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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

MELVIN CHARLES HAMPTON, individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

SNOW VALLEY, LLC, a California corporation
dba SNOW VALLEY MOUNTAIN RESORT; and
DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVSB2204207

CLASS ACTION

[Honorable David Cohn, Department S26]

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

Complaint Filed: February 23, 2022
Trial Date: Not Set

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

2 This Joint Stipulation of Class and PAGA Action Settlement (“Joint Stipulation,” “Settlement,” or
3 “Agreement”) is made and entered into by and between Plaintiff MELVIN CHARLES HAMPTON
4 (“Plaintiff” or “Class Representative”), individually, and on behalf of all others similarly situated, and
5 Defendant SNOW VALLEY, LLC, dba SNOW VALLEY MOUNTAIN RESORT (“Defendant”).
6 Plaintiff and Defendant will be referred to herein individually as “Party” and/or collectively as the
7 “Parties.” THE PARTIES STIPULATE AND AGREE as follows:

8 **DEFINITIONS**

9 For purposes of this Settlement and Release:

- 10 1. “Action” means the above-captioned action entitled *Melvin Charles Hampton v. Snow*
11 *Valley, LLC, dba Snow Valley Mountain Resort*, San Bernardino County Superior Court, Case Number
12 CIVSB2204207.
- 13 2. “Class Counsel” means Moon & Yang, APC.
- 14 3. “Defendant’s Counsel” means Varner & Brandt LLP.
- 15 4. “Complaint” means the operative First Amended Class and Representative Action
16 Complaint filed in the Action.
- 17 5. “Class Period” means the period from February 23, 2018, through the date of preliminary
18 approval of this Settlement.
- 19 6. “Class” or “Class Members” means all persons who worked for Defendant in California as
20 an hourly paid non-exempt employee at any time during the Class Period. The Parties estimate that the
21 Class included approximately 912 Class Members as of July 31, 2022.
- 22 7. “Settlement Class Members” means all Class Members who do not submit timely, proper,
23 and/or code-compliant exclusion requests to the Settlement Administrator.
- 24 8. “Covered Workweeks” means the number of weeks during which a Class Member
25 performed work for Defendant in California during the Class Period. The Parties estimate that the number
26 of weeks worked by all Class Members from February 23, 2018, through July 31, 2022, is 22,117.
- 27 9. “Final Approval” or the “Final Approval Order” means the Court’s order granting its final
28 approval to this class action and PAGA settlement.

10. “Final Approval Hearing” means the hearing on Plaintiff’s motion for final approval of this class action settlement agreement.

11. “PAGA” means the California *Labor Code* Private Attorneys General Act of 2004 (*Labor Code* §§ 2698, *et seq.*).

12. “PAGA Claim” or “PAGA Claims” means claims brought by Plaintiff under and pursuant to PAGA.

13. “PAGA Representative” means Plaintiff.

14. “PAGA Period” means the period from February 23, 2021, through the date of preliminary approval of this Settlement.

15. “PAGA Employees” or “Aggrieved Employees” means all persons who worked for Defendant in California as an hourly paid non-exempt employee at any time during the PAGA Period. The Parties estimate that there are approximately 411 PAGA Employees as of July 31, 2022.

16. “PAGA Pay Periods” means the number of pay periods during which a PAGA Employee performed work for Defendant in California during the PAGA Period.

17. “Preliminary Approval” or the “Preliminary Approval Order” means the Court’s order granting its preliminary approval to this class action and PAGA settlement and to the issuance of the Notice to Class Members (the “Notice” or “Notice Packet”).

18. “Settlement Payments” means all of the payments to the Settlement Class Members (“Settlement Class Payments”) and all of the payments to the PAGA Employees (“PAGA Settlement Payments”).

19. “Response Deadline” means the date sixty (60) days after the Settlement Administrator initially mails the Notice, which is the last date on which Class Members may submit a Request for Exclusion or written objection to the Settlement. In the case of a re-mailed Notice, the Response Deadline will be thirty (30) calendar days from re-mailing. The Response Deadline may be extended only as expressly described herein.

STIPULATED BACKGROUND

20. On February 23, 2022, Plaintiff filed a Class Action Complaint in the San Bernardino County Superior Court, which alleged the following claims: (1) Failure to Pay Minimum Wage [*Labor*

1 Code §§ 204, 1194, 1194.2 and 1197]; (2) Failure to Pay Overtime Compensation [*Labor Code* §§ 1194
2 and 1198]; (3) Failure to Provide Meal Periods [*Labor Code* §§ 226.7 and 512]; (4) Failure to Authorize
3 and Permit Rest Breaks [*Labor Code* § 226.7]; (5) Failure to Indemnify Necessary Business Expenses
4 [*Labor Code* § 2802]; (6) Failure to Timely Pay Final Wages at Termination [*Labor Code* §§ 201-203];
5 (7) Failure to Provide Accurate Itemized Wage Statements [*Labor Code* § 226]; and (8) Unfair Business
6 Practices [*Business & Professions Code* §§ 17200, *et seq.*]. In the initial complaint, Plaintiff sought to
7 represent all persons that worked for Defendant in California as an hourly paid non-exempt employee at
8 any time during the period beginning four years before the filing of the complaint and ending when Notice
9 to the Class is sent.

10 21. On April 29, 2022, Plaintiff satisfied the administrative exhaustion requirement that is a
11 prerequisite to filing a claim for Civil Penalties under PAGA.

12 22. On June 29, 2022, Plaintiff filed the operative First Amended Class and Representative
13 Action Complaint, adding a single cause of action for Civil Penalties under PAGA.

14 23. On October 31, 2022, the Parties engaged in a successful mediation with an experienced
15 professional mediator, Steven Rottman, Esq.

16 24. On November 1, 2022, the Parties executed a binding Memorandum of Understanding,
17 which reflects their good faith compromise of the claims raised in the Action, which was reached through
18 an assessment of the mutual risks and costs of further litigation and an arms-length negotiation and
19 mediation with an experienced professional mediator, Steven Rottman, Esq.

