DAILY ALJIAN LLP
Justin E. D. Daily (State Bar No. 209772)
jd@dallp.com
Simon Kwak (State Bar No. 297362)
sk@dallp.com
Joanne H. Kim (State Bar No. 340608)
jkim@dallp.com
100 Bayview Circle, Suite 5500
Newport Beach, CA 92660
Telephone: 949.861.2524
Facsimile: 949.269.6364

Attorneys for Plaintiff Olga Guerra, individually, and on behalf of all others similarly situated.

(*Additional Counsel on the Following Page*)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

OLGA GUERRA, individually, and on behalf of all others similarly situated, Plaintiff, v. BEYOND STAFFING SOLUTIONS, INC., a California corporation; MOONSTONE PEO, INC., a Texas corporation as DOE 1; BEYOND FINANCIAL SOLUTIONS, INC., a California corporation as DOE 2; DAMARIS SERRANO, an individual as DOE 3; PULMUONE FOODS USA, INC., an Iowa corporation as DOE 4; and DOES 5 through 50, inclusive, Defendant(s).	**CASE NO.: 30-2022-01245975-CU-OE-CXC** Case Assigned for All Purposes to Judge Melissa R. McCormick Dept.: CX-104 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE** Complaint Filed: February 10, 2022 FAC Filed: May 24, 2023

C&K LAW GROUP
Christopher K. Jafari (State Bar No. 219971)
chrisjafari@gmail.com
Kiarash Kay Jafari (State Bar No. 299610)
kayjafari@gmail.com
3525 Hyland Ave., Suite 270
Costa Mesa, CA 92626
Telephone: 949.852.4454
Facsimile: 949.508.1759

Attorneys for Defendants Damaris Serrano,
Moonstone PEO, Inc., Beyond Financial Solutions, Inc.
and Beyond Staffing Solutions, Inc.

FISHER & PHILLIPS LLP
Jason A. Geller (State Bar No. 168149)
jgeller@fisherphillips.com
Brandon K. Kahoush (State Bar No. 311560)
bkahoush@fisherphillips.com
David M. Shannon (State Bar No. 342187)
dshannon@fisherphillips.com
1 Montgomery Street, Suite 3400
San Francisco, California 94104
Telephone: 415.490.9000
Facsimile: 415.490.9001

Attorneys for Defendant
Pulmuone Foods USA, Inc.

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Olga Guerra ("Plaintiff") and Defendants Beyond Staffing Solutions, Inc. ("Beyond Staffing"), Moonstone PEO, Inc. ("Moonstone"), Beyond Financial Solutions, Inc. ("Beyond Financial Solutions"), Damaris Serrano ("Serrano"), Pulmuone Foods USA, Inc. ("Pulmuone") (collectively, "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" means the Plaintiff's lawsuit alleging wage and hour violations against Defendants, captioned *Guerra v. Beyond Staffing Solutions, Inc., et al.* (Case No. 30-2022-01245975-CU-OE-CXC), initiated on February 10, 2022, and pending in Superior Court of the State of California, County of Orange.

1.2. "Administrator" means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" or "Administration Expenses" mean the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. "Aggrieved Employee" means all alleged current and former non-exempt employees of the Beyond Defendants who were placed, assigned, and/or staffed via staffing agency to work at Pulmuone's facilities in California during the PAGA Period, but excludes any period of time during which an Aggrieved Employee worked as an alleged Defendant Pulmuone direct employee and all other alleged Pulmuone direct employees, such as those alleged Pulmuone direct employees whose claims have been released under the settlement approved in the matter of *Rojas v. Pulmuone Foods USA, Inc., et al*, Santa Clara County Superior Court, Case No. 21CV376481.

1.5. "Beyond Defendants" means, collectively, named Defendants Beyond Staffing Solutions, Inc. ("Beyond Staffing"), Moonstone PEO, Inc. ("Moonstone"), Beyond Financial Solutions, Inc. ("Beyond Financial Solutions"), Damaris Serrano ("Serrano").

1.6. "Class" means all alleged current and former non-exempt employees of the Beyond Defendants who were placed, assigned, and/or staffed via staffing agency to work at Pulmuone's facilities in California during the Class Period, but excludes any period of time during which a member of the Class worked as an alleged Defendant Pulmuone direct employee and all other alleged Pulmuone direct employees, such as those alleged Pulmuone direct employees whose claims have been released under the settlement approved in the matter of *Rojas v. Pulmuone Foods USA, Inc., et al*, Santa Clara County Superior Court, Case No. 21CV376481.

1.7. "Class Counsel" means Daily Aljian LLP and Capstone Law APC.

1.8. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.9. "Class Data" means a complete list of all alleged Class Members that Beyond Defendants will diligently and in good faith compile from their records and provide to the Administrator, in Microsoft Office Excel format, each Class Member's identifying information, including the Class Member's full name, last-known mailing address and telephone number, Social Security number, and the respective number of Class Period Workweeks and PAGA Pay Periods, and any other relevant information needed to calculate settlement payments.

1.10. "Class Member" or "Settlement Class Member" means a member of the alleged Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an alleged Aggrieved Employee).

1.11. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.12. "Class Notice" means the NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL to be mailed to Class Members in English with a certified Spanish translation, including a template Request for Exclusion Form, Objection Form, and Workweek Dispute Form that Class Members may use to exercise certain rights, in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.13. "Class Period" means the period from August 16, 2017, through the date of Preliminary Approval.

