd. (i).

26 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments
27 in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment,
28 Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation

Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee was employed by and worked for Defendants in a non-exempt, hourly paid position in California, during the PAGA Period, based on hire date, re-hire date(s) (as applicable), last date(s) worked (as applicable), and date(s) of any transition between non-exempt and exempt status (as applicable).

1.31. “PAGA Period” means the period from October 29, 2020, to May 1, 2022.

1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.33. “PAGA Notice” means Plaintiff Skylar Warfield’s November 2, 2021, and Gloria Serrano’s March 28, 2022, letters to Defendants, and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500.00) and 75% to the LWDA (\$22,500.00) in settlement of PAGA claims.

1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. “Plaintiffs” means Skylar Warfield and Gloria Serrano.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval and Approval of PAGA Settlement.

1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.2 below.

1.41. “Released Parties” means: Defendants and each of its former, present, and future owners,

1 parents, and subsidiaries, and all of their current former, and future officers, directors, members,
2 managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors,
3 successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

4 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be
5 excluded from the Class Settlement signed by the Class Member.

6 1.43. “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class
7 Members and Aggrieved Employees and shall be the last date on which Class Members may: (a)
8 fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her
9 Objection to the Settlement. Class Members to whom Notice Packets are resent after having been
10 returned undeliverable to the Administrator shall have an additional 14 days beyond the Response
11 Deadline has expired.

12 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the
13 Judgment.

14 1.45. “Workweek” means any week during which a Class Member was employed by and worked
15 for Defendants in a non-exempt, hourly paid position in California, during the Class Period, based
16 on hire date, re-hire date(s) (as applicable), last date(s) worked (as applicable), and date(s) of any
17 transition between non-exempt and exempt status (as applicable).

18 **2. RECITALS**

19 2.1. On October 29, 2021, Plaintiff Skylar Warfield filed a Class Action Complaint alleging
20 causes of actions against Defendants for: (1) failure to pay overtime wages; (2) failure to pay
21 minimum and straight time wages; (3) failure to provide meal periods; (4) failure to provide rest
22 periods; (5) failure to indemnify employees for expenditures; (6) failure to provide accurate itemized
23 wage statements; (7) failure to timely pay final wages at termination; and (8) unfair business
24 practices (“*Warfield* Class Action”).

25 On January 6, 2022, Plaintiff Skylar Warfield also filed a Representative Complaint alleging
26 a single cause of action civil penalties under PAGA pursuant to Labor Code sections 2698, *et seq*
27 alleging: (1) failure to pay minimum, straight, and overtime wages; (2) failure to provide meal
28 periods; (3) failure to provide rest periods; (4) failure to provide all earned wages twice per month;

1 (5) failure to maintain record of all hours worked and meal periods; (6) failure to timely pay final
2 wages; (7) failure to furnish accurate wage statements; and (8) failure to indemnify for necessary
3 expenditures (“*Warfield* PAGA Action”).

4 On June 15, 2022, Plaintiff Gloria Serrano filed a Class Action Complaint alleging causes
5 of action against Defendants for: (1) failure to pay overtime wages; (2) failure to pay minimum and
6 straight time wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) unfair
7 business practices; (6) failure to provide accurate wage statements and maintain accurate payroll
8 records; (7) failure to timely pay wages due upon separation; and (8) civil penalties under PAGA
9 pursuant to Labor Code sections 2698, *et seq* (“*Serrano* PAGA Action”).

10 On January 18, 2023, Plaintiffs and Defendants attended mediation and resolved the cases
11 in principle. On April 17, 2023, Plaintiffs filed a First Amended Class Action and Representative
12 Complaint consolidating Plaintiffs’ lawsuits into a single action known as the First Amended
13 Complaint (the “First Amended Complaint”). Defendants deny the allegations in the First Amended
14 Complaint, deny any failure to comply with the laws identified in the First Amended Complaint and
15 deny any and all liability for the causes of action alleged.

16 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiffs gave timely written notice to
17 Defendants and the LWDA by sending the PAGA Notices.

18 2.3. On January 10, 2023, the Parties participated in an all-day mediation presided over by Steve
19 Cerveris which led to this Agreement to settle the Action.