20 25. Now, therefore, the Parties enter into the instant Joint Stipulation and, solely for purposes
21 of settling the Action and addressing any discrepancies identified herein, the Parties and their respective
22 Counsel stipulate and agree that the requisites for establishing class certification with respect to the Class
23 Members have been met and are met. More specifically, for settlement purposes only, the Parties stipulate
24 and agree that:

25 (a) The Class is ascertainable and so numerous as to make it impracticable to join all
26 Class Members.

27 (b) There are common questions of law and fact including, but not limited to, the
28 following:

- 1) Whether or not Defendant paid proper wages to the Class;
- 2) Whether or not Defendant provided meal periods to the Class;
- 3) Whether or not Defendant provided rest periods to the Class;
- 4) Whether or not Defendant paid proper meal or rest period pay to the Class;
- 5) Whether or not Defendant reimbursed any and all business expenses incurred by the Class;
- 6) Whether or not Defendant paid proper compensation timely upon separation of employment to Class Members;
- 7) Whether or not Defendant timely paid proper compensation throughout Class Members' employment;
- 8) Whether or not Defendant provided accurate and complete itemized wage statements to the Class;
- 9) Whether or not waiting-time penalties are available to Class Members who are no longer employed by Defendant for violation of *Labor Code* § 203;
- 10) Whether or not Defendant maintained adequate and requisite records; and
- 11) Whether or not Defendant engaged in unlawful or unfair business practices affecting the Class in violation of *Business and Professions Code* §§ 17200-17208.

- (c) Plaintiff's claims are typical of the claims of the Class Members.
- (d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.
- (e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.
- (f) Questions of law and fact common to the members of the Class predominate over any question(s) affecting any individual member in the Class, and a class action is superior to other available means for the fair and efficient adjudication of the controversy.

1 26. Should, for whatever reason, the Settlement not become final and/or effective, the fact that
2 the Parties were willing to stipulate to class certification as part of the Settlement shall have no bearing on,
3 and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class
4 Claims should be certified in a non-Settlement context in this Action or any other lawsuit. Defendant
5 expressly reserves its right to oppose claims or class certification in this or any other action should this
6 Settlement not become effective.

7 27. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the
8 claims alleged or which could have been alleged in the Complaint, and Defendant further denies that, for
9 any purpose other than settling this lawsuit, the Action is appropriate for class or representative treatment.
10 With respect to Plaintiff's claims, Defendant contends, among other things, that Plaintiff and the Class
11 Members have been paid proper wages, have been provided meal periods or they have been made
12 available as required, have been provided rest periods or they have been authorized and permitted as
13 required, have been reimbursed for any and all necessary business expenses incurred, have been paid
14 timely and proper wages upon separation of employment, and have been provided with accurate and
15 complete itemized wage statements. Defendant contends, among other things, that it has complied at all
16 times with the California *Labor Code* and the applicable Wage Orders of the Industrial Welfare
17 Commission. Furthermore, with respect to all claims, Defendant contends that it has complied at all times
18 with the California *Business and Professions Code*.

19 28. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge
20 all disputes and claims arising from or related to the Complaint and the Action.

21 29. Class Counsel has conducted a thorough investigation into the facts of the Action,
22 including an extensive review of relevant documents, and has diligently pursued an investigation of the
23 claims of the Class against Defendant. Based on its own independent investigation and evaluation, Class
24 Counsel is of the opinion that the Settlement with Defendant, for the consideration and on the terms set
25 forth in the Settlement, is fair, reasonable, and adequate, and is in the best interest of the Class in light of
26 all known facts and circumstances, including the risk of a significant delay, the risk the Class will not be
27 certified by the Court, the defenses asserted by Defendant, and the numerous potential appellate issues.
28 Defendant and Defendant's Counsel also agree that the Settlement is fair, adequate, reasonable, and in the

1 best interest of the Class.

2 30. The Parties agree to cooperate and take all steps necessary and appropriate to obtain
3 Preliminary Approval and Final Approval of this Settlement.

4 31. The Parties agree to stay all proceedings in the Action, except such proceedings necessary
5 to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the
6 Court.

7 **PRIMARY TERMS OF SETTLEMENT**

8 32. NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements
9 set forth herein, the Parties agree, subject to the Court's approval, as follows:

10 (a) It is agreed by and among Plaintiff (on behalf of himself and the Class and PAGA
11 Members) and Defendant that the Action and any claims, damages, or causes of
12 action arising out of the disputes which are the subject of this Action, be settled and
13 compromised as between Plaintiff, the Class, PAGA Members, and Defendant,
14 subject to the terms and conditions set forth in this Settlement and the approval of
15 the Court.

16 (b) Effective Date: The Effective Date of the Settlement will be the last date to occur
17 of the following: (a) if there are no objections to the Settlement, then the date of
18 Final Approval by the Court; (b) if there are objections to the Settlement, and if an
19 appeal, review, or writ is not sought from the Order granting Final Approval of the
20 settlement, the thirty-first (31st) day after service of notice of entry of the Court's
21 order granting its final approval to this class action and PAGA settlement; or (c) if
22 an appeal, review, or writ is sought from the Final Approval Order, the day after
23 the Final Approval Order is affirmed or the appeal, review, or writ is dismissed or
24 denied, and the order is no longer subject to judicial review. Prior to the Effective
25 Date, Defendant will not be required to fund this Settlement, in whole or in part,
26 through the Claims Administrator or any third party. Defendant will fund this
27 Settlement within thirty (30) days of the Effective Date, and the Settlement
28 Administrator will distribute the fund installments within twenty-one (21) days of

1 receipt.

2 (c) Gross Settlement Amount: “Gross Settlement Amount” means Defendant’s
3 maximum total payment under the Settlement. The Gross Settlement Amount is
4 Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00) and
5 includes Attorney’s Fees and Costs, Settlement Administration Costs, the Service
6 Payment to Plaintiff, and the PAGA Allocation. To the extent any portion of the
7 Settlement Class Payments constitutes wages, Defendant will be separately
8 responsible for any employer payroll taxes required by law, including the employer
9 FICA, FUTA, and SDI contributions. Further, Defendant will be responsible for
10 any additional payment required under the Escalator Clause. Defendant will
11 otherwise, at no time and for no reason whatsoever, be required to contribute
12 additional funds to the Gross Settlement Amount.