1.14. "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.15. "Class Representative Service Payment" means the payment to the Class Representative in recognition for the effort and work in initiating, prosecuting, and providing services in support of, the Action on behalf of Class Members.

1.16. "Court" means the Superior Court of California, County of Orange.

1.17. "Defendants" means, collectively, named Defendants Beyond Staffing Solutions, Inc. ("Beyond Staffing"), Moonstone PEO, Inc. ("Moonstone"), Beyond Financial Solutions, Inc. ("Beyond Financial Solutions"), Damaris Serrano ("Serrano"), Pulmuone Foods USA, Inc. Collectively, Defendants Beyond Staffing, Moonstone, Beyond Financial Solutions, and Serrano shall be referred to as the "Beyond Defendants".

1.18. "Defense Counsel" means Christopher K. Jafari and Kiarash Kay Jafari of C&K Law Group for the Beyond Defendants, and Jason A. Geller, Brandon K. Kahoush, and David M. Shannon of Fisher Phillips LLP for Defendant Pulmuone.

1.19. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences:

(a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.20. "Final Approval" or "Final Approval Order" means the Court's order granting final approval of the Settlement.

1.21. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.22. "Final Judgment" means the Judgment entered by the Court upon Granting Final Approval of the Settlement.

1.23. "Gross Settlement Amount" means $237,500.00, which is the total amount Defendants agree to pay under the Settlement, except as provided in Paragraph 8 below (*i.e.*, escalator clause). The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment.

1.24. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.25. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.26. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.27. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).

1.28. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).

1.29. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

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

1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.

1.32. "PAGA Period" means the period from August 16, 2020, to the date of Preliminary Approval.

1.33. "PAGA" means the Private Attorneys General Act (Lab. Code, § 2698 et seq.).

1.34. "PAGA Notice" means Plaintiff's February 10, 2020, letter to Defendant Beyond Staffing and the LWDA, and Plaintiff's May 10, 2022, supplemental letter to Defendants Beyond Staffing, Moonstone, Beyond Financial Solutions, Serrano, and Pulmuone and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).

1.35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees ($5,000.00) and the 75% to LWDA ($15,000.00) in settlement of PAGA claims.

1.36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.37. "Plaintiff" means Olga Guerra, the named plaintiff in the Action.

1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.40. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.41. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.

1.42. "Released Parties" means Defendants and each of its former and present directors, officers, shareholders, owners, members, subsidiaries, and parents (Pulmuone U.S.A., Inc.).

1.43. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement and signed by the Class Member. A template Request for Exclusion Form that a Class Member may use to exercise his or her right to opt-out of the Settlement shall be included along with the Class Notice.

1.44. "Response Deadline" means 60 days after the Administrator mails the Class Notice to Class Members, and shall be the last date on which Class Members may postmark the following, in writing, by fax, mail, or e-mail to the Administrator: (a) Requests for Exclusion from the Settlement, or (b) Objections to the Settlement. Class Members to whom Notice Packets are resent after having been returned to the Administrator as undeliverable shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.45. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.46. "Workweek" means any week during which a Class Member allegedly worked for Defendants for at least one day, during the Class Period.

2. RECITALS.

2.1. On February 10, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendants Pulmuone U.S.A., Inc. and Beyond Staffing Solutions, Inc. for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to permit rest periods or provide compensation in lieu thereof; (5) knowing and intentional failure to provide accurate itemized wage statements; (6) waiting time penalties; (7) failure to reimburse business expenses; and (8) violations of the unfair competition law. On or around April 22, 2022, the Court granted the Parties' stipulation to dismiss Pulmuone U.S.A., Inc. and allow Plaintiff to file an amended complaint against the correct legal entity, Pulmuone Foods USA. Inc. On May 24, 2023, Plaintiff filed a First Amended Complaint alleging causes of action against Defendants Beyond Staffing, Moonstone, Beyond Financial Solutions, Serrano, and Pulmuone for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to permit rest periods or provide compensation in lieu thereof; (5) knowing and intentional failure to provide accurate itemized wage statements; (6) waiting time penalties; (7) failure to reimburse business expenses; (8) violations of the unfair competition law; and (9) enforcement of PAGA. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint"). Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.

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

2.3. On December 12, 2024, the Parties participated in an all-day mediation presided over by Michael Diliberto, Esq. which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, data points and documents, which included, but was not limited to, Class Members' alleged dates of employment, a sampling of the Class Members' pay records, employee handbook, and Plaintiff's personnel file. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("Dunk/Kullar").

2.5. The Court has not granted class certification.

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

2.7. As of the date of this Settlement, there are two pending actions in addition to *Rojas*, alleging putative wage and hour class action and PAGA claims against Pulmuone, as follows: *Becerra v. Pulmuone Foods USA, Inc., et al.* (Santa Clara County Superior Court, Case No. 24CV450003) (class and PAGA action); and *Camacho v. Pulmuone Foods USA, Inc.* (Riverside County Superior Court, Case No. CVRI2406091) (PAGA-only action). Based on the operative pleadings therein, the two actions allege claims on behalf of only alleged direct-hire employees of Pulmuone. Neither of the actions assert any claims against the Beyond Defendants. As Plaintiff's Action and this Settlement concern only those alleged current and former non-exempt employees of the Beyond Defendants who were placed, assigned, and/or staffed via staffing agency to work at Pulmuone's facilities in California, the Settlement does not concern any overlapping claims, does not purport to release any claims alleged in *Becerra* and *Camacho*, and does not impact those actions.

