

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:

3.2.1. To Plaintiffs' Counsel: Plaintiffs' Counsel will request Court approval of not more than \$1,400,000 as attorneys' fees and not more than \$150,000 as costs. Defendants will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. If the Court approves Plaintiffs' Counsel Fees Payment and/or Plaintiffs' Counsel Costs Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Plaintiffs' Counsel Fees Payment and Plaintiffs' Counsel Costs Payment using one or more IRS 1099 Forms. Plaintiffs' Counsel assumes full responsibility and liability for taxes owed on the Plaintiffs' Counsel Fees and Costs Payments. Except for reasonable attorneys' fees and costs incurred to enforce this Agreement, including but not limited to enforce the right to conduct the audits contemplated in paragraph 10.14 below, neither Plaintiffs' Counsel nor any other current or past counsel for Plaintiff shall be permitted to petition the Court for, or to accept, any additional payments for attorneys' fees, costs, interest, or any other amount from the Released Parties related to the Action except as specified above.

3.2.2. Service Awards to Each Plaintiff: The amount awarded to each Plaintiff as a "Service Award" will be set by the Court in its discretion, not to exceed \$5,000 each (\$20,000 total). This amount will be deducted from the Gross Settlement Amount. An IRS Form 1099 will be issued to each Plaintiff for their Service Award. Defendants agree not to dispute or otherwise object to the Service Awards if Plaintiffs each request \$5,000 or less. If the Court approves Plaintiffs' Service Award Payments less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$25,000, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$25,000, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of approximately \$1,241,667 to be paid from the Gross Settlement Amount, with 75% (approximately \$931,250.25) allocated to the LWDA PAGA Payment and 25% (approximately \$310,416.75) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (approximately \$310,416.75) by the total number of PAGA Days Worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Days Worked. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.2. If the Court approves an LWDA PAGA Payment 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. Aggrieved Employee PAGA Days Worked. Based on a review of their records to date, Defendants estimate there are 1,458 Aggrieved Employees who worked a maximum of 838,697 days worked between April 8, 2016 and May 31, 2022. Defendants are continuing to evaluate their estimate of days worked by reviewing Aggrieved Employee pay data and counting up the days worked attributable to each Aggrieved Employee, in order to determine a final estimate of days worked to be included in the spreadsheet discussed in Section 4.2 below. Due to the nature of the work, the number of days worked may be estimated.

4.2. Aggrieved Employee Data. Within 10 calendar days after execution of this Agreement, Defendants will deliver the Aggrieved Employees Data to Plaintiffs' Counsel and to the Administrator in the form of a Microsoft Excel spreadsheet. To protect the Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employees Data in confidence, use the Aggrieved Employees Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employees Data to Administrator employees who need access to the Aggrieved Employees Data to effect and perform under this Agreement. The production of the Aggrieved Employees Data will be pursuant to the Protective Order previously entered in the Action. Without any extension of the deadline by which Defendants must send the Aggrieved Employees Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing, imprecise, or omitted Aggrieved Employees Data.

4.3. Funding of Gross Settlement Amount. Defendants will have no more than 48 months from the date on which this Agreement is executed to pay the Gross Settlement Amount ("Payment Period"). The first installment payment shall be paid no later than 15 days after the Effective Date. The amount of that payment will be calculated by dividing the Gross Settlement Amount by the number of months remaining in the Payment Period as of the initial payment date. For example, if the initial payment date occurs six months after this Agreement is executed, the initial payment will be calculated as follows: $\$2,836,667 / 42 \text{ months} = \$67,539.69$. In the month following the initial payment, Defendants will begin making monthly payments on or before the 10th day of each month of at least \$67,539.69 until they have fully paid the Gross Settlement Amount.

4.4. Payments from the Gross Settlement Amount. Within 14 calendar days after Defendants deposit each installment of the Gross Settlement Amount, the Administrator will issue pro rata payments for the obligations due for Plaintiffs' Counsel Fees and Costs Payments, Administration Expenses Payment, the Service Awards Payments to Plaintiffs,

and the payment to the LWDA. Aggrieved Employees will be issued their Individual Payment Amount in annual installments beginning one year after the first installment payment is deposited and the same date each year thereafter until paid in full (i.e., four disbursements to each Aggrieved Employee over four years).