20 2.4. Prior to mediation Plaintiffs obtained, through informal discovery: (1) a randomized
21 sampling of time and payroll records for 20% of the estimated 1,529 Class Members; (2) Class data
22 points for formerly-employed Class Members between the start of the Class Period (October 29,
23 2017) and the date of the sale of the stores (five (5) of its stores were sold on December 30, 2019,
24 and the other five (5) were sold on May 1, 2022), total numbers of Class Members, average hourly
25 rates of pay, and approximate total numbers of workweeks worked, pay periods, and wage
26 statements issued; (3) PAGA (and wage statement penalty) group data points for formerly-employed
27
28

1 Aggrieved Employees between October 29, 2020 to the date of the sale of the stores (May 1, 2022²),
2 total numbers of Aggrieved Employees, average hourly rates of pay, and approximate numbers of
3 workweeks worked, pay periods, and wage statements issued; (4) all wage and hour policy
4 documents and employee handbooks in effect during the Class and PAGA Periods; (5) a description
5 and explanation of the various compensation structures, shift schedules, and schedule systems for
6 meal and rest periods in effect during the Class Period; and (6) Plaintiff's personnel records and
7 employment files; status. Plaintiffs' investigation was sufficient to satisfy the criteria for court
8 approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar*
9 *v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

10 2.5. The Court has not granted class certification.

11 2.6 The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any
12 other pending matter or action asserting claims that will be extinguished or affected by the
13 Settlement.

14 15 **3. MONETARY TERMS**

16 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below,
17 Defendants promise to pay \$2,100,000.00 as the Gross Settlement Amount and to separately pay
18 any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.
19 Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to
20 the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire
21 Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved
22 Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount
23 will revert to Defendants.

24 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the
25 following payments from the Gross Settlement Amount, in the amounts specified by the Court in
26

27 ² The statutory period for Plaintiff's PAGA claims begins on October 29, 2020, so the five stores that sold on
28 December 30, 2019 would not be included in the PAGA group. As such, for the five stores Project M still owned as of
October 29, 2020, the statutory period for Plaintiff's PAGA claims begins on **October 29, 2020, to May 1, 2022**

1 the Final Approval:

2 3.2.1. To Plaintiffs: Class Representative Service Payments to the Class Representatives
3 of not more than \$10,000.00 each, in addition to any Individual Class Payment and any
4 Individual PAGA Payment the Class Representative is entitled to receive as a Participating
5 Class Member. Defendants will not oppose Plaintiffs' request for a Class Representative
6 Service Payment that does not exceed this amount per Class Representative. As part of the
7 motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs
8 will seek Court approval for any Class Representative Service Payments no later than 16
9 court days prior to the Final Approval Hearing. If the Court approves a Class
10 Representative Service Payment less than the amount requested, the Administrator will
11 retain the remainder in the Net Settlement Amount. The Administrator will pay the Class
12 Representative Service Payment using IRS Form 1099. Plaintiffs assume full
13 responsibility and liability for employee taxes owed on the Class Representative Service
14 Payment.

15 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one third of the
16 Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this
17 Agreement, is currently estimated to be \$700,000 and a Class Counsel Litigation Expenses
18 Payment of not more than \$25,000.00. Defendants will not oppose requests for these
19 payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel
20 will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment
21 no later than 16 court days prior to the Final Approval Hearing. If the Court approves a
22 Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than
23 the amounts requested, the Administrator will allocate the remainder to the Net Settlement
24 Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs'
25 Counsel arising from any claim to any portion of Class Counsel's Fee Payment and/or
26 Class Counsel's Litigation Expenses Payment, so long as Released Parties comply with the
27 monetary terms of this Agreement, or any amended, superseding Agreement. The
28 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses

1 Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility
2 and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel
3 Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants,
4 from any dispute or controversy regarding any division or sharing of any of these
5 Payments. In the event that circumstances should arise necessitating a motion to enforce
6 this Agreement, the Parties reserve the right to request from the Court an award of
7 reasonable attorneys' fees and/or litigation costs not otherwise provided for herein in
8 connection with any such motion to enforce the Agreement.

9 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
10 \$25,000.00 except for a showing of good cause and as approved by the Court. To the
11 extent the Administration Expenses are less or the Court approves payment less than
12 \$25,000.00 the Administrator will retain the remainder in the Net Settlement Amount.