3. MONETARY TERMS.

3.1. <u>Gross Settlement Amount</u>. Except as otherwise provided by Paragraph 8 below (*i.e.*, escalator clause), Defendants promise to pay $237,500.00 and no more as the Gross Settlement Amount. Specifically, the Beyond Defendants will pay the sum of $37,500.00 and Defendant Pulmuone will pay the sum of $200,000.00. Defendants promise to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount. Beyond Defendants and Pulmuone will pay a proportionate share of the payroll taxes in relation to their respective obligation on the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than $5,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member) in recognition of Plaintiff's effort and work performed on behalf of the Class in prosecuting the Action, to make up for financial or reputational risk undertaken in bringing the Action, and willingness to act as a private attorney general with respect to the PAGA claim. Separately and independent of the Class Representative Service Payment, Plaintiff shall be entitled to a payment of $5,000.00 from the Gross Settlement Amount in exchange for Plaintiff's general release of claims against the Released Parties in connection with her alleged employment with Defendants and Plaintiff's waiver of California Civil Code § 1542. Defendants will not oppose Plaintiff's request for a Class Representative Service Payment and separate consideration in exchange for a general release that do not exceed the above amounts. As part of the Motion for Final Approval of the Settlement, Plaintiff will seek Court approval for the foregoing payments to Plaintiff no later than 16 court days prior to the Final Approval Hearing. If the Court approves less than the amounts requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment and the consideration in exchange for the general release using IRS

Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be $79,166.67, and a Class Counsel Litigation Expenses Payment of not more than $15,000.00. Class Counsel will divide any fee award as follows: Eighty Percent (80%) to Daily Aljian LLP and Twenty Percent (20%) to Capstone Law APC. Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a Motion for Final Approval of the Settlement no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

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

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all

Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. Ten percent (10%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Ninety percent (90%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $20,000.00 to be paid from the Gross Settlement Amount, with 75% ($15,000.00) allocated to the LWDA PAGA Payment and 25% ($5,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($5,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. One hundred percent (100%) of the Individual PAGA Payments are allocated as penalties and not wages. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 374 Class Members who collectively worked a total of 12,307 Workweeks, and 188 Aggrieved Employees who worked a total of 7,769 of PAGA Pay Periods.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Beyond Defendants will review the data that Beyond Defendants previously produced for purposes of the Parties' mediation of this matter, update the data to the extent any corrections may be required, and deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Beyond Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Beyond Defendants must send the Class Data to the Administrator, the Defendants and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' proportionate share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date consistent with the amounts set forth in Paragraph 3.1. Defendants shall deposit all amounts due under the Settlement into a Qualified Settlement Fund to be established by the Administrator.

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

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

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of Code of Civil Procedure section 384, subdivision (b).

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

5. **RELEASE OF CLAIMS**. Effective on the date when Defendants fully funds the entire Gross Settlement Amount, funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, and funds all other amounts due under the Settlement, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. <u>Plaintiff's Release</u>. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally, release and discharge Released Parties from all claims, transactions or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all

PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2, below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to those rights that as a matter of law cannot be waived, including, but not limited to, any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1. Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the allegations in the Operative Complaint, which arose during the Class Period, including any and all claims involving any (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to permit rest periods or provide compensation in lieu thereof; (5) knowing and intentional failure to provide accurate itemized wage statements; (6) waiting time penalties; (7) failure to reimburse business expenses; (8) violations of the California Unfair Competition Law; and (9) claims and violations arising under sections 200, 201, 201.3, 202, 203, 204, 210, 218, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq*., 2800, and 2802 of the California Labor Code ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation or claims based on facts occurring outside the Class Period.

5.3. <u>Released by Aggrieved Employees of PAGA Claims</u>: All Participating Class Members and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notices ("Released PAGA Claims").

5.4. Release by Defendants:

5.4.1. Release of Pulmuone by Beyond Defendants: Upon the Effective Date, and excluding any rights and obligations contained in this Agreement, Beyond Defendants and its successors, predecessors, and assigns, and/or any and all of its past or present divisions, parents, subsidiaries, affiliates, officers, directors, members, managers, agents, partners, shareholders, employees, and attorneys release, acquit and forever discharge Pulmuone and any and all of their successors, predecessors, and assigns, and/or any and all of their past or present divisions, parents, including Pulmuone U.S.A. Inc., subsidiaries, affiliates, officers, directors, members, managers, agents, partners, shareholders, employees, attorneys, spouses, heirs, estates, personal representatives, trustees, devisees, and insurers, from any and all actions, causes of action, claims, demands, rights, duties, and obligations, whether arising in contracts, tort, by statute or otherwise, at law or in equity, that Beyond Defendants may now have or have ever had against Pulmuone, whether known or unknown, foreseen or unforeseen, disclosed or undisclosed, that arise in whole or in part from or out of, or concern or relate to the Action and/or the matters which are or might have been the subject of the Action. Notwithstanding anything in this Agreement to the contrary, the foregoing release does not apply to any rights, duties or obligations granted under this Agreement or to any claim or cause of action arising from a breach of this Agreement, which are hereby expressly preserved.

