

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Settlement Agreement is between Plaintiff Adriana Benitez (“Plaintiff”), on behalf of herself, other members of the general public similarly situated, and other aggrieved employees, and Defendants KRC Anaheim, L.P. dba Emerald Court (“KRC”) and Kisco Senior Living, LLC (“Kisco”) (collectively, “Defendants”). Plaintiff and Defendants are collectively referred to in this Agreement as the “Parties” or individually as a “Party.”

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meaning:

- A. **Administration Costs:** All administrative costs incurred by the Settlement Administrator to administer this Settlement including the cost of notice to the Class Members, settlement administration, and any fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement, which shall not exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00). All Administration Costs shall be paid from the Qualified Settlement Fund. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- B. **Aggrieved Employees:** Any and all non-exempt California employees who are or were employed at the Emerald Court community, located at 1731 West Medical Center Dr., Anaheim, CA 92801, during the PAGA Period.
- C. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement:** The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- D. **Attorney Fee Award:** The amount, not to exceed one-third (1/3) of the Total Consideration or One Hundred Eighty-Two Thousand One Hundred Ninety-One Dollars and Zero Cents (\$182,191.00), finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and will not be opposed by Defendants. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- E. **Case or Class Action:** The lawsuit originally filed by Plaintiff on January 18, 2022, entitled *Adriana Benitez v. KRC Anaheim, L.P., et al.*, Case No. 37-2022-00002118-CU-OE-CTL, in the Superior Court of California, County of San Diego.

- F. **Class or Class Members**: Any and all non-exempt California employees who are or were employed at the Emerald Court community, located at 1731 West Medical Center Dr., Anaheim, California 92801, during the Class Period.
- G. **Class Counsel**: Attorneys Kane Moon, Allen Feghali, and Jacquelyne VanEmmerik of Moon Law Group, PC.
- H. **Class Notice or Notice**: The “Notice of Class Action Settlement” or “Notice” shall mean the notice to be provided to all Class Members regarding the terms of this Settlement, substantially like the form attached hereto as **Exhibit A**, subject to Court approval. The Notice shall constitute class notice pursuant to California Rules of Court, rule 3.769 (f) and, once approved by the Court, shall be deemed compliant with California Rules of Court, rule 3.766.
- I. **Class Period**: The time period from January 18, 2018, to September 13, 2023.
- J. **Class Representative or Plaintiff**: Adriana Benitez individually and as a representative of the Class Members, Aggrieved Employees, and the State of California.
- K. **Class Representative Enhancement Payment**: The amount the Court awards to Plaintiff for her services as Class Representative, which will not exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00). This payment shall be paid from the Qualified Settlement Fund and will not be opposed by Defendants. This enhancement payment is subject to Court approval. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- L. **Complaint**: The First Amended Class and Representative Action Complaint Plaintiff filed in this case on or around August 16, 2022.
- M. **Comprehensive Release**: Upon Defendants’ fulfillment of their payment obligations under Section IV.I.9.a. below, Plaintiff is releasing, in exchange for the consideration provided for by this Agreement, a comprehensive release of all known and unknown claims by Plaintiff, including a California Civil Code section 1542 waiver arising out of the operative allegations in the Case.
- N. **Cost Award**: The amount finally approved by the Court and awarded to Class Counsel for payment of actual litigation costs, which shall not exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00). The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendants. The Cost Award is subject to Court approval. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

- O. **Counsel for Defendants**: Attorneys Jeffrey R. Thurrell, Bret Martin, and The-An Hoang-Nguyen of Fisher & Phillips LLP.
- P. **Court**: The Superior Court of California, County of San Diego.
- Q. **Defendants**: KRC Anaheim, L.P. and Kisco Senior Living, LLC.
- R. **Effective Final Settlement Date**: The Effective Final Settlement Date shall be the date upon which the following occur: (i) the funding of the Total Consideration in the Qualified Settlement Fund by Defendants, (ii) approval of the Settlement is granted by the Superior Court of California for the County of San Diego, or other court assuming jurisdiction of this matter, (iii) the Court's Judgment approving the Settlement becomes Final, and (iv) the date of the time for filing or noticing any appeal of the Judgment has expired.
- S. **Final Approval**: The final order entered by the Court following the Final Fairness and Approval Hearing.
- T. **Final Judgment or Final Approval**: The final judgment entered by the Court following the Final Fairness and Approval Hearing.
- U. **Total Consideration or TC**: The total value of the Settlement is a non-reversionary Five Hundred Fifty-Two Thousand Ninety-Six Dollars and Zero cents (\$552,096.00). This is the gross amount Defendants are required to pay under this Settlement Agreement, which includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Aggrieved Employees, as approved by the Court. Defendants' portion of payroll taxes as the Class Members' current or former employer is not included in the Total Consideration and will be a separate obligation of Defendants. No portion of the Total Consideration will revert to Defendants for any reason.
- V. **Escalator Clause**: TC is based on Defendants' representation that the Class Members worked an estimated total of 30,672 workweeks during the Class Period ("Affected Workweeks") through June 13, 2023. If the actual number of Affected Workweeks is more than 10% greater than this number (i.e., if there are more than 3,067 additional Workweeks), Defendants shall increase the Total Consideration in proportion to the increase in Affected Workweeks over 10% (e.g., if the number of Workweek Count is 11% greater than 30,672, Defendants will increase the TC by 1%). Alternatively, in their unilateral discretion, if Defendants do not wish to pay the proportional increase in the TC,

they may instead end the Class Period and PAGA Period on the date that the total number of Workweeks reaches 33,739, so that the proportional escalation is not triggered.