13 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by
14 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all
15 Participating Class Members during the Class Period and (b) multiplying the result by each
16 Participating Class Member's Workweeks.

17 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
18 Class Member's Individual Class Payment will be allocated to the settlement of
19 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
20 withholding and will be reported on an IRS W-2 Form. 80% of each Participating
21 Class Member's Individual Class Payment will be allocated to the settlement of
22 claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage
23 Portions are not subject to wage withholdings and will be reported on IRS 1099
24 Forms. Participating Class Members assume full responsibility and liability for
25 any employee taxes owed on their Individual Class Payment.

26 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
27 Class Payments. Non-Participating Class Members will not receive any Individual
28 Class Payments. The Administrator will retain amounts equal to their Individual

Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro-rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$30,000.00 to be paid from the Gross Settlement Amount, with 75% (\$22,500.00) allocated to the LWDA PAGA Payment and 25% (\$7,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$7,500.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 1,529 Class Members who collectively worked a total of approximately 70,903 Workweeks between the start of the Class Period on October 29, 2020, and the date of the sale of the stores, five in December 30, 2019, and five on May 1, 2022.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing

1 duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member
2 identifying information and to provide corrected or updated Class Data as soon as reasonably
3 feasible. Without any extension of the deadline by which Defendants must send the Class Data to
4 the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to
5 reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

6 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
7 Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by
8 transmitting the funds to the Administrator no later than 30 days after the Effective Date.

9 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the
10 Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all
11 Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment,
12 the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class
13 Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class
14 Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not
15 precede disbursement of Individual Class Payments and Individual PAGA Payments.

16 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
17 Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail,
18 postage prepaid. The face of each check shall prominently state the date (not less than 180
19 days after the date of mailing) when the check will be voided. The Administrator will
20 cancel all checks not cashed by the void date. The Administrator will send checks for
21 Individual Settlement Payments to all Participating Class Members (including those for
22 whom Class Notice was returned undelivered). The Administrator will send checks for
23 Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class
24 Members who qualify as Aggrieved Employees (including those for whom Class Notice
25 was returned undelivered). The Administrator may send Participating Class Members a
26 single check combining the Individual Class Payment and the Individual PAGA Payment.
27 Before mailing any checks, the Settlement Administrator must update the recipients'
28 mailing addresses using the National Change of Address Database.

1 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class
2 Members whose checks are returned undelivered without USPS forwarding address.
3 Within 7 days of receiving a returned check the Administrator must re-mail checks to the
4 USPS forwarding address provided or to an address ascertained through the Class Member
5 Address Search. The Administrator need not take further steps to deliver checks to Class
6 Members whose re-mailed checks are returned as undelivered. The Administrator shall
7 promptly send a replacement check to any Class Member whose original check was lost or
8 misplaced, as requested by the Class Member prior to the void date.

9 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA
10 Payment check is uncashed and canceled after the void date, the Administrator shall
11 transmit the funds represented by such checks to a Court-approved nonprofit organization
12 or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres
13 Recipient"). The Parties agree to select Legal Aid at Work as the Cy Pres Recipient. The
14 Parties, Class Counsel and Defense Counsel represent that they have no interest or
15 relationship, financial or otherwise, with the intended Cy Pres Recipient.

16 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not
17 obligate Defendants to confer any additional benefits or make any additional payments to
18 Class Members (such as 401(k) contributions or bonuses) beyond those specified in this
19 Agreement.
20

21 **5. RELEASE OF CLAIMS.**

22 Effective on the date when Defendants fully fund the entire Gross Settlement Amount and
23 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
24 Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as
25 follows:

26 5.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses,
27 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
28 and discharge Released Parties from all claims, transactions, or occurrences including, but not
limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts

1 contained, in the First Amended Complaint and (b) all PAGA claims that were, or reasonably could
2 have been, alleged based on facts contained in the First Amended Complaint, Plaintiffs' PAGA
3 Notice, or ascertained during the Action and released under 5.2 below ("Plaintiffs' Release.")
4 Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any
5 claims for vested benefits, unemployment benefits, disability benefits, social security benefits,
6 workers' compensation benefits that arose at any time, or based on occurrences outside the Class
7 Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition
8 to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that
9 Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or
10 additional facts or Plaintiffs' discovery of them.