5.4.2. Release of Beyond Defendants by Pulmuone: Upon the Effective Date, and excluding any rights and obligations contained in this Agreement, Pulmuone and its successors, predecessors, and assigns, and/or any and all of its past or present divisions, parents, subsidiaries, affiliates, officers, directors, members, managers, agents, partners, shareholders, employees, attorneys, spouses, heirs, estates, devisees, and insurers, release, acquit and forever discharge Beyond Defendants from any and all actions, causes of action, claims, demands, rights, duties, and obligations, whether arising in contracts, tort, by statute or otherwise, at law or in equity, that Pulmuone may now have or have ever had against Beyond Defendants, whether known or unknown, foreseen or unforeseen, disclosed or undisclosed, that arise in whole or in part from, or out of, or concern or relate to the Action and/or the matters which are or might have been the subject of the Action. Notwithstanding anything in this Agreement to the contrary, the foregoing release does not apply to any rights, duties or obligations granted under this Agreement or to any claim or cause of action arising from a breach of this Agreement, which are hereby expressly preserved.

5.4.3. <u>Beyond Defendants' and Pulmuone's Mutual Waiver of Rights Under Civil Code Section 1542</u>. For purposes of Pulmuone's Release in Paragraph 5.4.1. and Beyond Defendants' Release in Paragraph 5.4.2., Pulmuone and Beyond Defendants expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

6. **MOTION FOR PRELIMINARY APPROVAL**. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. No Potential Conflicts with Administrator. Plaintiff, Class Counsel, Defendants, and Defense Counsel are not aware of any actual or potential conflicts of interest with the Administrator.

6.2. Plaintiff's Responsibilities. To the extent practicable, by February 6, 2025, Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve, competency, operative procedures for protecting the security of Class Data, all facts relevant to any actual or potential conflicts of interest with Class Members, and the nature and extent of any financial relationship with Plaintiff, Class Counsel Defendants, or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members, its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (l)(1)), this Agreement (Lab. Code, § 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator. Class Counsel's Declarations shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval by February 12, 2025; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel shall deliver to Defense Counsel the draft Motion for Approval and any other documents set forth in Paragraph 6.2 by no later than February 6, 2025. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

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

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

7.3. Notice to Class Members.

7.3.1. No later than five (5) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks and PAGA Pay Periods in the Class Data.

7.3.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice with a certified Spanish translation, along with a template Request for Exclusion Form, Objection Form, and Workweek Dispute Form, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

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

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

7.4. Request for Exclusion (Opt-Outs).

7.4.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, mail, or e-mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his or her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the name of the Action, case number of the Action, Class Member's name, address, email address or telephone number, and last four digits of the Social Security number for verification purposes. Class Members may use the template Request for

Exclusion Form included with the Class Notice. To be valid, a Request for Exclusion must be timely faxed, postmarked, or e-mailed by the Response Deadline.

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

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

7.4.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.5. <u>Challenges to Calculation of Workweeks and PAGA Pay Periods</u>. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class

Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. Workweek challenges must be in writing, and include the name of the Action, case number of the Action, Class Member's name, address, email address or telephone number, and last four digits of the Social Security number for verification purposes. The Class Member may use the template Workweek Dispute Form included with the Class Notice to challenge the allocation by communicating with the Administrator via fax, mail, or e-mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. Upon receipt of a Workweek dispute, the Administrator may make the initial determination of each disputing Class Member's allocation of Workweeks and/or PAGA Pay Periods. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and inform the Parties' Counsel of the Administrator's initial determination as to each challenge, but the Court may review any decision made by the Administrator. The Parties agree that all Workweek challenges, evidence submitted, and the resulting resolution of the challenges are to be presented to the Court at the Final Approval Hearing so that the Court may review the decisions made regarding the challenges.

7.6. <u>Objections to Settlement</u>.

7.6.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment in writing or by appearing at the Final Approval Hearing.

7.6.2. Participating Class Members may send written objections to the Administrator, by fax, mail, or e-mail. Any such objection shall include the name of the Action, case number of the Action, objecting Class Member's name, address, email address or telephone number, and last four digits of the Social Security number for verification purposes, and if represented by counsel, the name and address of his or her counsel. The written objection should set forth the basis for the objection, any legal support, each specific reason in support of the objection, and any documentation or evidence in support. An objecting Class Member may retain an attorney at his or her own cost. Class Members may use the Objection Form included with the Class Notice to lodge an objection. In addition to submitting a written objection, or in lieu of a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court at his or her own cost) to present oral objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

7.6.4. The Parties may file a response to any objection submitted by a Class Member at least five (5) court days before the date of the Final Approval Hearing.

7.7. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise ordered by the Court.

7.7.1. Website and Toll-Free Number. The Administrator will establish, maintain, and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, the Preliminary Approval Order, the Class Notice, the Final Approval Order, and the Judgment. The Administrator will also maintain and monitor toll-free telephone numbers and an e-mail address to receive Class Member calls, faxes and e-mails.

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

7.7.3. Written Objections. The Administrator shall promptly deliver copies of all written objections it receives to Class Counsel and Defense Counsel and include such copies in the Administrator's declaration required under Section 7.7.6, below.

7.7.4. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.7.5. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make initial decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods, but the Court may review any decision made by the Administrator regarding a Workweek or Pay Period challenge.