13 (d) Escalator Clause: As of July 31, 2022, the Parties estimate that Class Members
14 worked 22,117 workweeks. In the event the total number of Covered Workweeks
15 worked by all Class Members during the Class Period increases by more than
16 twelve percent (12%), Defendant shall increase the Gross Settlement Amount on a
17 *pro-rata* basis equal to the percentage increase in the number of Covered
18 Workweeks worked by the Class Members above twelve percent (12%). For
19 example, if the number of Covered Workweeks increases by 13%, the Gross
20 Settlement Amount will increase by 1%.

21 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will
22 revert to Defendant.

23 (f) No Claims Required: Class Members will not be required to submit a claim to
24 receive their Settlement Class Payment.

25 (g) Net Settlement Amount: The Net Settlement Amount means the amount to be
26 allocated to Settlement Class Payments. The Net Settlement Amount is the Gross
27 Settlement Amount (\$375,000.00) minus the following sums, subject to approval
28 by the Court: (1) Attorney’s Fees (not to exceed 33 1/3% of the Gross Settlement

Amount, or \$125,000.00); (2) Litigation Costs (not to exceed \$18,000.00); (3) the Service Payment to Plaintiff (not to exceed \$7,500.00); (4) the PAGA Allocation (\$20,000.00); and (5) Settlement Administration Costs (estimated not to exceed \$30,000).

(h) Payroll Taxes and Required Withholdings: To the extent any portions of the Settlement Class Payments constitute wages, Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. The Settlement Administrator will calculate and submit Defendant's employer share of payroll taxes after advising Defendant of the total amount owed, in the aggregate, as employer-side payroll taxes and receiving a lump sum payment from Defendant in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.

(i) Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, ANY "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS

1 NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
2 RECOMMENDATION OF ANY OTHER PARTY OR ANY
3 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS
4 NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
5 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER
6 PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED
7 ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR
8 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY
9 LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY
10 SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES
11 (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY
12 BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING
13 PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
14 TRANSACTION, INCLUDING ANY TRANSACTION
15 CONTEMPLATED BY THIS AGREEMENT.

16 (j) Settlement Class Payments (Excludes PAGA Settlement Payments): Settlement
17 Class Payments will be paid out of the Net Settlement Amount. Each Settlement
18 Class Member will be paid a *pro-rata* share of the Net Settlement Amount
19 calculated by the Settlement Administrator. The *pro-rata* share will be determined
20 by comparing the total number of Covered Workweeks worked by a Class Member
21 during the Class Period to the total number of Covered Workweeks worked by all
22 Settlement Class Members during the Class Period as follows: [Covered
23 Workweeks worked by Settlement Class Member] ÷ [Sum of all Covered
24 Workweeks worked by all Settlement Class Members] × [Net Settlement Amount]
25 = individual Settlement Payment for Settlement Class Member. Settlement Class
26 Payments in the appropriate amounts will be distributed by the Settlement
27 Administrator by mail to the Settlement Class Members. Uncashed, unclaimed, or
28 abandoned checks shall be transmitted by the Settlement Administrator to the cy

pres designee, Legal Aid Society of San Bernardino.

- (k) PAGA Settlement Payments: PAGA Settlement Payments will be paid out of the PAGA Allocation after the PAGA Penalty Amount is deducted therefrom. Each PAGA Employee will be paid a *pro-rata* share of the PAGA Settlement Payment calculated by the Settlement Administrator. PAGA Employees will not be permitted to exclude themselves from this portion of the Settlement. The *pro-rata* share will be determined by comparing the total number of PAGA Pay Periods worked by the PAGA Employee during the PAGA Period to the total number of PAGA Pay Periods worked by all PAGA Employees during the PAGA Period as follows: $[\text{PAGA Pay Periods worked by PAGA Employee}] \div [\text{Sum of all PAGA Pay Periods worked by all PAGA Employees}] \times [\text{PAGA Settlement Payment}] =$ individual PAGA Settlement Payment for PAGA Employee. PAGA Settlement Payments to PAGA Employees in the appropriate amounts will be distributed by the Settlement Administrator by mail to the PAGA Employees at the same time Settlement Class Payments are issued to the Settlement Class Members and at the same time, the PAGA Penalty Payment is sent to the LWDA. Uncashed, unclaimed, or abandoned checks shall be transmitted by the Settlement Administrator to the *cy pres* designee, Legal Aid Society of San Bernardino.
- (l) Allocation of Settlement Payments: The Parties have agreed that Settlement Class Payments will be allocated as follows: 20% to taxable wages and 80% to non-taxable penalties and interest. The PAGA Allocation will be entirely allocated to penalties. Appropriate federal, state, and local withholding taxes will be taken out of the wage allocations, and each Settlement Class Member will receive an IRS Form W-2 with respect to this portion of the Settlement Class Payment. Settlement Class Member's share of payroll taxes and other required withholdings will be remitted by the Settlement Administrator to the appropriate taxing authorities as set forth above, along with Defendant's employer portion of FICA and FUTA contributions, based on the payment of claims to the Settlement Class Members.

1 IRS Forms 1099 will be issued by the Settlement Administrator to each Settlement
2 Class Member and/or PAGA Employee reflecting the payments for penalties and
3 interest. Settlement Class Members and PAGA Employees are responsible to pay
4 appropriate taxes due on the Settlement Class Payments and PAGA Settlement
5 Payments they receive. To the extent required by law, IRS Forms 1099 and W-2
6 will be issued to each Settlement Class Member and PAGA Employee with respect
7 to such payments.

8 (m) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
9 Payments to Settlement Class Members and PAGA Employees shall be deemed to
10 be paid to such Settlement Class Member or PAGA Employee solely in the year in
11 which such payments actually are received by the Settlement Class Member or
12 PAGA Employee. It is expressly understood and agreed that the receipt of such
13 Settlement Payments will not entitle any Settlement Class Member or PAGA
14 Employee to additional wages, compensation, or benefits under any company
15 bonus, contest, or other compensation or benefit plan or agreement in place during
16 the period covered by the Settlement up to and including the date the Settlement
17 becomes effective, nor will it entitle any Settlement Class Member or PAGA
18 Employee to any increased retirement, 401(k) benefits or matching benefits or
19 deferred compensation benefits. It is the intent of all Parties that the Settlement
20 Payments provided for in this Settlement are the sole payments to be made by
21 Defendant to the Settlement Class Members and PAGA Employees, and that the
22 Settlement Class Members and PAGA Employees are not entitled to any new or
23 additional compensation or benefits as a result of having received the Settlement
24 Payments (notwithstanding any contrary language or agreement in any benefit or
25 compensation plan document that might have been in effect during the period
26 covered by this Settlement).