Should Defendants accelerate payments and satisfy their entire obligation to pay the Gross Settlement Amount by (i) December 31, 2022, they shall be entitled to a \$240,000 discount of the balance owed. If Defendants satisfy their entire obligation to pay the Gross Settlement Amount by (ii) June 1, 2023, a \$180,000 discount will be applied. And if Defendants satisfy their entire obligation to pay the Gross Settlement Amount by (iii) June 1, 2024, a \$90,000 discount will be applied. If a discount is applied, it shall be applied proportionately to all allocations from the Gross Settlement Amount except for the Service Awards and Administration Expenses Payment.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid, together with the Notice of PAGA Settlement, which will be distributed in Spanish and English (attached hereto as Exhibit "A"). The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be paid to the Office of the California State Controller – Unclaimed Property Fund. The value of checks uncashed more than 180 days after issuance shall be paid to the Office of the California State Controller – Unclaimed Property Fund, to be held in the name of the respective Aggrieved Employees. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employees Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employees Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. The payment of Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount, Plaintiffs and Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Limited Release by Aggrieved Employees. Upon entry of final judgment and Defendants' satisfaction of their obligation to pay the Gross Settlement Amount in full in accordance with the timing requirements set forth in this Agreement, the Released Parties shall be entitled to a release from the Aggrieved Employees for any and all claims under or pursuant to PAGA based on Aggrieved Employees' alleged misclassification by Defendants as independent contractors or any PAGA-enabling violation of any law arising from any act or omission by the Released Parties relating to Aggrieved Employees' alleged misclassification by Defendants as independent contractors, whether known or unknown, suspected or unsuspected, to which Aggrieved Employees and Plaintiffs may have been entitled or may be entitled under the California Labor Code, sections 1-9104, 200-3122.4 inclusive, from April 8, 2016 up to and including the Approval Order Date against any of the Released Parties, and for the Sanctions Order. This includes, but is not limited to, civil penalties based on or arising from alleged violations of California Labor Code sections 200, et seq., 201-203, 204, 207, 208, 210, 212, 221-224, 222.5, 225.5, 226, 226.3, 226.7, 226.8, 231, 245-249, 256, 351, 352, 353, 354, 432.5, 450, 500, et seq., 510, 512, 515, 550, 551, 552, 558, 1024.5, 1174, 1174.5, 1182, 1182.11-1182.13, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2804, 2753, 3700, 3700.5, 3712, 3715; and to the fullest extent permissible under governing law, the California Code of Regulations and/or Industrial Welfare Commission Wage Orders, including, but not limited to Wage Order 9-2001, and any and all other statutes, laws, or regulations on which a claim for penalties under PAGA may be based.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. Plaintiffs will prepare and file an application or motion for approval of this Settlement. Plaintiffs will provide a draft of the motion for approval at least four business days in advance of filing for review and comment.

6.1 Cooperation. The Parties will cooperate in obtaining, through a stipulation, or an unopposed motion, if required, an Order from the Court approving the payment of the Gross Settlement Amount as described in this Agreement at the earliest possible date. Concurrently with the submission of this Agreement to the Court, Plaintiffs shall submit it to the LWDA as required by PAGA. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to, the approval and implementation of the payment of the Gross Settlement Amount as described in this Agreement. The Court's approval of the payment of the Gross Settlement Amount as described in this Agreement shall be embodied in a written Order, which shall be transmitted to the LWDA promptly upon entry, as required by PAGA. Should the Court not grant approval of the Gross Settlement Amount as described in this Agreement or decline to enter judgment in the Action, this Agreement shall be null and void and have no further effect, and all sums paid by Defendants, if any, shall be promptly returned to them.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with Rust Consulting other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.3 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE.

This settlement is based on Defendants' representation that there are a maximum of 838,697 days worked by approximately 1,458 Aggrieved Employees during the PAGA Period (through May 31, 2022). If the number of days worked exceeds these representations by 3% or more, one of the following shall occur at Defendants' election: (a) Defendants shall pay an increased Gross Settlement Amount proportional to the increase over the 3% threshold (for example, if the final number of days worked is 4% greater than 838,697, the Gross Settlement Amount will increase by 1%); or (b) the PAGA Period shall be reduced to a date before May 31, 2022 that is consistent with a maximum of 838,697 days worked by approximately 1,458 Aggrieved Employees.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10. ADDITIONAL PROVISIONS.

- 10.1 No Admission of Liability. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Action have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).