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Attorneys for Plaintiff ESMERALDA GUERRERO,  
on behalf of herself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE**

ESMERALDA GUERRERO, on behalf of  
herself and others similarly situated,

Plaintiff,

vs.

THE AMERICAN SOCIETY FOR THE  
PREVENTION OF CRUELTY TO  
ANIMALS; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 22STCV04637

**CLASS ACTION**

*[Assigned for all purposes to the Hon. Kenneth  
R. Freeman, Dept. 14]*

**~~PROPOSED~~ ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

*[Filed concurrently with Notice of Motion and  
Motion for Preliminary Approval of Class Action  
Settlement; Declaration of Melissa A. Huether in  
Support Thereof]*

Hearing Information:

Date: August 22, 2023

Time: 10:00 AM

Dept.: SSC14

The Motion for Preliminary Approval of a Settlement came before this Court on August 18, 2023 at 9 a.m. in Department SSC14 of Los Angeles County Superior Court located at 312 N. Spring St., Los Angeles, California 90012. The Court, having considered the proposed Class

1 Action and PAGA Settlement Agreement and Class Notice entered into by and between Plaintiff  
2 Esmeralda Guerrero (“Plaintiff”) and The American Society for the Prevention of Cruelty to  
3 Animals (“Defendant”), attached as **Exhibit 1** to the Declaration of Vincent C. Granberry in  
4 Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, and the Exhibits  
5 attached thereto (hereafter collectively, the “Settlement” or “Settlement Agreement”); having  
6 considered the Motion for Preliminary Approval of Class Action Settlement filed by the parties;  
7 having considered the respective points and authorities and declarations submitted by the parties in  
8 support thereof; and good cause appearing, HEREBY ORDERS THE FOLLOWING:

9 The Court grants preliminary approval of the settlement as set forth in the Settlement and  
10 finds the terms to be within the range of reasonableness of a settlement that ultimately could be  
11 granted approval by the Court at the Final Fairness Hearing. For purposes of the Settlement only,  
12 the Court finds that the proposed Settlement Class is ascertainable and that there is a sufficiently  
13 well-defined community of interest among the Class in questions of law and fact. Therefore, for  
14 settlement purposes only, the Court grants conditional certification of the following “Class” defined  
15 as follows:

16 [A] person employed by Defendant in California and classified as an  
17 hourly, non-exempt employee who worked for Defendant during the Class  
18 Period. The “Class Period” is the period from February 7, 2018, through  
19 March 6, 2023.

20 1. For purposes of the Settlement only, the Court further designates named Plaintiff  
21 Esmeralda Guerrero as Class Representative, and Joseph Lavi, Esq. and Vincent C. Granberry, Esq.  
22 of Lavi & Ebrahimian, LLP, as Class Counsel.

23 2. The Court appoints Simpluris as the Settlement Administrator.

24 3. A final fairness hearing on the question of whether the proposed Settlement should  
25 be finally approved as fair, reasonable, and adequate as to the members of the Class is scheduled in  
26 Department SSC14 of this Court, located at 312 N. Spring St., Los Angeles, California 90012, on  
27 March <sup>12</sup>~~4~~, 2024, at 11:00 a.m./~~p.m.~~

1           4.       At the final fairness hearing, the Court will consider: (a) whether the Settlement  
2 should be approved as fair, reasonable, and adequate for the Class; (b) whether a judgment granting  
3 approval of the Settlement should be entered; and (c) whether Plaintiff's application for an award of  
4 Class Counsel Fees Payment, Class Counsel Expenses Payment, and Class Representative Service  
5 Payment should be granted.

6           5.       Counsel for the Parties shall file memoranda, declarations, or other statements and  
7 materials in support of their request for final approval by no later than 16 court days prior to the  
8 final fairness hearing.

9           6.       Class Counsel shall file a motion for an award of Class Counsel Fees Payment,  
10 Class Counsel Litigation Expenses Payment, and Class Representative Service Payment no later  
11 than 16 court days prior to the final fairness hearing.