27 (n) Attorney's Fees and Costs: Attorney's fees and costs are the reasonable fees and
28 expenses incurred by Class Counsel as a result of litigating the Action, which is

1 subject to approval by the Court. Defendant will not object to Class Counsel's
2 application for attorney's fees not to exceed 33 1/3% of the Gross Settlement
3 Amount, or \$125,000.00, and reimbursement of litigation costs not to exceed
4 \$18,000.00.

5 (o) Service Payment: The Service Payment is the payment to Plaintiff for his service as
6 Class Representative and in exchange for a general release, which is subject to
7 approval by the Court. Defendant will not object to Class Counsel's application for
8 a Service Payment of up to \$7,500.00. It is understood that the Service Payment is
9 in addition to the individual Settlement Payment to which Plaintiff and Class
10 Representative are entitled along with the other Settlement Class Members. The
11 Settlement Administrator will issue an IRS Form 1099 for the Service Payment to
12 Plaintiff. The Plaintiff will be individually responsible for correctly characterizing
13 this compensation on personal income tax returns for tax purposes and for paying
14 any taxes on the amounts received. Should the Court approve a Service Payment in
15 an amount less than that set forth above, the difference between the lesser
16 amount(s) approved by the Court and the Service Payment amount(s) set forth
17 above shall instead be allocated to the Net Settlement Amount. Plaintiff agrees not
18 to opt-out or object to the Service Payment as the Class Representative.

19 (p) Settlement Administrator: The Settlement Administrator will be ILYM Group,
20 Inc., or such Settlement Administrator as may be mutually agreeable to the Parties
21 and approved by the Court.

22 (q) Settlement Administration Costs: Settlement Administration Costs are those costs
23 incurred by the Settlement Administrator, which result from the fulfillment of the
24 Settlement terms. Settlement Administration Costs are estimated not to exceed
25 \$30,000.00 and shall be paid regardless of the outcome of this Settlement. If the
26 Settlement does not become final and effective, the cost of the Settlement
27 Administration will be shared equally by Plaintiff and Defendant.

28 (r) PAGA Allocation: The PAGA Allocation is the portion of the Gross Settlement

Amount that the Parties have agreed to allocate to the resolution of the Released
PAGA Claims. The Parties have agreed that the PAGA Allocation will be
\$20,000.00. Pursuant to PAGA, Seventy-Five Percent (75%), or \$15,000.00, of the
PAGA Allocation will be paid to the Labor and Workforce Development Agency
("LWDA") ("PAGA Penalty Payment") and Twenty-Five Percent (25%), or
\$5,000.00, of the PAGA Allocation, will be paid to the PAGA Employees
("PAGA Settlement Payment").

(s) Funding of Settlement Account: Defendant will fund the settlement account within
thirty (30) calendar days of the Effective Date.

(t) Mailing of Settlement Payments: The Settlement Administrator shall cause the
Settlement Payments to be mailed to the Class Members within twenty-one (21)
calendar days of the receipt of funding.

(u) Notice of Settlement: Each Class Member will be mailed a Notice setting forth the
material terms of the Settlement, along with instructions about how to object or
request exclusion from the Settlement. For each Class Member, there will be pre-
printed information on the mailed Notice, based on Defendant's records, stating the
Class Member's Covered Workweeks during the Class Period, PAGA Pay Periods
during the PAGA Period, and estimated individual payment under the Settlement,
including the Settlement Class Payment and PAGA Settlement Payment. As
discussed below, the PAGA Settlement Payment will be distributed irrespective of
any exclusion request. The pre-printed information based on Defendant's records
shall be presumed to be correct. A Class Member may dispute the pre-printed
information on the Notice as to his or her Covered Workweeks during the Class
Period or PAGA Pay Periods during the PAGA Period. Class Members must
submit any dispute regarding the information on the Notice as to his or her
Covered Workweeks or PAGA Pay Periods prior to the expiration of the Response
Deadline. Unless a disputing Class Member submits documentary evidence in
support of his or her dispute, the records of the Defendant will be determinative.

(v) Settlement Notice Language: The Notice will issue in English and Spanish. If there is any ambiguity between the English and Spanish translations, the English version will be controlling.

(w) Class Members Cannot Exclude Themselves from the Released PAGA Claims: Class Members submitting a Request for Exclusion will nevertheless receive their *pro-rata* share of the PAGA Settlement Payment. If the Court approves the compromise of the PAGA Claims, all Class Members are bound by the Court's resolution of that Claim. Plaintiff shall serve a notice of settlement on the California Labor and Workforce Development Agency at or before the time Plaintiff files the motion for preliminary approval.

(x) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of Defendant's records used to calculate Covered Workweeks or PAGA Pay Periods, and the Parties' counsel cannot resolve the dispute informally, the matter will be referred to the Settlement Administrator. The Settlement Administrator will review Defendant's records and any information or documents submitted by the Class Member and issue a non-appealable decision regarding the dispute. The Class Member must submit information or documents supporting his or her position to the Settlement Administrator prior to the expiration of the Response Deadline. Information or documents submitted after the expiration of the Response Deadline will not be considered by the Settlement Administrator unless otherwise agreed to by the Parties.

(y) Right of Class Member to Request Exclusion from the Settlement: Any Class Member may request to be excluded from the Settlement Class by mailing a "Request for Exclusion" from the Settlement prior to the expiration of the Response Deadline, stating, as follows or in substantially similar terms:

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *HAMPTON V. SNOW VALLEY, LLC* CLASS ACTION LAWSUIT, SAN BERNARDINO SUPERIOR COURT, CASE NUMBER CIVSB2204207. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT

1 RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER
2 THAN MY SHARE OF THE PAGA SETTLEMENT PAYMENT IF
3 APPLICABLE.