- W. **Individual Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Settlement Share automatically, without the return of a claim form.
- X. **LWDA**: California Labor and Workforce Development Agency.
- Y. **Net Settlement Amount or NSA**: The total amount of money available for payout to Participating Class Members, which is the TC less the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment paid to the LWDA and Aggrieved Employees, and Administration Costs. The NSA is the portion of the TC that will be distributed to Class Members who do not request exclusion from the Settlement.
- Z. **Notice Packet**: The Class Notice.
- AA. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Lab. Code section 2698 et seq.).
- BB. **PAGA Payment**: The PAGA Payment consists of Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Total Consideration allocated to satisfy the PAGA claim as alleged in the Class Action. Seventy-five percent (75%) of which, Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00), shall be paid to the LWDA, and (25%) of which, Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), shall be distributed to Aggrieved Employees, on a pro rata basis, as set forth below.
- CC. **PAGA Period**: January 11, 2021 to September 13, 2023.
- DD. **Participating Class Members**: All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.
- EE. **Parties**: Plaintiff and Defendants.
- FF. **Preliminary Approval or Preliminary Approval Order**: The order entered by the Court following the Preliminary Approval Hearing approving the proposed Settlement.
- GG. **Qualified Settlement Fund or QSF**: A fund within the meaning of Treasury Regulation section 1.468B-1, 26 C.F.R. §§ 1.468B-1 et seq., which is

established by the Settlement Administrator for the benefit of Participating Class Members, Aggrieved Employees, Plaintiff, and Class Counsel.

HH. Released Claims: Upon the Effective Final Settlement Date, the claims that Plaintiff, the Participating Class Members, and the Aggrieved Employees are releasing in exchange for the consideration provided for by this Agreement are all known and unknown claims, rights, demands, damages, liabilities and causes of action, in law or in equity, arising at any time during the Class Period alleged in the Complaint and Plaintiff's letter to the LWDA, or that could have been alleged based on the facts pleaded, including but not limited to California Labor Code sections 201-203, 204, 226, 226.3, 226.7, 246, 510, 512, 1174, 1174.5, 1194, 1194.2 1197, 1197.1, 1198, 2802, any category of violations identified in Labor Code section 2699.5, and the related applicable IWC Wage Orders, as well as Business and Professions Code §§ 17200, et seq. Released Claims include, but are not necessarily limited to, claims for minimum wages, overtime and double time wages; meal and rest periods; failure to maintain accurate employment records; wage statement violations; separation pay violations; failure to reimburse business expenses; paid sick leave violations; unfair business practices; and civil penalties under PAGA.

II. Released Parties: Defendants and each of their current and former owners, operators, officers, members, directors, shareholders, partners, affiliated companies, including but not limited to Kisco Development, LLC, and KSL Associate Group, Inc., parent companies, subsidiary companies, holding companies, predecessors, successors, insurers, assigns, trustees, DBAs, franchisors, franchisees, payroll service providers, legal representatives, accountants, employees, independent contractors, lessors, agents, and attorneys.

JJ. Response Deadline: Sixty (60) calendar days from the initial mailing of the Notice Packet.

KK. Settlement Administration: The Settlement Administrator will mail the Notice Packet by first class U.S. mail to all Class Members and Aggrieved Employees at the address Defendants have on file.

LL. Settlement Administrator: The third-party administrator agreed upon by the Parties to administer this Settlement is Simpluris, Inc.

II. RECITALS

A. Plaintiff's Complaint. Per the Complaint, Plaintiff alleges, on behalf of herself, all Class Members, and Aggrieved Employees, that Defendants violated California state wage and hour laws and PAGA because of Defendants' wage and hour policies and practices. Specifically, Plaintiff alleges the following causes of action against Defendants: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal breaks; (4) failure to

authorize or permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; (8) unfair business practices; and (9) civil penalties pursuant to PAGA.

- B. Notice to the LWDA.** On November 3, 2021, Plaintiff's Counsel sent letters to the LWDA and Defendants, on behalf of Plaintiff, in compliance with California Labor Code section 2699.3. Plaintiff seeks to represent herself and all Aggrieved Employees. More than sixty-five (65) days passed after the letter was sent to the LWDA, and the LWDA has not indicated that it intends to investigate the alleged violations referenced in the letter.
- C. The Parties' Investigation.** The Parties agreed to mediation with mediator Marc Feder, Esq. Counsel for the Parties have thoroughly investigated the facts relating to the claims alleged in the Complaint and have made a thorough study of the legal principles applicable to the claims asserted against Defendants. Defendants produced hundreds of documents related to each of their wage and hour practices, including time and pay records for employees from each Defendant. Based on their investigation and evaluation of this case, Plaintiff and Class Counsel have concluded that the Settlement is fair, reasonable, and adequate in light of all known facts and circumstances, including the defenses asserted by Defendants, potential adverse findings regarding liability, and numerous potential appellate issues, and are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and conditions set forth, the Parties agree as follows:

III. NON-ADMISSION OF LIABILITY

- A. Defendants' Denial of Wrongdoing.** Defendants generally and specifically deny any and all liability or wrongdoing of any sort with regard to any of the claims alleged, make no concessions or admissions of liability of any sort, and contend that for any purpose other than settlement, the Complaint is not appropriate for PAGA or class treatment. Defendants also assert several defenses to the claims and have denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Class Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any statements, discussions, or communications, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendants or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiff can serve as an adequate Class Representative. There has been no final determination by any court as to

the merits of the claims asserted by Plaintiff against Defendants or as to whether a class or classes should be certified, other than for settlement purposes only.

- B. Benefits of Settlement to Class Members and Aggrieved Employees.** Plaintiff and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendants through trial and through any possible appeals. Plaintiff and Class Counsel also have considered the uncertainty and risk of further litigation, the potential outcome, the existing arbitration agreements and the difficulties and delays inherent in such litigation as well as Defendants past and current financial condition confirmed through the opinion of an accounting expert. Plaintiff and Class Counsel conducted extensive settlement negotiations, including formal mediation on June 13, 2023. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members and Aggrieved Employees.