7.7.6. Administrator's Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of the Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), attach the Exclusion List, the number of written objections received, attach copies of all written objections, and the total number of Workweek challenges received and the resulting resolution of each such challenge. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

8. **CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**. Based on its records, Defendants estimate that, as of the date of this Settlement Agreement, there are (1) 374 Class Members and 12,307 Total Workweeks during the Class period and (2) 188 Aggrieved Employees who worked 7,769 Pay Periods during the PAGA Period.

If the number of Workweeks worked by Class Members exceeds 12,307 by more than 10%, Defendants shall, at their option, either (a) increase the Gross Settlement Amount by a prorated amount based on the additional Workweek over and above 13,538 (*i.e.*, above the 10% threshold); or (b) cap the Class Period on the date that the 10% threshold is exceeded. If Defendants elect the option to increase the Gross Settlement Amount, Defendants Beyond Staffing, Moonstone, Beyond Financial Solutions, Serrano, and Defendant Pulmuone agree to pay an equal share for each additional Workweek over 13,538.

9. **DEFENDANTS' RIGHT TO WITHDRAW**. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain proportionally responsible based on the amount of payment towards the Gross Settlement Amount for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. **MOTION FOR FINAL APPROVAL**. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subdivision (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

10.3. <u>Continuing Jurisdiction of the Court</u>. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters and (iii) addressing such post-Judgment matters as are permitted by law.

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

10.5. <u>Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment</u>. If the reviewing Court vacates, reverses or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. **ADDITIONAL PROVISIONS**.

12.1. <u>No Admission of Liability, Class Certification or Representative Manageability for Other Purposes</u>. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

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

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

12.5. <u>Attorney Authorization</u>. Class Counsel and Defense Counsel separately 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 pursuant to this

Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

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

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

12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

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

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

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

12.12. 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.

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

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of the Gross Settlement Amount, Plaintiff shall destroy all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destruction, of Class Data.

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

12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

DAILY ALJIAN LLP
Justin E. D. Daily
jd@dallp.com
Reed Aljian
ra@dallp.com
Simon Kwak
sk@dallp.com
Joanne Kim
jkim@dallp.com
100 Bayview Circle, Suite 5500
Newport Beach, CA 92660
Telephone: 949.861.2524
Facsimile: 949.269.6364

To Defendants Damaris Serrano,
Moonstone PEO, Inc., Beyond Financial Solutions, Inc.
and Beyond Staffing Solutions, Inc.:

C&K LAW GROUP
Christopher K. Jafari
chrisjafari@gmail.com
Kiarash Kay Jafari
kayjafari@gmail.com
3525 Hyland Ave., Suite 270
Costa Mesa, CA 92626
Telephone: 949.852.4454
Facsimile: 949.508.1759

To Defendants Pulmuone Foods USA, Inc.:

FISHER & PHILLIPS LLP
Jason A. Geller
jgeller@fisherphillips.com
Brandon K. Kahoush
bkahoush@fisherphillips.com
David M. Shannon
dshannon@fisherphillips.com
1 Montgomery Street, Suite 3400
San Francisco, California 94104
Telephone: 415.490.9000
Facsimile: 415.490.9001

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

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

EXECUTION BY PARTIES

The Parties hereby execute this Settlement.

Dated: February 4, 2025

Olga Guerra

DocuSigned by:

By: ______________________

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Plaintiff

Dated: ______________________

BEYOND STAFFING SOLUTIONS, INC.

By: ______________________
(Signature)

____
(Printed Name)

____
(Title)

Dated: ______________________

MOONSTONE PEO, INC.

By: ______________________
(Signature)

____
(Printed Name)

____
(Title)

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

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

EXECUTION BY PARTIES

The Parties hereby execute this Settlement.

Dated: ____________________ Olga Guerra

By: ____________________
Plaintiff

Dated: 2/5/25 BEYOND STAFFING SOLUTIONS, INC.

By: ____________________
(Signature)

Damaris Serrano
(Printed Name)

President
(Title)

Dated: 2/5/25 MOONSTONE PEO, INC.

By: ____________________
(Signature)

Pablo Olvera
(Printed Name)

VP Operations
(Title)

Dated: 2/5/25

BEYOND FINANCIAL SOLUTIONS, INC..

By: Ian Serrano
(Signature)

Ian Serrano
(Printed Name)

President
(Title)

Dated: 2/5/25

DAMARIS SERRANO

By: Damaris Serrano
(Signature)

Demaris Serrano

Dated: 2/3/2025

PULMUONE FOODS USA, INC..

By: DocuSigned by: KS Cho 6EF8D4835FE8447...
(Signature)

KS Cho
(Printed Name)

General manager
(Title)

[*Signatures of Counsel on Following Page*]

Approved as to Form Only:

Dated: 2/4/2025

DAILY ALJIAN LLP

By: ______________________
Justin E. D. Daily
Reed Aljian
Simon Kwak
Joanne Kim

Attorneys for Plaintiff Olga Guerra

Dated: ______________________

CAPSTONE LAW APC

By: ______________________

Attorneys for Plaintiff Olga Guerra

Dated: ______________________

C&K Law Group

By: ______________________
Christopher K. Jafari
Kiarash Kay Jafari

Attorneys for Defendants Damaris Serrano, Moonstone PEO, Inc., Beyond Financial Solutions, Inc. and Beyond Staffing Solutions, Inc.