4 Any Request for Exclusion must include the name, address, telephone number, last
5 four digits of the Class Member's Social Security Number, and the signature of the
6 Class Member requesting exclusion. Any such request must be made in accordance
7 with the terms of the Notice, and the Notice will advise Class Members of these
8 requirements. Any Class Member who timely requests exclusion in compliance
9 with these requirements (i) shall not have any rights under this Settlement other
10 than a right to receive a *pro-rata* share of the PAGA Settlement Payment if the
11 Class Member is also a PAGA Employee; (ii) shall not be entitled to receive any
12 Settlement Payments under this Settlement other than as stated herein; and (iii)
13 shall not be bound by this Settlement or the Court's Final Approval Order and
14 Judgment other than as it applies to the PAGA Claims.

15 (z) Right of Settlement Class Member to Object to The Settlement: Any Settlement
16 Class Member may object to the Settlement. To object, the Settlement Class
17 Member may (1) appear at the Final Approval Hearing, remotely or in person, to
18 explain any objection, (2) have an attorney object for the Settlement Class
19 Member, or (3) submit a written brief or statement setting forth the basis of the
20 objection to the Settlement Administrator. If any Settlement Class Member
21 chooses to submit a written objection, the written objection should contain
22 sufficient information to confirm the identity of the objector and the basis of the
23 objection, including (1) the full name of the Settlement Class Member; (2) the
24 signature of the Settlement Class Member; and (3) the grounds for the objection;
25 and be postmarked within the Response Deadline to permit adequate time for
26 processing and review by the Parties of the written statement or objection. Class
27 Counsel shall ensure that any written objections are transmitted to the Court for the
28 Court's review (either by Class Counsel or as an attachment to a declaration from
the Settlement Administrator). Regardless of the form, an objection alone will not

1 satisfy the requirement that a Settlement Class Member must either make a timely
2 complaint in intervention before the Court's Final Approval Order and Judgment
3 or by filing a motion to set aside and vacate the Judgment under California *Code of*
4 *Civil Procedure* § 663, to have standing to appeal the entry of judgment approving
5 this Settlement, as is required under the California Supreme Court decision of
6 *Hernandez v. Restoration Hardware* (2018) 4 Cal. 5th 260. A Settlement Class
7 Member who does not object prior to or at the Final Approval Hearing will be
8 deemed to have waived any objections and will be foreclosed from making any
9 objections (whether at the Final Approval Hearing, by appeal, or otherwise) to the
10 Settlement. If the objecting Settlement Class Member does not formally intervene
11 in the action or move to set aside any judgment and/or the Court rejects the
12 Settlement Class Member's objection, the Settlement Class Member will still be
13 bound by the terms of this Agreement and the Settlement. If a Class Member
14 timely submits both an objection and a Request for Exclusion, the Request for
15 Exclusion will be given effect and considered valid, the Notice of Objection shall
16 be rejected, and the Class Member shall not participate in or be bound by the
17 Settlement. Class Counsel and Defendant's Counsel may, at least five (5) calendar
18 days (or some other number of days as the Court shall specify) before the Final
19 Approval Hearing, file responses to any written objections submitted to the Court.
20 Class Counsel will not represent any Class Members with respect to any objections
21 to the Settlement.

22 **THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES**

23 33. Subject to the Court's approval, and subject to reconsideration by the Parties after a
24 competitive bidding process, the Parties have agreed to the appointment of ILYM Group, Inc. to perform
25 the customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice, both
26 in English and Spanish, to the Class Members. The Settlement Administrator will independently review
27 the Covered Workweeks and PAGA Pay Periods attributed to each Settlement Class Member and PAGA
28 Employee and will calculate the estimated amounts due to each Settlement Class Member and PAGA

Employee in accordance with this Settlement. The Settlement Administrator shall report, in summary, or narrative form, the substance of its findings. The Settlement Administrator shall be granted reasonable access to Defendant's records in order to perform its duties. The Settlement Administrator will provide Defendant's Counsel and Class Counsel a weekly report which certifies: (i) the number of Class Members who have submitted valid Requests for Exclusion; (ii) the number of any deficient Requests for Exclusion; and (iii) whether a Class Member has submitted a challenge to the information contained in his or her Notice Packet. Additionally, the Settlement Administrator will provide counsel for both Parties with any updated reports and declarations regarding the administration of the Settlement Agreement as needed or requested.

34. In accordance with the terms of this Settlement, and upon receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will issue and send out the Settlement Class Payment checks to the Settlement Class Members and PAGA Settlement Payment checks to the PAGA Employees. Tax treatment of the Settlement Class Payments and PAGA Settlement Payments will be as set forth herein and in accordance with state and federal tax laws. The Settlement Administrator will also issue a payment to Class Counsel and itself for Court-approved amounts for services performed in connection with the Settlement.

35. All disputes relating to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of the Settlement until all payments and obligations contemplated by the Settlement have been fully carried out.

ATTORNEY'S FEES AND COSTS

36. In consideration for resolving this matter and in exchange for the release of all claims by the Settlement Class Members, including Plaintiff, and subject to approval by the Court, Defendant will not object to Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Gross Settlement Amount, or \$125,000.00, and litigation costs not to exceed \$18,000.00. The amounts set forth above will cover all work performed and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in connection with the approval by the Court of this Settlement and administration of the Settlement. Should Class Counsel request a lesser amount and/or the Court approve a lesser

1 amount(s) of attorney's fees and/or litigation costs, the difference between the lesser amount(s) and the
2 maximum amount set forth above shall instead be allocated to the Net Settlement Amount. The Parties
3 agree that there is no prevailing party, and the Class and Class Counsel shall not be entitled to any fees or
4 costs other than those awarded out of and deducted from the Gross Settlement Amount. As with the Class
5 Settlement Payments to the Settlement Class, the attorney's fees and costs approved by the Court shall be
6 distributed by the Settlement Administrator to Class Counsel within twenty-one (21) calendar days of the
7 receipt of settlement funds by the Settlement Administrator. In the event that the Court awards less than
8 twenty-five percent (25%) of the Gross Settlement Amount for attorney's fees, Class Counsel shall retain
9 the right to appeal that portion of any Final Approval Order and Judgment.