IV. SETTLEMENT TERMS AND CONDITIONS

- A. Total Consideration.** Subject to the terms and conditions of this Agreement, the maximum Total Consideration, excluding payroll taxes, that Defendants are obligated to pay under this Settlement Agreement is a non-reversionary Five Hundred Fifty-Two Thousand Ninety-Six Dollars and Zero cents (\$552,096.00).
- B. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
- C. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. This Stipulation is contingent upon the Preliminary and Final Approval and certification of the Settlement Class only for purposes of settlement. If the Settlement does not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to certification as part of the Settlement shall have no bearing on and shall not be admissible or used in any way in connection with, the question of whether the Court should certify any claims in a non-settlement context in this Class Action or in any other lawsuit. Defendants expressly reserve the right to oppose class certification and/or to proactively move to deny class certification should this Settlement be modified or reversed on appeal or otherwise not become final.
- D. Appointment of Class Representative.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff shall be appointed as the representative for the Class.

- E. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.
- F. Individual Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member.

1. Calculation.

- a. Individual Settlement Share Calculation.** Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to: (i) the number of weeks he or she worked during the Class Period based on the Class List provided by Defendants, divided by (ii) the total number of weeks worked by any and all Participating Class Members collectively, during the Class Period based on the same Class List, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Participating Class Member's Individual Settlement Share ties directly to the number of weeks that he or she worked.

- 2. Tax Withholdings.** Each Participating Class Member's Individual Settlement Share will be apportioned as follows: ten percent (10%) wages and ninety percent (90%) non-wage statutory damages and interests. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' share of payroll tax withholdings shall be withheld from each person's Individual Settlement Share. Aggrieved Employees' portion of the PAGA Payment will be allocated as one hundred percent (100%) non-wage damages and will be issued an IRS form 1099 if it exceeds six-hundred dollars (\$600.00).

- G. Withdrawal.** If 10% or more Class Members exercise their rights to exclude themselves and opt out of this Settlement, then Defendants may, in their sole discretion, unilaterally withdraw from and terminate this Settlement no later than five (5) court days prior to the date of the Final Approval Hearing. In the event of Defendants' withdrawal, no Party may use the fact that the Parties agreed to this Settlement for any reason. Defendants will be responsible for paying claims administration costs if it exercises their right to withdraw under this provision.

H. Settlement Disbursement. Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Total Consideration:

- 1. To Plaintiff.** In addition to her Individual Settlement Share, and subject to the Court's approval, Plaintiff will receive up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) as the Class Representative Enhancement Payment. The Settlement Administrator will pay the Class Representative Enhancement Payment out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payment. An IRS Form 1099 will be issued to Plaintiff with respect to her Class Representative Enhancement Payment. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payment, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff, the difference shall become part of the NSA and be available for distribution to Participating Class Members.
- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendants agree not to oppose, a total Attorney Fee Award not to exceed one-third (1/3) of the Total Consideration or One Hundred Eighty-Two Thousand One Hundred Ninety-One Dollars and Zero Cents (\$182,191.00) of the TC, plus reasonable costs not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00). The Settlement Administrator will pay the court-approved amounts for the Attorney Fee Award and Cost Award out of the Total Consideration. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Participating Class Members. Except as provided herein, each side shall bear its own attorneys' fees and costs.
- 3. To Responsible Tax Authorities.** The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendants' portion of payroll withholding taxes. The

Settlement Administrator will submit Defendant's portion of payroll withholding tax calculation to Defendants for additional funding and forward those amounts along with each person's Individual Settlement Share withholdings to the appropriate taxing authorities.

4. **To the Settlement Administrator.** The Settlement Administrator will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00). This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated, the difference shall become part of the NSA and be available for distribution to Participating Class Members. In the event the Court does not approve the entirety of the application for the Administration Costs, the Settlement Administrator shall pay to itself whatever amount the Court awards, and neither Defendants nor the Plaintiff shall be responsible for paying the difference between the amount requested and the amount awarded.
5. **To Class Members.** The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members shall be made from the Qualified Settlement Fund.
6. **To Eligible Aggrieved Employees.** The PAGA Payment consists of Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Total Consideration allocated to satisfy the PAGA claim as alleged in the Class Action. Twenty-Five (25%) of which, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), shall be paid to the Aggrieved Employees. The Settlement Administrator shall pay each Aggrieved Employee according to their proportional share, which will be based upon the total number of pay periods he or she was employed during the PAGA Period. The individual share will be calculated by determining the total number of pay periods the Aggrieved Employees were employed during the PAGA Period (i.e., the sum of all pay periods of employment for each Aggrieved Employee) and dividing that number into Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) allocated to the Aggrieved Employees to determine the monetary value assigned to each pay period. That number will then be multiplied by the individual Aggrieved Employee's total number of pay periods employed during the PAGA Period to determine that individual's proportional share. Settlement checks issued to the Aggrieved Employees pursuant to this Agreement shall expire one hundred eighty (180) days from the date they are issued by Defendants. Any unclaimed funds after the one hundred eighty (180) days shall be turned over by the Settlement Administrator to the Unclaimed Property Fund of the State's Controller's Office in the name of the Class Member of the Eligible Aggrieved Employee, leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure § 384(b).

7. To the LWDA: The PAGA Payment consists of Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Total Consideration allocated to satisfy the PAGA claim as alleged in the Class Action. Seventy-five percent (75%) of which, or Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00), shall be paid to the LWDA.

I. Appointment of Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree that Settlement Administrator shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for: (a) preparing, printing, and mailing the Notice Packet to the Class Members; (b) keeping track of any objections or requests for exclusion from Class Members; (c) performing skip traces and remailing Notice Packets and Individual Settlement Shares to Class Members; (d) calculating any and all payroll tax deductions as required by law; (e) calculating each Participating Class Member's Individual Settlement Share and each Aggrieved Employee's portion of the PAGA Payment; (f) providing weekly status reports to Counsel for Defendants and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; (g) providing a due diligence declaration for submission to the Court prior to the Final Approval Hearing; (h) mailing Individual Settlement Shares and the portion of the PAGA Payment to Participating Class Members and Aggrieved Employees, respectively; (i) mailing the LWDA portion of the PAGA Payment to the LWDA; (j) distributing the Attorney Fee Award and the Cost Award to Class Counsel; (k) printing and providing Class Members and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; (l) providing a due diligence declaration for submission to the Superior Court upon the completion of the Settlement; (m) providing any funds remaining in the QSF as a result of uncashed checks to the Unclaimed Property Fund of the State's Controller's Office in the name of the Class Member of the Eligible Aggrieved Employee and (n) performing other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

J. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a.** Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice.
- b.** Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Settlement will be null and void, and the Parties will have no

further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment shall not operate to terminate or cancel this Agreement. Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment.