11 5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes
12 of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and
13 benefits, if any, of section 1542 of the California Civil Code, which reads:

14 **A general release does not extend to claims that the creditor or releasing party does**
15 **not know or suspect to exist in his or her favor at the time of executing the release,**
16 **and that if known by him or her would have materially affected his or her settlement**
17 **with the debtor or Released Party.**

18 5.2. Release by Participating Class Members: All Participating Class Members, on behalf of
19 themselves and their respective former and present representatives, agents, attorneys, heirs,
20 administrators, successors, and assigns, release Released Parties from (i) all claims that were
21 alleged, or reasonably could have been alleged, based on the Class Period facts stated in the First
22 Amended Complaint including, but not limited to, any and all claims involving: (1) any alleged
23 failure to pay overtime wages; (2) any alleged failure to pay minimum and straight time wages; (3)
24 any alleged failure to provide compliant meal periods, or compensation in lieu thereof; (4) any alleged
25 failure to provide compliant rest periods, or compensation in lieu thereof (5) any alleged failure to
26 pay wages due upon termination or resignation; (6) any alleged failure to provide compliant wage
27 statements; (7) any alleged failure to reimburse business expenses; and (8) any alleged unlawful,
28 unfair, or fraudulent business acts or practices under California Business & Professions Code section

1 17200, *et seq.* arising out of the Labor Code and Industrial Welfare Commission (“IWC”) Wage
2 Order violations referenced in the First Amended Complaint. Except as set forth in Section 5.3 of
3 this Agreement, Participating Class Members do not release any other claims, including, but not
4 limited to, claims for vested benefits, wrongful termination, violation of the Fair Employment and
5 Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims
6 based on facts occurring outside the Class Period.

7 5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on
8 behalf of themselves and their respective former and present representatives, agents, attorneys, heirs,
9 administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties
10 that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in
11 the First Amended Complaint and the PAGA Notice, including, but not limited to, any and all claims
12 for PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in
13 connection with alleged violations of Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 204b,
14 210, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 404, 432, 510, 512, 558, 1102.5,
15 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 1199, 2699, 2802, and 2810.5, as well as related
16 IWC Wage Order provisions.

17 18 **6. MOTION FOR PRELIMINARY APPROVAL**

19 The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for
20 Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

21 6.1. Defense Counsel’s Declaration in Support of Preliminary Approval. Within 14 days of the
22 full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
23 Declaration from Defense Counsel disclosing all facts relevant to any actual or potential conflicts
24 of interest with the Administrator and Cy Pres Recipient. In their Declaration, Defense Counsel
25 shall aver that Defense Counsel and Defendant are not aware of any other pending matter or action
26 asserting claims that will be extinguished or adversely affected by the Settlement.

27 6.2. Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel prior to
28 filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the
notice, and memorandum in support, of the Motion for Preliminary Approval that includes an

1 analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement
2 under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary
3 Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed
4 declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement
5 and attesting to its willingness to serve; competency; operative procedures for protecting the security
6 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
7 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
8 and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense
9 Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve
10 and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members;
11 (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the
12 Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial
13 notice of violations (Labor Code section 2699.3, subd. (a)), First Amended Complaints (Labor Code
14 section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all facts
15 relevant to any actual or potential conflict of interest with Class Members and/or the Administrator.
16 In their Declarations, Plaintiffs and Class Counsel Declaration shall aver that they are not aware of
17 any other pending matter or action asserting claims that will be extinguished or adversely affected
18 by the Settlement.

19 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for
20 expeditiously finalizing and filing the Motion for Preliminary Approval after the full execution of
21 this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for
22 appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is
23 responsible for delivering the Court’s Preliminary Approval to the Administrator.

24 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
25 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
26 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
27 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
28 Approval or conditions Preliminary Approval on any material change to this Agreement, Class

1 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
2 and conferring, and in good faith, to modify the Agreement and otherwise satisfy the Court's
3 concerns.

4 5 **7. SETTLEMENT ADMINISTRATION**

6 7.1. Selection of Administrator. The Parties have jointly selected CPT Group, Inc. to serve as
7 the Administrator and verified that, as a condition of appointment, CPT Group, Inc. Administrators
8 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
9 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
10 represent that they have no interest or relationship, financial or otherwise, with the Administrator
11 other than a professional relationship arising out of prior experiences administering settlements.