10 **THE NOTICE PROCESS**

11 37. A Notice in approximately the form attached hereto as "Exhibit A," and as approved by the
12 Court, shall be sent by the Settlement Administrator to the Class Members by First Class United States
13 mail. The Notice shall be issued in English and Spanish.

- 14 (a) Within fourteen (14) calendar days from the date of preliminary approval of this
15 Settlement by the Court, Defendant shall provide to the Settlement Administrator a
16 class database containing the following information for each Class Member: (1)
17 name; (2) last known address; (3) social security number; and (4) dates of
18 employment at Defendant's locations in California. This database shall be based on
19 Defendant's payroll and other business records and shall be provided in a
20 reasonable format to the Settlement Administrator. Defendant agrees to consult
21 with the Settlement Administrator prior to the production date to ensure that the
22 format will be acceptable to the Settlement Administrator. The Settlement
23 Administrator will run a check of the Class Members' addresses against those on
24 file with the U.S. Postal Service's National Change of Address List. This check
25 will be performed only once per Class Member by the Settlement Administrator.
26 Absent mutual written agreement of counsel for the Parties or Court order, the
27 Settlement Administrator will keep this database confidential and secure and use it
28 only for the purposes described herein and will return this database to Defendant

upon final approval of the Settlement or destroy electronic records containing the database after the Settlement is final and all payments are distributed as required under this Agreement.

(b) Within fourteen (14) calendar days after the Class database is provided to the Settlement Administrator, the Settlement Administrator will mail the Notices to the Class Members by First Class United States mail.

(c) Notices returned to the Settlement Administrator as non-deliverable on or before the initial Response Deadline shall be resent to the forwarding address, if any, on the returned envelope. A returned Notice will be forwarded by the Settlement Administrator any time that a forwarding address is provided with the returned mail. If there is no forwarding address, the Settlement Administrator will do a computer search for a new address using the Class Member's social security number or other information. In any instance where a Notice is re-mailed, that Class Member will have until the extended Response Deadline as described herein to submit objections or request exclusion. A letter prepared by the Settlement Administrator will be included in the re-mailed Notice in that instance, stating the extended Response Deadline. Upon completion of these steps by the Settlement Administrator, Defendant, and the Settlement Administrator shall be deemed to have satisfied their obligations to provide the Notice to the affected Class Member. The affected Class Member shall remain a member of the Settlement Class and shall be bound by all the terms of the Settlement and the Court's Final Approval Order and Judgment.

(d) Class Counsel shall provide to the Court, at least five (5) calendar days prior to the Final Approval Hearing, or such other date as set by the Court, a declaration by the Settlement Administrator of due diligence and confirming mailing of the Notices.

DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS

38. As set forth above, each Settlement Class Member will have until the expiration of their applicable Response Deadline to submit to the Settlement Administrator any challenge or dispute to the

Settlement Class Member's Covered Workweek information on the Notice. No disputes will be honored if they are submitted after the applicable Response Deadline unless the Parties mutually agree to accept the untimely dispute. Each Settlement Class Member is responsible to maintain a copy of any documents sent to the Settlement Administrator and a record of proof of mailing.

39. The Settlement Administrator shall cause the Settlement Payments to be mailed to the Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and PAGA Settlement Payments may be combined into one check. Settlement Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will automatically be voided by the Settlement Administrator if they are not cashed by the Settlement Class Member within that time, and the Settlement Class Member's relevant claims will remain released by the Settlement. Settlement Payment checks which have expired will not be reissued.

40. Funds from uncashed or abandoned Settlement Class Payment checks or PAGA Settlement Payment checks, based on a 180-day void date, shall be transmitted by the Settlement Administrator to the *cy pres* designee, Legal Aid Society of San Bernardino, in the name of Defendant.

41. Upon completion of its calculation of Settlement Class Payments and PAGA Settlement Payments, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to be made to Class Members (to be identified anonymously by employee number or other identifier). A Declaration attesting to the completion of all payment obligations will be provided to Class Counsel and Defendant's Counsel and filed with the Court by Class Counsel.

RELEASE BY THE CLASS MEMBERS AND PAGA EMPLOYEES AND PLAINTIFF

42. Release by Class and PAGA Employees. Upon final approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, each Settlement Class Member, and each PAGA Employee (regardless of whether they have requested exclusion from the Settlement of Class claims), will release claims as follows:

- (a) **Released Parties.** Defendant, and each of its present, former, and/or future parent companies, sister companies, subsidiaries, co-employers, owners or acquirers of all or substantially all of Defendant's assets, and each of their respective present,

former and future owners, boards, directors, officers, trustees, insurers, investors, shareholders, members, partners, managers, employees, agents, attorneys, representatives, divisions, predecessors, successors, purchasers, assigns, and joint venturers, and present, former and future parent companies, sister companies, divisions, affiliated and related parties, and each of them ("Releasees").

(b) **Date Release Becomes Active.** The Released Claims and Released PAGA Claims will be released upon the later of (1) the Effective Date, or (2) the satisfaction of Defendant's obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Settlement Class Members will not release the Released Claims and PAGA Employees will not release the Released PAGA Claims until both the Effective Date of the Settlement has occurred and Defendant has paid all amounts owing under the Settlement.

(c) **Claims Released by Settlement Class Members.** Each and every Settlement Class Member, on behalf of himself or herself and his or her heirs and assigns, hereby releases Releasees from the following claims for the entire Class Period:

- 1) any and all claims, debts, rights, liabilities, demands and/or causes of action stated in the First Amended Complaint, or that could have been stated or alleged based on the facts alleged therein, including, but not limited to, any and all wage and hour claims (including but not limited to any and all claims under the California *Labor Code*) for unpaid wages, unpaid minimum or overtime wages, unpaid wages for off-the-clock work or rounded time, meal and rest period violations and/or premiums, unreimbursed expenses, wage statement violations, interest, civil or statutory penalties, waiting time penalties, itemized wage statement penalties, withholding from wages and the related provisions of the *Labor Code* including but limited to *Labor Code* §§ 200-204, 210, 218, 226, 226.2., 226.3, 226.7, *et seq.*, 510, 512, 558, 1174, 1194, *et seq.*, 1194.2,

1197, 1197.1, 1198, 2698, *et seq.*, 2800, 2802, derivative claims under California's Unfair Competition Law, California *Business & Professions Code* §§ 17200, *et seq.*, and all claims under the governing Industrial Welfare Commission ("IWC") Wage Orders, and attorneys' fees and/or costs ("Released Claims");

(d) **Claims Released by the Class Members, Including PAGA Employees.** Each and every Class Member, including all PAGA Employees, hereby releases Releasees from the following claims for the entire PAGA Period, regardless of whether they have requested exclusion from the Settlement as to Class claims:

1) all claims for penalties and any other available relief pursuant to PAGA, to the extent asserted or that could have been asserted or premised on the facts alleged in Plaintiff's administrative exhaustion letter submitted to the LWDA in this Action on February 20, 2022 and/or in the Complaint, arising during the PAGA Period ("Released PAGA Claims").