2. Notice to Class Members. After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Notice Packet in accordance with the following procedure:

- a.** Within fourteen (14) calendar days after entry of the Preliminary Approval Order and service of the same upon Defendants, Defendants shall deliver to the Settlement Administrator the following information about each Class Member: (1) first and last name; (2) last known mailing address; (3) social security number; (4) date of hire and termination date and/or the total number of weeks during which the Class Member performed any actual work during the Class Period and PAGA Period as a member of the Class and/or Aggrieved Employees (collectively "Class List"). If any or all of this information is unavailable to Defendants, Defendants will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will conduct a skip trace for the address of all former Class Members. The Settlement Administrator shall maintain the Class List and all data contained within the Class List as private and confidential. This provision will not impede Class Counsel's ability to discharge fiduciary duties, including effectuating the terms of this Settlement.
- b.** The Settlement Administrator shall run all the addresses on the Class List through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the

U.S. Postal Service of a forwarding address) to obtain current address information. The Settlement Administrator shall mail the Notice Packet to the Class Members via First-Class U.S. Mail using the most current mailing address information available within fourteen (14) calendar days after the receipt of the Class List from Defendants.

- c. If a Notice Packet is returned because of an incorrect address, within ten (10) days from receipt of the returned Notice Packet, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Notice Packet to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Notice Packet shall be re-mailed to the original address. If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or forwarded mail, will have their Response Deadline to postmark an Exclusion Form, or mail an objection to the Settlement, extended by ten (10) calendar days from the original Response Deadline. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a re-mailed notice.
- d. Class Members may dispute the information provided in their Notice Packet, but must do so in writing, via First-Class U.S. mail, and it must be postmarked by the Response Deadline. To the extent Class Members dispute the number of weeks to which they have been credited or the amount of their Individual Settlement Share, Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendants' records, Defendants' records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible weeks that should be applied and/or

the Individual Settlement Share to which the Class Member may be entitled.

- e. If any Exclusion Form received is incomplete or deficient, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and allow fourteen (14) days to cure the deficiency. However, any cure period will not extend the Response Deadline. If after the cure period the Exclusion Form is not cured, it will be determined that the Class Member did not exclude himself or herself from the Settlement and will be bound by the Settlement.
- f. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Counsel for Defendants of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of Exclusion Forms received.
- g. No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement.

3. Objections to Settlement. The Notice Packets will provide that the Class Members who wish to object to the Settlement must do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline. For any Class Member to object to this Settlement, or any term of it, the person making the objection must not submit a request for exclusion (i.e., must not opt out). The timeframe to submit an objection will not be increased for returned mailings.

- a. **Format.** Any Objections must: (a) state the objecting person's full name, address, and telephone number and the name and address of counsel, if any; (b) have the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing; (f) be signed by the objecting Class Member or his or her attorney; and (g) state whether the objecting Class Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing.

- b. Appearance at Final Approval and Oral Objection.** Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel, at his or her own expense and orally object to the Settlement.
 - c. Objecting Class Members.** If a Class Member objects to the Settlement, the objecting Class Member will remain a member of the Settlement and if the Court approves the Settlement, the objecting Class Member will be bound by the terms of the Settlement in the same way and to the same extent as a Participating Class Member who does not object.
 - d. Responses to Objection.** Plaintiff and Defendants will be permitted to respond in writing to such objections no later than seven (7) days before the Final Approval Hearing. Plaintiff waives any right to object to the Settlement, and hereby endorses the Settlement as fair, reasonable, and adequate and in the best interests of the Settlement Class.
- 4. Request for Exclusion from the Settlement ("Opt-Out").** The Notice Packet will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator an Exclusion Form. The written request for exclusion must: (a) include the Class Member's name, address, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member or his or her lawful representative; and (d) be postmarked no later than the Response Deadline. Notwithstanding the foregoing, there shall be no right of for Aggrieved Employees to opt out of the PAGA Settlement.
 - a. Confirmation of Authenticity.** The date of the initial mailing of the Notice Packet, and the date the signed request to be excluded is postmarked, shall be conclusively determined according to the records of the Settlement Administrator. If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. Any Class Member who returns a timely, valid, and executed Exclusion Form will not participate in or be bound by the Settlement and Judgment, will not receive an Individual Settlement Share, and will not have any right to object, appeal, or comment thereon. A Class Member who does not complete and mail a timely Exclusion Form will automatically be included in the Settlement, will receive an Individual Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement.

- b. Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notice Packets mailed to Class Members, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed to Class Members, the number of re-mailed Notice Packets returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

5. No Solicitation of Objection or Requests for Exclusion. Neither the Parties nor their respective counsel will solicit or otherwise encourage, directly or indirectly, any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.

6. Motion for Final Approval.

- a.** Upon expiration of the Objection/Exclusion Deadlines, Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) the Administration Costs; (4) the Class Representative Enhancement Payment; and (5) the PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Class Members who do not opt out of the Settlement.
- b.** If the Court does not grant Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Total Consideration or any amounts that otherwise would have been owed under this Agreement, except that Defendants shall pay fifty percent (50%) of the Administration Costs, and Plaintiff shall pay the remaining fifty percent (50%) of the Administration Costs. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement Payment, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.