12 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
13 Identification Number for the purposes of calculating payroll tax withholdings and providing reports
14 state and federal tax authorities.

15 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
16 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section
17 468B-1.

18 7.4. Notice to Class Members

19 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator
20 shall notify Class Counsel that the list has been received and state the number of Class
21 Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

22 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days
23 after receiving the Class Data, the Administrator will send to all Class Members identified
24 in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class
25 Notice with Spanish translation, substantially in the form attached to this Agreement as
26 Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts
27 of any Individual Class Payment and/or Individual PAGA Payment payable to the Class
28 Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to
calculate these amounts. Before mailing Class Notices, the Administrator shall update Class

1 Member addresses using the National Change of Address database.

2 7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice
3 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
4 using any forwarding address provided by the USPS. If the USPS does not provide a
5 forwarding address, the Administrator shall conduct a Class Member Address Search, and
6 re-mail the Class Notice to the most current address obtained. The Administrator has no
7 obligation to make further attempts to locate or send Class Notice to Class Members whose
8 Class Notice is returned by the USPS a second time.

9 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
10 and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days
11 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose
12 notice is re-mailed. The Administrator will inform the Class Member of the extended
13 deadline with the re-mailed Class Notice.

14 7.4.5. If the Administrator, Defendants, or Class Counsel is contacted by or otherwise
15 discovers any persons who believe they should have been included in the Class Data and
16 should have received Class Notice, the Parties will expeditiously meet and confer, and in
17 good faith, in an effort to agree on whether to include them as Class Members. If the
18 Parties agree, such persons will be Class Members entitled to the same rights as other Class
19 Members, and the Administrator will send, via email or overnight delivery, a Class Notice
20 requiring them to exercise options under this Agreement not later than 14 days after receipt
21 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

22 7.5. Requests for Exclusion (Opt-Outs).

23 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
24 must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion
25 not later than 60 days after the Administrator mails the Class Notice (plus an additional 14
26 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a
27 letter from a Class Member or his/her representative that reasonably communicates the
28 Class Member's election to be excluded from the Settlement and includes the Class

Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail. The Administrator must

1 encourage the challenging Class Member to submit supporting documentation. In the absence of
2 any contrary documentation, the Administrator is entitled to presume that the Workweeks contained
3 in the Class Notice are correct so long as they are consistent with the Class Data. The
4 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods
5 shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall
6 promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to
7 Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8 7.7. Objections to Settlement

9 7.7.1. Only Participating Class Members may object to the class action components of the
10 Settlement and/or this Agreement, including contesting the fairness of the Settlement,
11 and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation
12 Expenses Payment, and/or Class Representative Service Payment.

13 7.7.2. Participating Class Members may send written objections to the Administrator, by
14 fax, email, or mail. In the alternative, Participating Class Members may appear in Court
15 (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
16 Hearing. A Participating Class Member who elects to send a written objection to the
17 Administrator must do so not later than 60 days after the Administrator's mailing of the
18 Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-
19 mailed).

20 7.7.3. Non-Participating Class Members have no right to object to any of the class action
21 components of the Settlement.

22 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
23 performed or observed by the Administrator contained in this Agreement or otherwise.

24 7.8.1. Website, Email Address, and Toll-Free Number. The Administrator will establish
25 and maintain and use an internet website to post information of interest to Class Members
26 including the date, time and location for the Final Approval Hearing and copies of the
27 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the
28 Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,

1 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
2 the Final Approval and the Judgment. The Administrator will also maintain and monitor
3 an email address and a toll-free telephone number to receive Class Member calls, faxes and
4 emails.

5 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
6 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
7 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion,
8 the Administrator shall email a list to Class Counsel and Defense Counsel containing (a)
9 the names and other identifying information of Class Members who have timely submitted
10 valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying
11 information of Class Members who have submitted invalid Requests for Exclusion; (c)
12 copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

13 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports
14 to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
15 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion
16 (whether valid or invalid) received, objections received, challenges to Workweeks and/or
17 Pay Periods received and/or resolved, and checks mailed for Individual Class Payments
18 and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include
19 the Administrator’s assessment of the validity of Requests for Exclusion and attach copies
20 of all Requests for Exclusion and objections received.