12          7.       The Court approves, as to form and content, the Class Notice which is appended to  
13 the Settlement Agreement.

14          8.       No later than fifteen (15) calendar days following the date the Court enters this  
15 order, Defendant shall provide the following information to the Settlement Administrator: Class  
16 Member identifying information in Defendant's possession including the Class Member's name,  
17 last-known mailing address, Social Security number, all start and end dates of employment, and all  
18 start and end dates for periods on leave of absence (that is, periods involving 5 consecutive non-  
19 work days for such reasons as, for example, leave under the Family and Medical Leave Act,  
20 disability leave, pregnancy leave) ("Class Data").

21          9.       Within fourteen (14) calendar days after receiving the Class Data, the Settlement  
22 Administrator shall disseminate the Class Notice to all the Class Members identified in the Class  
23 Data by first-class U.S. Mail.

24          10.      Class Members shall have sixty (60) calendar days from the date the Settlement  
25 Administrator mails Notice to the Class Members to fax, email, or mail Requests for Exclusion  
26 from the Settlement or fax, email, or mail an Objection to the Settlement ("Response Deadline").  
27 Class Members to whom Notice Packets are resent after having been returned undeliverable to the  
28

1 Administrator shall have an additional fourteen (14) calendar days after the Response Deadline  
2 has expired.

3 11. The Court finds that the forms of Class Notice to the Class regarding the pendency  
4 of the action and of this Settlement, and the methods of giving notice to members of the  
5 Settlement Class constitute the best notice practicable under the circumstances and constitute  
6 valid, due, and sufficient notice to all members of the Class. They comply fully with the  
7 requirements of California Code of Civil Procedure section 382, California Civil Code section  
8 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions,  
9 and other applicable law.

10 12. The Court further approves the procedures for Class Members to participate in, opt  
11 out of, or object to the Settlement, as set forth in the Settlement Agreement and Class Notice.

12 13. Class Members who wish to exclude themselves from (opt-out of) the Class  
13 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for  
14 Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional  
15 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter  
16 from a Class Member or the Class Member's representative that reasonably communicates the  
17 Class Member's election to be excluded from the Settlement and includes the Class Member's  
18 name, address and email address or telephone number. To be valid, a Request for Exclusion must  
19 be timely faxed, emailed, or postmarked by the Response Deadline.

20 14. Participating Class Members may send written objections to the Administrator, by  
21 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire  
22 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A  
23 Participating Class Member who elects to send a written objection to the Administrator must do  
24 so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional  
25 14 days for Class Members whose Class Notice was re-mailed).

1           15. Pending the Fairness Hearing, all proceedings in this action, other than proceedings  
2 necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this  
3 Order, are stayed.

4           16. Counsel for the parties are hereby authorized to utilize all reasonable procedures in  
5 connection with the administration of the Settlement, which are not materially inconsistent with  
6 either this Order or the terms of the Settlement.

7           17. The Court orders the following Implementation Schedule for further proceedings:

| Event                                                                                                                                               | Timing                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| Class Data: Last day for Defendant to provide the Settlement Administrator the Class Database                                                       | By or before September 2, 2023 (15 calendar days after the Court's entry of this Order) |
| Notice Date: last day for Administrator to mail Class Notice to Class Members.                                                                      | By or before September 16, 2023 (14 calendar days after receipt of the Class Data)      |
| Response Deadline: (i) last day for Settlement Class Members to submit Requests for Exclusion; (ii) last day for class members to submit Objections | November 15, 2023 (60 calendar days after the date of mailing of the Class Notice)      |
| Last day for class counsel to file motion for award of attorneys' fees, reimbursement of litigation expenses and class representative enhancement.  | February 16, 2024 (16 calendar days prior to the final fairness hearing)                |
| Last day for parties to file motion and supporting documents for final approval of class action settlement.                                         | February 16, 2024 (16 calendar days prior to the final fairness hearing)                |
| Last day for the Parties to respond to Objections                                                                                                   | March 5, 2024 (5 court days prior to the final fairness hearing)                        |
| Hearing on final approval of class action settlement.                                                                                               | March 12, 2024                                                                          |

18. The Fairness Hearing and related prior deadlines set forth above may, from time to time and without further notice to the Class (except those who have filed timely and valid objections), be continued or adjourned by Order of the Court.