Dated: ______________________

Fisher & Phillips LLP

By: ______________________
Jason A. Geller
Brandon K. Kahoush
David M. Shannon

Attorneys for Defendant Pulmuone Foods USA, Inc.

Approved as to Form Only:

Dated: ____________________

DAILY ALJIAN LLP

By: ______________________________
Justin E. D. Daily
Reed Aljian
Simon Kwak
Joanne Kim

Attorneys for Plaintiff Olga Guerra

Dated: 2/15/25

CAPSTONE LAW APC

By: ______________________________
Raul Perez

Attorneys for Plaintiff Olga Guerra

Dated: ____________________

C&K Law Group

By: ______________________________
Christopher K. Jafari
Kiarash Kay Jafari

Attorneys for Defendants Damaris Serrano, Moonstone PEO, Inc., Beyond Financial Solutions, Inc. and Beyond Staffing Solutions, Inc.

Dated: February 3, 2025

Fisher & Phillips LLP

By: Brandon K. Kahoush
Jason A. Geller
Brandon K. Kahoush
David M. Shannon

Attorneys for Defendant Pulmuone Foods USA, Inc.

Approved as to Form Only:

Dated: ____________________ DAILY ALJIAN LLP

By: ________________________________
Justin E. D. Daily
Reed Aljian
Simon Kwak
Joanne Kim

Attorneys for Plaintiff Olga Guerra

Dated: ____________________ CAPSTONE LAW APC

By: ________________________________

Attorneys for Plaintiff Olga Guerra

Dated: 2/26/2025 C&K Law Group

By: ________________________________
Christopher K. Jafari
Kiarash Kay Jafari

Attorneys for Defendants Damaris Serrano, Moonstone PEO, Inc., Beyond Financial Solutions, Inc. and Beyond Staffing Solutions, Inc.

Dated: February 3, 2025 Fisher & Phillips LLP

By: Brandon K. Kahoush
Jason A. Geller
Brandon K. Kahoush
David M. Shannon

Attorneys for Defendant Pulmuone Foods USA, Inc.

EXHIBIT A
TO SETTLEMENT AGREEMENT

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Guerra v. Beyond Staffing Solutions, Inc., et al.

Orange County Superior Court, Case No.: 30-2022-01245975-CU-OE-CXC

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendants Beyond Staffing Solutions, Inc. ("Beyond Staffing"), Moonstone PEO, Inc. ("Moonstone"), Beyond Financial Solutions, Inc. ("Beyond Financial Solutions"), Damaris Serrano ("Serrano"), and Pulmuone Foods USA, Inc. ("Pulmuone") (collectively, "Defendants") for alleged wage and hour violations. The Action was filed by Olga Guerra ("Plaintiff") and seeks payment of (1) unpaid wages and other relief for a class of current and former non-exempt alleged employees of Defendants Beyond Staffing, Moonstone, Beyond Financial Solutions, and Serrano (collectively, the "Beyond Defendants") who were placed, assigned, and/or staffed via staffing agency to work at Pulmuone's facilities in California during the Class Period (August 16. 2017 to the date of preliminary approval of settlement) (the "Class" or "Class Members"); and (2) penalties under the California Private Attorney General Act ("PAGA") for those Class Members who worked at Pulmuone's facilities in California during the PAGA Period (August 16, 2020 to the date of preliminary approval of settlement) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendants' records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be $__________ (less withholding) and your Individual PAGA Payment is estimated to be $__________.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants' records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work during the PAGA Period.)

The above estimates are based on Defendants' records showing that **you worked ______ workweeks** during the Class Period and **you worked ______ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you are a Class Member, you have two basic options under the Settlement:

(1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing of your request to be excluded. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement even if you submit a Request for Exclusion. If you are an Aggrieved Employee, you will remain eligible for an Individual PAGA Payment regardless of whether you opt-out of the Class Settlement

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement.	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement. **The Opt-out Deadline is** [RESPONSE DEADLINE]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section **6** of this Notice. You cannot opt-out of the PAGA portion of the proposed

	Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below). You will be bound by the Released PAGA Claims even if you do not cash your check.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written Objections Must be Submitted by[RESPONSE DEADLINE]	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section **7** of this Notice.
You Can Participate in the [FINAL APPROVAL HEARING DATE] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [FINAL APPROVAL HEARING DATE]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section **8** of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by [RESPONSE DEADLINE]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants' records are stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [RESPONSE DEADLINE]. See Section **4** of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is an alleged former employee of Defendants. The Action accuses Defendants of violating California labor laws for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to permit rest periods or provide compensation in lieu thereof; (5) knowing and intentional failure to provide accurate itemized wage statements; (6) waiting time penalties; and (7) failure to reimburse business expenses. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Lab. Code, § 2698, et seq.) ("PAGA"). Plaintiff is represented in the Action by the attorneys of Daily Aljian LLP and Capstone Law APC ("Class Counsel.")

Defendants deny violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits.

During the litigation of the Action, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (*i.e.*, to settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) the Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. <u>Defendants Will Pay $237,500.00 as the Gross Settlement Amount (Gross Settlement)</u>. Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorneys' fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

   A. Up to $79,166.67 to Class Counsel for attorneys' fees and up to $15,000.00 for their litigation expenses. Class Counsel will divide any fee award as follows: Eighty Percent (80%) to Daily Aljian LLP and Twenty Percent (20%) to Capstone Law APC. To date, Class Counsel have worked and incurred expenses on the Action without payment.