21 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
22 address and make final decisions consistent with the terms of this Agreement on all Class
23 Member challenges over the calculation of Workweeks and/or Pay Periods. The
24 Administrator’s decision shall be final and not appealable or otherwise susceptible to
25 challenge.

26 7.8.5. Administrator’s Declaration. Before the date by which Plaintiff is required to file the
27 Motion for Final Approval of the Settlement, the Administrator will provide to Class
28 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to

1 its due diligence and compliance with all of its obligations under this Agreement, including,
2 but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered,
3 the re-mailing of Class Notices, attempts to locate Class Members, the total number of
4 Requests for Exclusion from Settlement it received (both valid or invalid), the number of
5 written objections and attach the Exclusion List. The Administrator will supplement its
6 declaration as needed or requested by the Parties and/or the Court. Class Counsel is
7 responsible for filing the Administrator's declaration(s) in Court.

8 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
9 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class
10 Counsel and Defense Counsel with a final report detailing its disbursements by employee
11 identification number only of all payments made under this Agreement. At least 7 days
12 before any deadline set by the Court, the Administrator will prepare, and submit to Class
13 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to
14 its disbursement of all payments required under this Agreement. Class Counsel is
15 responsible for filing the Administrator's declaration in Court.

16 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

17 Based on its records, Defendants estimates that there are approximately 70,903 Total
18 Workweeks between the start of the Class Period on October 29, 2017 and the date of the sale of the
19 stores, five on December 30, 2019 and five on May 1, 2022.

20 8.1. Increase in Workweeks. In the event the number of Workweeks worked by Class Members
21 during the Class Period increases by more than 10%, or 77,993 workweeks then Defendants shall,
22 in their sole discretion, have the option to either: (1) de-escalate the Settlement so the Class Period
23 ends on the date that the workweek count totals 74,448.15; or (2) permit the Gross Settlement
24 Amount to be increased proportionally by the workweeks worked in excess of 70,903 multiplied by
25 the workweek value.

26 **9. DEFENDANTS' RIGHT TO WITHDRAW**

27 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10%
28 of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the

1 Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio,
2 have no force or effect whatsoever, and that neither Party will have any further obligation to perform
3 under this Agreement; provided, however, Defendants will remain responsible for paying all
4 Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel
5 and the Court of its election to withdraw not later than 14 days after the Administrator sends the
6 final Exclusion List to Defense Counsel; late elections will have no effect.

7
8 **10. MOTION FOR FINAL APPROVAL**

9 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will
10 endeavor to file in Court, a motion for final approval of the Settlement that includes a request for
11 approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final
12 Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs
13 shall provide drafts of these documents to Defense Counsel prior to filing the Motion for Final
14 Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, and in good
15 faith, to resolve any disagreements concerning the Motion for Final Approval.

16 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a
17 Participating Class Member, including the right to file responsive documents in Court no later than
18 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

19 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval
20 on any material change to the Settlement (including, but not limited to, the scope of release to be
21 granted by Class Members), the Parties will expeditiously work together in good faith to address the
22 Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s
23 decision to award less than the amounts requested for the Class Representative Service Payment,
24 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator
25 Expenses Payment shall not constitute a material modification to the Agreement within the meaning
26 of this paragraph.

27 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
28 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i)
enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and

(iii) addressing such post-Judgment matters as are permitted by law.

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS

12.1. No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.

1 Nothing in this Agreement is intended or should be construed as an admission by Defendants that
2 any of the allegations in the First Amended Complaint have merit or that Defendants has any liability
3 for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that
4 Defendants' defenses in the Action have merit. The Parties agree that class certification and
5 representative treatment is for purposes of this Settlement only. If, for any reason the Court does
6 grant Preliminary Approval, Final Approval, or enter Judgment, Defendants reserve the right to
7 contest certification of any class for any reasons, and Defendants reserve all available defenses to
8 the claims in the Action, and Plaintiffs reserve the right to move for class certification on any
9 grounds available and to contest Defendants' defenses. The Settlement, this Agreement, and Parties'
10 willingness to settle the Action will have no bearing on, and will not be admissible in connection
11 with, any litigation (except for proceedings to enforce or effectuate the Settlement and this
12 Agreement).