**IT IS SO ORDERED.**

Dated: 09/20/2023



  
Hon. Kenneth R. Freeman  
Judge of the Superior Court  
Kenneth R. Freeman / Judge

~~PROPOSED~~ ORDER

**“EXHIBIT 1”**

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Attorneys for Plaintiff ESMERALDA GUERRERO,  
 on behalf of herself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ESMERALDA GUERRERO, on behalf of  
 herself and others similarly situated,

Plaintiff,

vs.

THE AMERICAN SOCIETY FOR THE  
 PREVENTION OF CRUELTY TO  
 ANIMALS,

Defendant.

Case No. **22STCV04637**

**CLASS ACTION AND PAGA  
 SETTLEMENT AGREEMENT AND CLASS  
 NOTICE**

Assigned to the Hon. Kenneth R. Freeman  
 Dept.: 14

Action Filed: February 7, 2022

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Esmeralda Guerrero (“Plaintiff”) and defendant The American Society for the Prevention of Cruelty to Animals (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

1.1. “Action” means the Plaintiff’s class action lawsuit alleging wage and hour violations against Defendant captioned *Esmeralda Guerrero v. The American Society for the Prevention of Cruelty to Animals* initiated on February 7, 2022 and pending in Superior Court of the State of California, County of Los Angeles, Case No. 22STCV04637. As provided in paragraph 2.5, the Action will be amended to include claims pled in the PAGA Action.

1.2. “Administrator” means Simpluris, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means 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 person employed by Defendant in California and classified as non-exempt who worked for Defendant during the PAGA Period.

1.5. “Class” means all persons employed by Defendant in California and classified as non-exempt who worked for Defendant during the Class Period.

1.6. “Class Counsel” means Joseph Lavi, Vincent Granberry, and Melissa Huether of Lavi & Ebrahimian, LLP.

1.7. “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.

1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security

number, all start and end dates of employment, and all start and end dates for periods on leave of absence (i.e., periods involving non-work days, including but not limited to disability leave, FMLA leave, jury duty, etc.).

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

1.10. “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.

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

1.12. “Class Period” means the period from February 7, 2018, to March 6, 2023.

1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

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

1.15. “Court” means the Superior Court of California, County of Los Angeles.

1.16. “Defendant” means The American Society for the Prevention of Cruelty to Animals.

1.17. “Defense Counsel” means Judith Droz Keyes, Vandana Kapur, and Raina Singer of Davis Wright Tremaine, LLP.

1.18. “Effective Date” means the date 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

1 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if  
2 one or more Participating Class Members objects to the Settlement, the day after the deadline for  
3 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the  
4 day after the appellate court affirms the Judgment and issues a remittitur.

5 1.19. "Final Approval" means the Court's order granting final approval of the  
6 Settlement.

7 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final  
8 Approval of the Settlement.

9 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final  
10 Approval of the Settlement.

11 1.22. "Gross Settlement Amount" means \$325,000 which is the total amount Defendant  
12 agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross  
13 Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments,  
14 the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative  
15 Service Payment and the Administrator's Expenses.

16 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share  
17 of the Net Settlement Amount calculated according to the number of Workweeks worked during  
18 the Class Period.

19 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of  
20 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked  
21 during the PAGA Period.

22 1.25. "Judgment" means the judgment entered by the Court based upon the Final  
23 Approval.

24 1.26. "LWDA" means the California Labor and Workforce Development Agency, the  
25 agency entitled, under Labor Code section 2699, subd.(i).

26 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the  
27 LWDA under Labor Code section 2699, subd.(i).

1.28. “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.