   B. Up to $5,000.00 as a Class Representative Service Payment, and separately, $5,000.00 in exchange for Plaintiff's general release of claims against the Released Parties (defined below). The Class Representative Service Award is being requested in recognition for Plaintiff's effort and work performed in filing the Action and working with Class Counsel to prosecute the Action on behalf of the Class. The Class Representative Service Payment and payment for a general release will be the only monies Plaintiff will receive, other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

   C. Up to $11,000.00 to the Administrator for services administering the Settlement.

   D. Up to $20,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their number of Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 10 % of each Individual Class Payment to taxable wages ("Wage Portion") and 90 % to penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay a proportionate share of employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report 100% of the Individual PAGA Payments and the Non-Wage Portion of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes, if applicable) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

   If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [RESPONSE DEADLINE], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [RESPONSE DEADLINE] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her/their representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

   You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) but who are also Aggrieved Employees remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the "Administrator") to send this Notice, calculate and make payments,

and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and remail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section **9** of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the "Released Class Claims" released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue or be part of any other lawsuit against Defendants or their related entities based on the class claims alleged in the Action and resolved by this Settlement.

   The Participating Class Members will be bound by release of the following "Released Class Claims":

   > All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including any and all claims involving any (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to permit rest periods or provide compensation in lieu thereof; (5) knowing and intentional failure to provide accurate itemized wage statements; (6) waiting time penalties; (7) failure to reimburse business expenses; (8) violations of the California Unfair Competition Law; and (9) claims and violations arising under sections 200, 201, 201.3, 202, 203, 204, 210, 218, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq*., 2800, and 2802 of the California Labor Code. Except as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

The "Released Parties" means: Defendants and each of their former and present directors, officers, shareholders, owners, members, subsidiaries, and parents (Pulmuone U.S.A., Inc.).

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting any of the "Released PAGA Claims" against Defendants, whether or not they exclude themselves

from the Settlement. This means that all Aggrieved Employees, including Participating Class Members and Non-Participating Class Members who opt-out of the Class portion of the Settlement, cannot sue, continue to sue or participate in any other PAGA claim against Defendants or their related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement, even if Aggrieved Employees do not cash their checks.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

> All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notices.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The "Net Settlement Amount" is calculated by deducting from the Gross Settlement Amount the amounts approved by the Court for the Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment (and payment for Plaintiff's general release), Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $5,000.00 (the 25% share of the PAGA Penalties) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated on the first page of this Notice. You have until [RESPONSE DEADLINE] to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You may use the Workweek Dispute Form to submit your challenge by completing, signing, and sending the form to the Administrator via mail, e-mail, or fax by the above deadline. Section 9 of this

Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks and/or PAGA Pay Periods based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will make the initial decision regarding Workweek and/or PAGA Pay Period challenges based on your submission. The Court may review the Administrator's decision at the Final Approval Hearing described in Section 8. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment, if any.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee, including those employees who opt out of the Class Settlement (i.e., every Non-Participating Class Member who is an Aggrieved Employee).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, email address, telephone number, last four digits of your social security number, and a simple statement that you do not want to participate in the Settlement. You may use the Request for Exclusion Form included with this Notice. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Guerra v. Beyond Staffing Solutions, Inc., et al.* (Case No. 30-2022-011245975-CU-OE-CXC), and include your identifying information (full name, address, email address, telephone number, approximate dates of employment and the last four digits of your social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **You must mail, e-mail, or fax your request to be excluded by** [RESPONSE DEADLINE]**, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. At least 16 days before the Final Approval Hearing on [FINAL APPROVAL HEARING DATE], Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair and stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment and amount for Plaintiff's general release of claims. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [ADMIN WEBSITE URL] or the Court's website https://www.occourts.org/online-services/case-access.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator by mail, e-mail, or fax is [RESPONSE DEADLINE]. Be sure to tell the Administrator what you object to, why you object and any facts that support your objection. Make sure you identify the Action as *Guerra v. Beyond Staffing Solutions, Inc., et al.* (Case No. 30-2022-01245975-CU-OE-CXC) and include your name, current address, email address, telephone number, last four digits of your social security number, and approximate dates of employment with Defendants and sign the objection. You may use the Objection Form included with this Notice. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [FINAL APPROVAL HEARING DATE] at [FINAL APPROVAL HEARING TIME] in Department CX-104 of the Civil Complex Center of the Orange County Superior Court, located at 751 West Santa Ana Blvd. Santa Ana, CA 92701. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend at your own cost) either personally or virtually via Zoom (https://acikiosk.azurewebsites.us/?dept=CX104/). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [ADMIN WEBSITE URL] beforehand.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Administrator's website at [ADMIN WEBSITE URL]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to https://civilwebshopping.occourts.org/ and entering the Case Number for the Action, Case No. 30-2022-01245975-CU-OE-CXC.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

This Notice of Class Action Settlement is only a summary of the Action and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the Settlement should be directed to the Administrator or Class Counsel.

Class Counsel:

Name of Attorneys:	Justin E. D. Daily, Simon Kwak, Joanne Kim
Name of Firm:	Daily Aljian LLP
Mailing Address:	100 Bayview Circle, Suite 5500, Newport Beach, CA 92660
Telephone:	(949) 861-2524

Settlement Administrator:
Name of Company:
Mailing Address:
Telephone:
Fax Number:
E-Mail Address:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund (https://www.sco.ca.gov/search_upd.html/) for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, OR THE JUDGE WITH INQUIRIES.