13 12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants, and
14 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is
15 filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit
16 another person to disclose, disseminate, or publicize, any of the terms of the Agreement directly or
17 indirectly, specifically or generally, to any person, corporation, association, government agency, or
18 other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be
19 instructed to keep this Agreement confidential; (2) to counsel in a related matter; (3) to the extent
20 necessary to report income to appropriate taxing authorities; (4) in response to a court order or
21 subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government
22 agency. Each Party agrees to immediately notify each other Party of any judicial or agency order,
23 inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendants, and Defense
24 Counsel separately agree not to, directly or indirectly, initiate any conversation or other
25 communication, before the filing of the Motion for Preliminary Approval, with any third party
26 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
27 "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's
28 communications with Class Members in accordance with Class Counsel's ethical obligations owed

1 to Class Members.

2 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
3 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
4 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability
5 to communicate with Class Members in accordance with Class Counsel's ethical obligations owed
6 to Class Members.

7 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
8 together with its attached exhibits shall constitute the entire agreement between the Parties relating
9 to the Settlement, superseding any and all oral representations, warranties, covenants, or
10 inducements made to or by any Party.

11 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
12 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate
13 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its
14 terms, and to execute any other documents reasonably required to effectuate the terms of this
15 Agreement including any amendments to this Agreement.

16 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best
17 efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement
18 Agreement, submitting supplemental evidence, and supplementing points and authorities as
19 requested by the Court. In the event the Parties are unable to agree upon the form or content of any
20 document necessary to implement the Settlement, or on any modification of the Agreement that may
21 become necessary to implement the Settlement, the Parties will seek the assistance of a mediator
22 and/or the Court for resolution.

23 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
24 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
25 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action,
26 or right released and discharged by the Party in this Settlement.

27 12.8. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendants, nor Defense Counsel are
28 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied

1 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part
2 10, as amended) or otherwise.

3 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified,
4 changed, or waived only by an express written instrument signed by all Parties or their counsel, and
5 approved by the Court.

6 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
7 benefit of, the successors of each of the Parties.

8 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
9 governed by and interpreted according to the internal laws of the state of California, without regard
10 to conflict of law principles.

11 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this
12 Agreement. This Agreement will not be construed against any Party on the basis that the Party was
13 the drafter or participated in the drafting.

14 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
15 during Action and in this Agreement relating to the confidentiality of information shall survive the
16 execution of this Agreement.

17 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid.
18 Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
19 Defendants in connection with the mediation, other settlement negotiations, or in connection with
20 the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
21 be used in any way that violates any existing contractual agreement, statute, or rule of court. Not
22 later than 90 days after the date when the Court discharges the Administrator's obligation to provide
23 a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall return, all paper
24 and electronic versions of sections 1-4 of the Class Data received from Defendants.

25 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted
26 for convenience of reference only and does not constitute a part of this Agreement.

27 12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be
28 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend

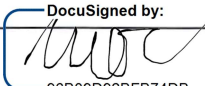
or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

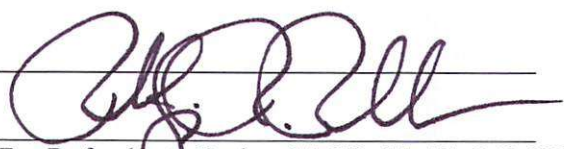
12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

12.19. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

DocuSigned by:

 96B09D92BF74DB...
 For Plaintiff, Skylar Warfield


 Justin F. Marquez, Esq.
 Christina M. Le, Esq.
 Arsine Grigoryan, Esq.
 Wilshire Law Firm
 Counsel for Plaintiff, Skylar Warfield


 For Defendants, Project M. Worldwide L.P. DBA
 McDonald's, PMW Acquisition, L.P. DBA
 McDonald's, and Samod L.P. DBA McDonald's


 Katherine C. Den Bleyker
 O'Hagan Meyer
 Counsel for Defendants, Project M. Worldwide
 L.P. DBA McDonald's, PMW Acquisition, L.P.
 DBA McDonald's, and Samod L.P. DBA
 McDonald's

1

2

3

4

Gloria Serrano

5

For Plaintiff, Gloria Serrano

6

Douglas W. Perlman

7

Farzad Rastegar, Esq.

8

Douglas W. Perlman, Esq.

9

Rastegar Law Group, APC

Counsel for Plaintiff, Gloria Serrano

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28