- c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continued jurisdiction over the Class Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.
- 7. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.
- 8. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Total Consideration, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Share.
- 9. **Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Superior Court's Final Approval Order and Judgment. The maximum amount Defendants can be required to pay under this Settlement for any purpose is the Total Consideration. The Settlement Administrator shall keep Counsel for Defendants and Class Counsel apprised of all distributions from the Total Consideration. The Settlement Administrator shall respond to questions from Counsel for Defendants and Class Counsel.
 - a. **Funding the Settlement:** No later than thirty (30) calendar days after Effective Date, Defendants shall deposit the entire TC by wiring the funds to the Settlement Administrator. Defendants shall also at this time provide any tax information that the Settlement

Administrator may need to calculate each Participating Class Member's Individual Settlement Share.

- b. **Disbursement**: Within seven (7) calendar days after the funding of the Settlement, the Settlement Administrator shall calculate and pay all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, and the Administration Costs. The Settlement Administrator will also forward a check for the PAGA Payment to the LWDA for settlement of the PAGA claim.
- c. **QSF**: The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.4168B-1, 26 C.F.R. § 1.468B-1 et seq. and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

10. Uncashed Checks. Participating Class Members must cash or deposit their Individual Settlement Share checks within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are not redeemed or deposited within that period, the Settlement Administrator will transfer the uncashed checks to the Unclaimed Property Fund of the State Controller's office in the name of the Participating Class Member or Aggrieved Employees, leaving no "unpaid residue," subject to the requirements of California Code of Civil Procedure § 384(b) (b).

11. Final Report by Settlement Administrator. Within ten (10) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.

12. Defendant's Legal Fees. Defendants are responsible for paying for all of Defendants' own legal fees, costs, and expenses incurred in this Class Action outside of the Total Consideration.

K. Release of Claims. Upon Defendants' fulfillment of their payment obligations under Section IV(I)(9)(a) of this Agreement, Class Members, who do not submit a timely and valid request for exclusion, hereby waive, release, promise never to assert in any forum, remise and forever discharge the Released Parties from the Released Claims during the Class Period.

L. Effect of PAGA Settlement. Upon Defendants' fulfillment of their payment obligations under Section IV(I)(9)(a) of this Agreement, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all Aggrieved Employees during the PAGA Period, shall waive and not pursue any action for civil penalties under the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code sections 2698 et seq., against the Released Parties based on or arising out of alleged violations of Labor Code sections alleged in Plaintiff's letter to the LWDA and the Complaint. Aggrieved Employees shall be bound by the PAGA Settlement, and receive their pro rata share of the PAGA Payment, regardless of whether or not they exercise their right to opt out of the Class Settlement.

M. Plaintiff's Release of Claims and General Release. Upon Defendants' fulfillment of their payment obligations under Section IV(I)(9)(a) of this Agreement, and in exchange for the Class Representative Enhancement Payment to the Plaintiff in an amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), in recognition of her work and efforts in obtaining the benefits for the Class, and undertaking the risk for the payment of costs in the event this matter had not successfully resolved, Plaintiff hereby provides a general release of claims for herself and her respective spouse, heirs, successors and assigns, and forever release, remise, and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature and description whatsoever, known or unknown, suspected or unsuspected, asserted or that might have been asserted, whether in tort, contract, equity, or otherwise, arising out of and/or relating to Plaintiff's employment with Defendants, payment of wages during that employment and the cessation of that employment and/or violation of any federal, state or local statute, rule, ordinance or regulation. Without limiting the generality of the foregoing, Plaintiff's release specifically includes a release of claims under the Fair Employment and Housing Act, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964 (as amended), the California Family Rights Act, the Family and Medical Leave Act, and the Americans with Disabilities Act. Plaintiff stipulates and agrees that, as of the Effective Final Settlement Date, Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of California Civil Code section 1542, or any other similar provision under federal or state law, which provides:

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

N. Miscellaneous Terms

- 1. No Admission of Liability.** Defendants make no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendants reserve the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendants deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Case, or that but for the Settlement, a Class should be certified in the Case. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants of liability or wrongdoing. This Settlement and Plaintiff's and Defendants' willingness to settle the Case will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored by Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendants, policies or bonus programs. Any payments made under the terms of this Settlement shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendants' benefit plan, policy or bonus program. Defendants retain the right to modify the language of their benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Settlement.
- 3. Publicity.** Class Counsel and Plaintiff agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as Class Counsel, in declarations submitted to a court in support of motions for preliminary approval, Final Approval, for attorneys' fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. Class Counsel and Plaintiff agree that they shall not publish any press releases or press statements regarding the Settlement, identify Defendants or Counsel for Defendants by name in any media including Class Counsel's website, or have any communications with the press or

media about the Case or the Settlement. Plaintiff, in response to inquiries, will state that that “the Case was resolved.” This provision will not impede Class Counsel’s ability to discharge fiduciary duties, including effectuating the terms of this settlement.

- 4. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary, or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. Nothing in this Agreement in any way limits or negates the enforceability and effect of the underlying arbitration agreements signed by employees of Defendants, obligating them to arbitrate any and all claims on an individual (and not on a class, collective, or representative) basis.
- 5. Authorization to Enter Into Settlement Agreement.** Class Counsel and Counsel for Defendants warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
- 6. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

- 7. Deadlines Falling on Weekends or Holidays.** To the extent that any deadline set forth in this Settlement Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.
- 8. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Class Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.
- 9. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
- 10. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- 11. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that she has not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 12. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of California, without giving effect to any conflict of law principles or choice of law principles.
- 13. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- 14. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of such taxes.

15. Jurisdiction of the Superior Court. Pursuant to Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.

16. Invalidity of Any Provision; Severability. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

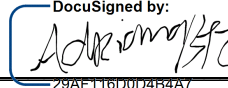
17. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

18. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

[SIGNATURES ON NEXT PAGE]

V. EXECUTION BY PARTIES AND COUNSEL

Dated: 10/23/2023, 2023

DocuSigned by:


Plaintiff ADRIANA BENITEZ

Dated: _____, 2023

Defendant KRC ANAHEIM, L.P.