The statements in this notice are not findings by a court of law. These statements are not an expression of opinion or approval by a judge. This notice is based only on statements by the Parties to this Lawsuit. You received this notice to help you decide what steps, if any, to take about this Lawsuit.

Guerra v. Beyond Staffing Solutions, Inc., et al.
Orange County Superior Court, Case No. 30-2022-01245975-CU-OE-CXC

REQUEST FOR EXCLUSION FORM

I received the Notice of Class Action Settlement (the "Notice") in the above-referenced case. I reviewed the Notice and understand the following:

1) I have been identified as a Class Member under the class action settlement;
2) As a Class Member, I may be entitled to compensation in exchange for giving up certain rights;
3) However, I have the option to exclude myself from the settlement by submitting a written request to be excluded before the deadline stated below;
4) By exercising the right to exclude myself from the settlement, I will retain the right to prosecute my own claims, if any, at my own expense and subject to applicable law;
5) Even if I exclude myself from the settlement as a Class Member, I will still be bound by the release of PAGA claims and be sent an Individual PAGA Payment if I am an Aggrieved Employee;
6) If I exclude myself from the settlement, I may receive either a reduced settlement payment or no payment at all; and
7) I may complete, sign, and submit this form to request that I be excluded from the settlement.

By completing, signing, and submitting this Form, I request to exclude myself from this class action lawsuit, the settlement, and the judgment.

Class Member Name: ____

First *Middle* *Last*

Current Mailing Street Address: ____

City, State, Zip Code: ____

Telephone Number: ______________________ Dates of Employment: ______________________

Last 4 Digits of Class Member's Social Security Number: XXX-XX- ___ ___ ___ ___

________________________ ____

SIGNATURE

DATE

TO SUBMIT YOUR REQUEST FOR EXCLUSION, PLEASE SEND YOUR COMPLETED AND SIGNED FORM BY [DEADLINE], TO:

[SETTLEMENT ADMINISTRATOR]
[INSERT ADDRESS]
[INSERT FAX]
[INSERT E-MAIL ADDRESS]

Guerra v. Beyond Staffing Solutions, Inc., et al.
Orange County Superior Court, Case No. 30-2022-01245975-CU-OE-CXC

WORKWEEK DISPUTE FORM

I received the Notice of Class Action Settlement (the "Notice") in the above-referenced case. I reviewed the Notice, and I wish to dispute the number of workweeks listed for me in Section B.4 of the Notice.

If applicable, you may select and complete one or more of the listed options.

☐ I wish to dispute the number of workweeks that I worked as a ***non-exempt employee*** from [INSERT DATE RANGE] ("the Class Period"). I believe the correct number of workweeks is __________.

☐ I wish to dispute the number of pay periods that I worked as a ***non-exempt employee*** from [INSERT DATE RANGE] (the "PAGA Period"). I believe the correct number of pay periods is __________.

☐ I have included, along with this form, additional information and/or documentation to support the total number of workweeks that I believe to be correct.

By completing, signing, and submitting this Form, I authorize the Settlement Administrator to review [DEFENDANT'S] and any documents I submit with this form.

Class Member Name: ____

First *Middle* *Last*

Current Mailing Street Address: ____________________________________

City, State, Zip Code: ____

Telephone Number: ______________________ Dates of Employment: _______________________

Last 4 Digits of Class Member's Social Security Number: XXX-XX- ___ ___ ___ ___

____
DATE

____
SIGNATURE

TO SUBMIT YOUR WORKWEEK DISPUTE, PLEASE SEND YOUR COMPLETED AND SIGNED FORM AND SUPPORTING DOCUMENTS BY [DEADLINE], TO:

[SETTLEMENT ADMINISTRATOR]
[INSERT ADDRESS]
[INSERT FAX]
[INSERT E-MAIL ADDRESS]

Guerra v. Beyond Staffing Solutions, Inc., et al.
Orange County Superior Court, Case No. 30-2022-01245975-CU-OE-CXC

OBJECTION FORM

I received the Notice of Class Action Settlement (the "Notice") in the above-referenced case. I reviewed the Notice, and I wish to lodge a written objection to the Settlement.

Please explain what you object to, the basis for objecting, and any supporting facts and legal authority:

□ I need more space and have included an attachment that further explains the basis for my objection.

□ I included documentation in support of my objection.

By completing, signing, and submitting this Form, I understand that I remain eligible to receive monetary compensation from the Settlement, that I may appear at the Final Approval Hearing personally or through an attorney at my own cost to object, and that the Court will rule on my objection at the Final Approval Hearing.

Class Member Name: ____

First *Middle* *Last*

Current Mailing Street Address: ____

City, State, Zip Code: ____

Telephone Number: ______________________ Dates of Employment: ______________________

Last 4 Digits of Class Member's Social Security Number: XXX-XX- ___ ___ ___ ___

________________________ ____

SIGNATURE

DATE

TO SUBMIT YOUR OBJECTION, PLEASE SEND YOUR COMPLETED AND SIGNED FORM AND ANY SUPPORTING DOCUMENTS BY [DEADLINE], TO:

[SETTLEMENT ADMINISTRATOR]
[INSERT ADDRESS]
[INSERT FAX]
[INSERT E-MAIL ADDRESS]