(e) **Bar on Future Collective, Representative, or Class Action.** Upon the Effective Date, Plaintiff and the Settlement Class Members forever agree that they, and each of them, shall not institute, nor accept any other relief from, any other suit, class or collective action, representative action, administrative claim, or other claim of any sort or nature whatsoever against the Released Parties, relating to the Released Claims. If the Settlement is approved by the Court and not otherwise terminated, the Court will enter a judgment resolving the Action, and bar and permanently enjoin Plaintiff and all Settlement Class Members and PAGA Employees from participating in any other collective, representative, or class action lawsuit against the Released Parties, or any of them, concerning the Released Claims and the Released PAGA Claims.

43. Release by Plaintiff and the Class Representative. Upon Final Approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be otherwise created by this Settlement, Plaintiff and Class Representative, will

1 release claims as follows:

2 (a) Plaintiff and Class Representative hereby fully and finally releases and discharges
3 the Releasees from any and all of the Released Claims, Released PAGA Claims,
4 and from any and all other claims, charges, complaints, liens, demands, disputes,
5 agreements, contracts, covenants, actions, suits, causes of action, penalties, wages,
6 obligations, debts, expenses, damages, attorney's fees and costs, judgments, orders,
7 and liabilities of whatever kind or nature in law, equity, or otherwise, known or
8 unknown, suspected or unsuspected, that Plaintiff and Class Representative had,
9 now has, or may hereafter claim to have against the Released Parties arising out of,
10 or relating in any way to, Plaintiff and Class Representative's hiring by,
11 employment with, separation of employment with, and/or any other transactions,
12 occurrences, acts or omissions or any loss, damage or injury whatsoever, known or
13 unknown, suspected or unsuspected, resulting from any act or omission by or on
14 the part of any Released Party (the "Class Representative's Released Claims"),
15 arising or accruing from the beginning of time up through the Effective Date
16 ("Class Representative's Released Period"). Plaintiff and the Class
17 Representative's Released Claims and/or Released PAGA Claims include, but are
18 not limited to, claims arising from or dependent on the California *Labor Code*; the
19 Wage Orders of the California Industrial Welfare Commission ("IWC"); California
20 *Business and Professions Code* §§ 17200, *et seq.*; the California Fair Employment
21 and Housing Act, Cal. *Gov't Code* §§ 12900, *et seq.*; the California Healthy
22 Workplaces, Healthy Families Act, Cal. *Labor Code* §§ 245, *et seq.*, the California
23 common law of contract and tort; Title VII of the Civil Rights Act of 1964; the
24 Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et seq.*; the Employee
25 Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, *et seq.*; the Fair
26 Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*, the Portal-to-Portal Act, 29 U.S.C.
27 §§ 251, *et seq.*, and the Families First Coronavirus Response Act.

28 (b) Plaintiff and Class Representative also acknowledges that he has read Section 1542

of the *Civil Code* of the State of California, which provides as follows:

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.

44. Plaintiff and Class Representative further warrants that he understands that *Civil Code* Section 1542 gives him the right not to release existing claims of which he is not now aware unless he voluntarily chooses to waive this right. Having been so apprised, Plaintiff and Class Representative shall nevertheless voluntarily waive the rights described in *Civil Code* Section 1542 and elects to assume all risks and to release the claims set forth herein, that now exist in his favor, whether known or unknown.

EMPLOYMENT BY DEFENDANT

45. Employment of Plaintiff by Defendant is not consideration for, or a condition of, this Settlement.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

46. The Parties shall submit this Joint Stipulation to the Court in support of Plaintiff's motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation, the Parties shall apply to the Court for the entry of an order:

- (a) Scheduling a hearing on Plaintiff's motion for preliminary approval, and later scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of Attorney's Fees and Costs, and the Class Representative's Service Payment, should be finally approved as fair, reasonable, and adequate as to the members of the Class;
- (b) Conditionally certifying a Class for settlement purposes only;
- (c) Approving as to form and content of the Notice;
- (d) Directing the mailing of the Notice by the Settlement Administrator;
- (e) Preliminarily approving the Settlement, subject only to the objections of Class Members and final review by the Court;
- (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the

putative Class Members; and,

(g) Appointing ILYM Group, Inc. as the Settlement Administrator.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

47. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation, Class Counsel will submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application for an award of attorney's fees and costs;
- (c) Approving the Service Payment to Plaintiff;
- (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement;
- (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;
- (f) Entering a final judgment in the action; and,
- (g) Adjudging that notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the Settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirming that the State's claims for civil penalties pursuant to PAGA are also extinguished.

NULLIFICATION AND TERMINATION

48. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify the Class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than adjustments made to the attorney's fees and costs or granting of the Service Payment; (c) the Court should for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or rendered void; or (e) the Settlement does not become final for any other reason.

PARTIES' AUTHORITY

MUTUAL FULL COOPERATION

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT

NO PRIOR ASSIGNMENTS

53. The Parties and their respective counsel represent covenant, and warrant that they have 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 except as set forth herein, and that they are not on notice of any liens as to the Gross Settlement Amount or any right to attorneys' fees or costs.

NO ADMISSION OF LIABILITY

54. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies all of the claims and contentions alleged by Plaintiff in this case. Defendant does not admit, and specifically denies, that it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception, or engaged in any other unlawful conduct with respect to its current or former employees and/or applicants. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an admission or concession by Defendant of any violations or failures to comply with any applicable law. Defendant has entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

ENFORCEMENT ACTIONS

55. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs, including expert

witness fees incurred in connection with any enforcement actions.