By:
Title:

Dated: _____, 2023

Defendant KISCO SENIOR LIVING, LLC

By:
Title:

Dated: October 23, 2023

MOON LAW GROUP, PC



Kane Moon
Allen Feghali
Jacquelyne VanEmmerik

Attorneys for Plaintiff Adriana Benitez, on behalf of
herself and all others similarly situated

Dated: _____, 2023

FISHER & PHILLIPS LLP

Jeffrey R. Thurrell
Bret Martin
The-An Hoang-Nguyen

Attorneys for Defendants KRC Anaheim, L.P. and
Kisco Senior Living, LLC

V. EXECUTION BY PARTIES AND COUNSEL

Dated: _____

Plaintiff ADRIANA BENITEZ

Dated: Nov 8, 2023

gm

Defendant KRC ANAHEIM, L.P.
By: John Hanna
Title: CFO

Dated: Oct 26, 2023

DL Hope
DL Hope (Oct 26, 2023 12:06 PDT)

Defendant KISCO SENIOR LIVING, LLC
By: David Hope
Title: SVP of HR

MOON LAW GROUP, PC

Dated: _____

Kane Moon
Allen Feghali
Jacquelyne VanEmmerik

Attorneys for Plaintiff Adriana Benitez, on
behalf of herself and all others similarly
situated

FISHER & PHILLIPS LLP

Dated: November 8, 2023

Bret Martin

Jeffrey R. Thurrell
Bret Martin
The-An Hoang-Nguyen

Attorneys for Defendants KRC Anaheim, L.P.
and Kisco Senior Living, LLC

EXHIBIT A

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN DIEGO
Adriana Benitez v. KRC Anaheim, L.P., et al,
Case No. 37-2022-00002118-CU-OE-CTL,

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you, and you are not being sued.
However, your legal rights may be affected whether you act or don't act.*

TO: All non-exempt California employees who are or were employed at the Emerald Court community located at 1731 West Medical Center Dr., Anaheim, CA 92801 at any time from January 18, 2018 to September 13, 2023.

The California Superior Court, County of San Diego has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned action (“Class Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes:

Any and all non-exempt California employees who are or were employed at the Emerald Court community, located at 1731 West Medical Center Dr., Anaheim, California 92801 at any time from January 18, 2018 to September 13, 2023.

The purpose of this Notice is to provide a brief description of the claims alleged in the Class Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice?.....Page 2
2. What Is This Case About?Page 2
3. Am I a Class Member?Page 3
4. How Does This Class Action Settlement Work?.....Page 3
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12. Final Approval Hearing.....Page 8

1. *Why Have I Received This Notice?*

Defendants KRC Anaheim, L.P. and Kisco Senior Living, LLC's (collectively, "Defendants") records indicate that you may be a Class Member. The Settlement will resolve all Class Members' Released Claims, as described below, from the time period from January 18, 2018, to September 13, 2023 (the "Class Period").

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the Superior Court of California, County of San Diego. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing.

The Court will hold a Final Approval Hearing concerning the proposed settlement on [the date of final approval hearing], at [time a.m./p.m.], before Hon. Katherine A. Bacal, located in Department C-69 of the San Diego County Superior Court – Hall of Justice Courthouse located at 330 W. Broadway, San Diego, CA 92101.

2. *What Is This Case About?*

Adriana Benitez filed a Class Action lawsuit against Defendants on January 18, 2022, in the Superior Court of California, County of San Diego, Case No. 37-2022-00002118-CU-OE-CTL. Plaintiff alleged the following causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal breaks; (4) failure to authorize or permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices.

On August 16, 2022, Plaintiff filed a First Amended Complaint adding a cause of action under the Private Attorneys General Act of 2004 ("PAGA") seeking penalties for violations of the Labor Code.

Plaintiff and Defendants attended mediation on the Class Action on June 13, 2023. With the support of a mediator, the Parties reached a settlement of the Class Action.

The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. The Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendants; instead, both sides agreed to resolve the Class Action with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all Parties avoid the risks and cost of a trial.

Defendants expressly deny that they did anything wrong or that they violated the law and further deny any liability whatsoever to Plaintiff or to the Class.

3. *Am I A Class Member?*

You are a Class Member if you are a non-exempt California employee who is or was employed at the Emerald Court community, located at 1731 West Medical Center Dr., Anaheim, California 92801, at any time from January 18, 2018 to September 13, 2023.

4. *How Does This Class Action Settlement Work?*

In this Class Action, Plaintiff sued on behalf of herself and all other similarly situated employees non-exempt California employees who are or were employed at the Emerald Court community located at 1731 West Medical Center Dr., Anaheim, CA 92801 at any time during the Class Period. Plaintiff and these other current and former employees comprise a “Class” and are “Class Members.” The settlement of this Class Action resolves the Released Claims of all Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the Settlement is fair and reasonable. The Court must review the terms of the Settlement and determine if it is fair and reasonable to the Class. The Court file has the Settlement documents, which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is below, and they will provide you with a copy free of charge.

5. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiff and the Class	Attorneys for Defendants
MOON LAW GROUP, P.C. Kane Moon Allen Feghali Jacquelyne VanEmmerik 1055 West Seventh Street, Suite 1880 Los Angeles, CA 90017 Telephone: (213) 232-3128	FISHER & PHILLIPS Jeffrey R. Thurrell The-An Hoang-Nguyen 2050 Main Street, Suite 1000 Irvine, California 92614 Telephone: (949) 851-2424 Facsimile: (949) 851-0152 Bret Martin 4747 Executive Drive Suite 1000 San Diego, California 92121 Telephone: (858) 597-9600 Facsimile: (858) 597-9601

The Court has decided that Moon Law Group, P.C. is qualified to represent you and all other Class Members simultaneously.

Class Counsel is working on your behalf. If you want your own attorney, you may hire one at your own cost.

6. *What Are My Options?*

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: Defendants will not retaliate against you in any way for either participating or not participating in this Settlement.

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this lawsuit and will receive an Individual Settlement Share based on the total number of workweeks you were employed as a Class Member in California during the Class Period. You will release all the Released Claims, as defined in Section No. 9 below, and you will give up your right to pursue the Released Claims, as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Action. If the Court grants final approval of the Settlement, you will not receive an Individual Settlement Share and you will not give up the right to sue the Released Parties, including Defendants, for any the Released Claims as defined in Section No. 9 below.
- **OBJECT:** You may mail a legal objection to the proposed Settlement. If you would like to object, you may not opt out of this Settlement.

The procedures for opting out and objecting are set forth below in the sections entitled “How Do I Opt Out or Exclude Myself from This Settlement” and “How Do I Object To The Settlement?”

Please note that even if you choose to exclude yourself from the Class Settlement, you will still be included in the PAGA Settlement, release claims under the PAGA, and receive your pro rata share (if any) of the PAGA Settlement if you are an Aggrieved Employee. Please see Question 11, “*What is the PAGA Payment and Am I Eligible for it?*” for more details.

Regardless of which option you choose, you must keep the Settlement Administrator advised of any change of address.

7. *How Do I Opt Out Or Exclude Myself From This Settlement?*

If you do not wish to participate in the Settlement, you may be excluded from the Settlement (*i.e.*, “opt out”) by sending a timely opt out notice. You can submit a written document that includes the information described below. If you opt out of the Settlement, you will not be releasing the claims set forth in Section No. 9. The Exclusion Form must be signed, dated, and mailed by First-Class U.S. Mail, **postmarked no later than [REDACTED], 2023** to: **[Administrator], [Address]**. You cannot exclude yourself by phone.

If you received a re-mailed Class Notice, whether by skip-trace or forwarded mail, your Response Deadline to postmark an Exclusion Form, or mail and serve an objection to the Settlement will be extended by ten (10) calendar days from the original Response Deadline. The envelope should indicate whether the Class Notice has been forwarded or re-mailed. We encourage you to keep copies of all documents, including the envelope, in the event the deadline is challenged.

The Court will exclude any Class Member who submits a complete and timely Exclusion Form as described in the paragraph above. The Exclusion Form must: (a) include the Class Member's name, address, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member or his or her lawful representative; and (d) be postmarked no later than the Response Deadline. Exclusion Forms that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Any Class Member who fails to submit a valid and timely Exclusion Form on or before the above-specified deadline shall be bound by all terms of the Settlement, release, and any Judgment entered in the Action if the Settlement receives final approval from the Court.

You are responsible for ensuring that the Settlement Administrator receives any request for exclusion you submit.

8. *How Do I Object To The Settlement?*

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by mailing it to the Settlement Administrator at [Address] by [the Response Deadline]. The Objections must: (a) state the objecting person's full name, address, and telephone number and the name and address of counsel, if any; (b) have the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval Hearing; (f) be signed by the objecting Class Member or his or her attorney; and (g) state whether the objecting Class Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing.

Class Members may appear at the Final Approval Hearing, either in person or through the objector's own counsel and orally object to the Settlement. Any attorney who will represent an individual objecting to this Settlement must file a notice of appearance with the Court and serve Class Counsel and Defense Counsel no later than fifteen (15) calendar days before the Final Approval Hearing.

Class Members' timely and valid objections to the Settlement will still be considered even if the objector does not appear at the Final Approval Hearing.

Class Members who fail to object in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

Again, to be valid and effective, any objections must be mailed to the Settlement Administrator postmarked on or before [the Response Deadline].

If the Court rejects the notice of objection, the Class Member will receive an Individual Settlement Share and will be bound by the terms of the Settlement.

9. *How Does This Settlement Affect My Rights? What are the Released Claims?*

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court's Final Judgment and will fully release and discharge Defendants and each of their current and former owners, operators, officers, members, directors, shareholders, partners, affiliated companies, including but not limited to Kisco Development, LLC, and KSL Associate Group, Inc., parent companies, subsidiary companies, holding companies, predecessors, successors, insurers, assigns, trustees, DBAs, franchisors, franchisees, payroll service providers, legal representatives, accountants, employees, independent contractors, lessors, agents, and attorneys. ("Released Parties").

A. Released Claims.

Upon Defendants' fulfillment of its payment obligations under the Settlement Agreement, the claims that Plaintiff, the Participating Class Members and the Aggrieved Employees are releasing in exchange for the consideration provided for by this settlement are all known and unknown claims, rights, demands, damages, liabilities and causes of action, in law or in equity, arising at any time during the Class Period alleged in the Complaint and Plaintiff's letter to the LWDA, or that could have been alleged based on the facts pleaded, including but not limited to California Labor Code sections 201-203, 204, 226, 226.3, 226.7, 246, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, any category of violations identified in Labor Code section 2699.5, and the related applicable IWC Wage Orders, as well as Business and Professions Code §§ 17200, et seq. The release includes claims for minimum wages, overtime and double time wages; meal and rest periods; failure to maintain accurate employment records; wage statement violations; separation pay violations; failure to reimburse business expenses; paid sick leave violations; unfair business practices; and civil penalties under the Private Attorneys General Act of 2004.

10. *How Much Can I Expect to Receive From This Settlement?*

The total maximum amount that Defendants could be required to pay under the Settlement Agreement shall be up to but no more than Five Hundred Fifty-Two Thousand Ninety-Six Dollars and Zero cents (\$552,096.00) ("Total Consideration" or "TC").