NOTICES

56. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

Class Counsel:

Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
kane.moon@moonyanglaw.com
allen.feghali@moonyanglaw.com
jacquelyne.vanemmerik@moonyanglaw.com

Defendant's Counsel:

Richard D. Marca (SBN 127365)
Christopher S. Milligan (SBN 211532)
VARNER & BRANDT LLP
3750 University Ave., Ste. 610
Riverside, California 92501
Telephone: (951) 274-7777
Facsimile: (951) 274-7770
Email: Richard.Marca@VamerBrandt.com
Email: Chris.Milligan@VamerBrandt.com

CONSTRUCTION

57. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, including but not limited to an all-day mediation with Steven Rottman, Esq., and this Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

58. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

59. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

CONFIDENTIALITY

60. Confidentiality Agreement. The Parties and their counsel agree that none of them will issue any marketing materials, press releases, social media posts, internet, or website announcement, or otherwise initiate any contact with the press, respond to any press inquiry, or have any communication with the press regarding the Settlement or the terms of this Settlement. Class Counsel will not communicate with other wage-hour plaintiffs' counsel about this Settlement, nor utilize it in any way in their marketing or advertising materials or website, prior to Preliminary Approval. Plaintiff will not discuss the Settlement with anyone other than his counsel, tax advisors, or spouses, except as required or specifically authorized by law. The Parties agree to enter a Stipulated Protective Order for the treatment and destruction of all confidential and/or confidential information exchanged through pre-mediation informal discovery or otherwise obtained in this matter. This Stipulated Protective Order shall be modeled after and substantially similar to the Los Angeles Superior Court's model Stipulation for Protective Order for Confidential Information. The Parties agree that the information exchanged through pre-mediation informal discovery shall be considered Confidential under such Stipulated Protective Order. Additionally, Class Counsel agrees that the fact that the Action was filed and/or settled will not be included in any filing or court submission in any other case or controversy unless required to do so by applicable law or done in submissions to courts or arbitrators in connection with establishing adequacy as class counsel or relevant experience in wage and hour lawsuits. At no time shall Plaintiff, Class Members, Class Counsel, Defendant, or Defense Counsel characterize the Action or Settlement in a manner that disparages the Released Parties or their employment practices. Class Counsel shall not initiate any contact or other communications with Class Members other than the Court-approved Notice but may respond to inquiries received from Class Members regarding the Action or Settlement.

INTEGRATION CLAUSE

61. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties expressly recognize California *Civil Code* § 1625 and California *Code of Civil Procedure* §

1 1856(a), which provide that a written agreement is to be construed according to its terms and may not be
2 varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written
3 representations or terms will modify, vary or contradict the terms of this Agreement.

4 **AMENDMENT**

5 62. Amendment or Modification. This Settlement Agreement may be amended or modified
6 only by a written instrument mutually signed by counsel for all Parties or their successors-in-interest.

7 **WAIVER OF APPEALS**

8 63. The Parties agree to waive appeals and to stipulate to class certification for purposes of
9 implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the
10 amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent (25%)
11 of the Gross Settlement Amount as attorney's fees.

12 **BINDING ON ASSIGNS**

13 64. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and
14 their respective heirs, trustees, executors, administrators, successors, and assigns.

15 **CLASS COUNSEL SIGNATORIES**

16 65. It is agreed that because the members of the Class are so numerous, it is impossible or
17 impractical to have each member of the Class execute this Settlement. The Notice will advise all Class
18 Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall
19 have the same force and effect as if this Settlement were executed by each member of the Class.

20 **COUNTERPARTS**

21 66. This Settlement may be executed in counterparts and by electronic or facsimile signatures,
22 and when each Party has signed and delivered at least one such counterpart, each counterpart shall be
23 deemed an original, and, when taken together with other signed counterparts, shall constitute one
24 Settlement, which shall be binding upon and effective as to all Parties.

25 **FINAL JUDGMENT**

26 67. The Parties agree that, upon final approval of the Settlement, final judgment of this Action
27 will be made and entered in its entirety at or following the s. The final judgment may be included in the
28 Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
Stipulation of Class and PAGA Action Settlement between Plaintiff and Defendant as set forth below:
IT IS SO STIPULATED.

Plaintiff & Class Representative:

Dated: 3/28/2023

By: _____

DocuSigned by:

Melvin Hampton

1071159277EC4A5...

MELVIN CHARLES HAMPTON

Plaintiff's Counsel:

Dated: 03/29/2023

MOON & YANG, APC

By: _____

*Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
Attorneys for Plaintiff,
Melvin Charles Hampton*

Defendant:

Dated:

SNOW VALLEY, LLC

By: _____

Print Name

Signature

Title

Defendant's Counsel:

Dated:

VARNER & BRANDT, LLP

By: _____

*Richard D. Marca
Christopher S. Milligan
Attorneys for Defendant, Snow Valley, LLC,
a California corporation dba Snow Valley
Mountain Resort*

1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Class and PAGA Action Settlement between Plaintiff and Defendant as set forth below:

3 IT IS SO STIPULATED.

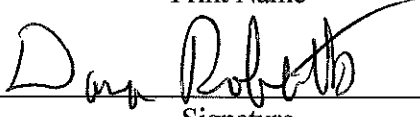
4
5 **Plaintiff & Class Representative:**

6 Dated: By: _____
7 MELVIN CHARLES HAMPTON

8 **Plaintiff's Counsel:**

9 Dated: MOON & YANG, APC
10
11 By: _____
12 Kane Moon, Esq.
13 Allen Feghali, Esq.
14 Jacquelyne VanEmmerik, Esq.
15 *Attorneys for Plaintiff,*
16 *Melvin Charles Hampton*

17 **Defendant:**

18 Dated: March 28, 2023 SNOW VALLEY, LLC
19
20 By: Dana Roberts
21 Print Name
22 
23 Signature
24 General Counsel
25 Title

26 **Defendant's Counsel:**

27 Dated: March 28, 2023 VARNER & BRANDT, LLP
28
29 By: 
30 Richard D. Marca
31 Christopher S. Milligan
32 *Attorneys for Defendant, Snow Valley, LLC,*
33 *a California corporation dba Snow Valley*
34 *Mountain Resort*