The "Net Settlement Amount" or "NSA" means the portion of the Total Consideration available for distribution to Class Members after the deduction of (1) the Class Representative Enhancement Payment to Plaintiff in an amount up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for the prosecution of the Class Action, risks undertaken for the payment of attorneys' fees and costs, and a general release of all claims; (2) the Administration Costs to the Settlement Administrator in an amount up to Twenty Thousand Dollars and Zero Cents (\$20,000.00); (3) the PAGA Payment of Thirty Thousand Dollars and Zero Cents (\$30,000.00), seventy-five percent (75%) of which shall be paid to the LWDA, and twenty-five percent (25%) of which shall be distributed to the Aggrieved Employees, on a pro rata basis; (4) the Attorney Fee Award to Class Counsel in an amount not to exceed one-third (1/3) of the Total Consideration or One Hundred Eighty-Two Thousand One Hundred Ninety One Dollars and Zero Cents (\$182,191.00) of the TC; and (5) payment to Class Counsel of Cost Award in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) for litigation costs. All these payments are subject to court approval.

After deducting the above-referenced items, the remaining Net Settlement Amount, will be proportionately distributed among all Class Members who have not opted out. The Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member. Each

Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to: (i) the number of weeks he or she worked as a non-exempt employee during the Class Period based on the Class List provided by Defendants, divided by (ii) the total number of weeks worked by any and all Participating Class Members collectively, during the Class Period based on the same Class List, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Participating Class Member's Individual Settlement Share ties to the amount of weeks that he or she worked as a non-exempt employee during the Class Period.

Although your exact share of the Net Settlement Amount cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on Defendants' records which show you worked [REDACTED] workweeks as a non-exempt employee during the Class Period.

If you believe the number of eligible workweeks records is incorrect, you must provide documentation and/or an explanation to show contrary information to the Settlement Administrator at [Address] on or before [the Response Deadline]. If you do not provide any documents supporting your dispute, the number of workweeks reported in Defendants' records will be presumed correct, and your challenge will be rejected by the Settlement Administrator. Any evidence submitted will be reviewed and the Class Counsel and Counsel for Defendants will make a final determination.

Ten percent (10%) of your Individual Settlement Share will be treated as unpaid wages. Applicable taxes will be withheld from the wages portion of your Individual Settlement Share only and reported on an IRS Form W-2. The remaining ninety percent (90%) of your Individual Settlement Share will be treated as non-wage statutory penalties and interest and will be paid pursuant to an IRS form 1099.

No later than thirty (30) calendar days after the entry of the order granting final approval of the Settlement, Defendants shall deposit the Total Consideration by wiring the funds to the Settlement Administrator. Defendants shall also at this time provide any tax information that the Settlement Administrator needs to calculate each Participating Class Member's Individual Settlement Share.

Within seven (7) calendar days after the funding of the Settlement, the Settlement Administrator shall calculate and pay all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, and the Administration Costs. The Settlement Administrator will also forward a check for the PAGA Payment to the LWDA for settlement of the PAGA claim.

It is strongly recommended that upon receipt of your Individual Settlement Share check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Settlement Administrator will, within two hundred (180) calendar days after the checks are mailed, cancel the checks, and pay the amount to the Unclaimed Property Fund of the State's Controller's Office in your name.

11. What is the PAGA Payment and Am I Eligible for it?

Under the Settlement terms, Thirty Thousand Dollars and Zero Cents (\$30,000.00) is designated as a PAGA Payment. This portion is the total amount of civil penalties collected on behalf of California. The PAGA Payment consists of Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Total Consideration allocated to satisfy the PAGA claim as alleged in the Class Action, seventy-five percent (75%) of which, Twenty Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00), shall be paid to the LWDA, and (25%) of which, Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), shall be distributed to Aggrieved Employees, on a pro rata basis, as set forth below. Aggrieved Employees will share Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), proportional to the number of pay periods each Aggrieved Employee worked during the PAGA Period of January 11, 2021 to September 13, 2023 (“PAGA Period”).

You are an Aggrieved Employee if you are a non-exempt California employee who is or was employed at the Emerald Court community, located at 1731 West Medical Center Dr., Anaheim, CA 92801, during the PAGA Period. If you are not an Aggrieved Employee, this Section does not apply to you.

The Settlement Administrator shall pay each Aggrieved Employee according to their proportional share, which will be based upon the total number of pay periods he or she was employed as a non-exempt employee during the PAGA Timeframe. The individual share will be calculated by determining the total number of pay periods the Aggrieved Employees were employed during the PAGA Period (i.e., the sum of all pay periods of employment for each eligible aggrieved employee) and dividing that number into the Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), allocated to Aggrieved Employees to determine the monetary value assigned to each pay period. That number will then be multiplied by the individual eligible aggrieved employee’s total number of pay periods employed as a non-exempt employee during the PAGA Period to determine that individual’s proportional share.

Settlement checks issued to the Aggrieved Employees pursuant to the Agreement shall expire one hundred eighty (180) days from the date they are issued by Defendants. Any unclaimed funds after the one hundred eighty (180) days shall be turned over to the Unclaimed Property Fund of the State’s Controller’s Office in your name.

Based on your total number of eligible pay periods, your estimated Individual Settlement Share for the PAGA Payment is \$ [REDACTED]. One hundred percent (100%) of this payment will be considered non-wage damages and will be issued an IRS form 1099 if it exceeds six-hundred dollars (\$600.00). You are responsible for paying any federal, state or local taxes owed as a result of this payment.

Because these penalties can only be sought by the State of California, you cannot exclude yourself from the PAGA portion of the settlement if the Court gives final approval.

12. Final Approval Hearing

The Court will hold a Final Approval Hearing concerning the proposed settlement on [the date of final approval hearing], at [time a.m./p.m.], before the Hon. Katherine A. Bacal, located in Department C-69 of the San Diego County Superior Court – Hall of Justice Courthouse located at 330 W. Broadway, San Diego, CA 92101. You are not required to appear at this hearing. Any changes to the hearing date will be available on the website [INSERT WEBSITE ADDRESS].

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at the telephone number listed below, toll free.

This Notice does not contain all the terms of the proposed Settlement or all the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the San Diego County Superior Court at 330 W. Broadway, San Diego, CA 92101.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.