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

1.30 “PAGA” means the California Private Attorney General Act (Labor Code §§ 2698. *et seq.*).

1.30 “PAGA Action” means the lawsuit filed by Plaintiff captioned *Esmeralda Guerrero v. The American Society for the Prevention of Cruelty to Animals* initiated on May 26, 2022, currently pending in Superior Court of the State of California, County of Los Angeles, Case No. 22STCV17469.

1.30. “PAGA Notice” means Plaintiff’s February 7, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.32. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$3,750) and the 75% to LWDA (\$11,250) in settlement of PAGA claims.

1.33. “PAGA Period” means the period from March 22, 2021, to March 6, 2023.

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

1.35. “Plaintiff” means Esmeralda Guerrero.

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

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

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

1.39. "Released Parties" means: Defendant and each of its former and present subsidiaries, affiliates, parents, agents, employees, members, investors, partners, owners, directors, officers, attorneys, trustees, insurers, representatives, predecessors, successors, assigns, shareholders, owners, and members.

1.40. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.41. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and will be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator will have an additional 14 calendar days beyond the Response Deadline has expired.

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

1.43. "Workweek" means any seven-day period beginning Monday at midnight through Sunday at 11:59 p.m. during which a Class Member worked for Defendant for at least one day, during the Class Period.

## **2. RECITALS.**

2.1. On February 7, 2022, Plaintiff filed the Action alleging the following violations: (1) Labor Code section 1194 and 1197 (unpaid minimum wages; (2) Labor Code section 510 and 1194 (unpaid overtime); (3) Labor Code section 226.7 and 512 (noncompliant meal periods and unpaid premiums); (4) Labor Code section 226.7 (noncompliant rest periods and unpaid premiums); (5) Labor Code section 204 (wages not timely paid during employment); (6) Labor

Code section 226; (noncompliant wage statements); (7) Labor Code sections 201, 202, and 203 (final wages not timely paid); and (8) Business & Professions Code sections 17200, *et seq.*

2.2. On February 7, 2022, pursuant to Labor Code section 2699.3, subd.(a), Plaintiff provided timely written notice to Defendant and the LWDA of her claim that she was entitled to civil penalties under PAGA, including the specific provisions of the Labor Code she contends were violated and the theories supporting her contentions.

2.3. On May 26, 2022, Plaintiff filed the PAGA Action predicated on the same allegations as those raised in the Action. PAGA penalties were sought based on the following underlying claims: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal and rest periods; (4) failure to timely pay wages during employment; (5) failure to provide complete and accurate wage statements; and (6) failure to timely pay wages upon separation of employment. On December 6, 2022, the Parties participated in an all-day mediation for the Action and PAGA Action with the Honorable Daniel Buckley, which led to this Agreement to settle both cases.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, hundreds of documents relating to Defendant's policies, practices, and procedures regarding paying non-exempt employees all hours worked, meal and rest period policies, payroll, timekeeping, and operational policies. Plaintiff also obtained and reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiff to understand the number of weeks worked during the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, 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. Pursuant to the Settlement, Plaintiff will file a Stipulation and Proposed Order to File a First Amended Complaint (the "Stipulation") in the Action, seeking leave to amend the Action to add: (1) the PAGA cause of action, as well as any associated allegations in the PAGA

1 Action complaint; and (2) all factual allegations and Labor Code violations contained in the  
 2 PAGA Notice, to the extent those factual allegations and theories of liability were not already  
 3 included in the Action. Further, the Stipulation will require that Plaintiff request dismissal of the  
 4 PAGA Action within ten (10) days of the execution and entry of the order granting the  
 5 Stipulation. This Agreement is entered into with the understanding that the First Amended  
 6 Complaint will be the operative complaint in the Action, and the PAGA Action will be dismissed  
 7 without prejudice, by the time of the Preliminary Approval Hearing.

8 2.6. The Court has not granted class certification.

9 2.7. Aside from the Action and PAGA Action, the Parties, Class Counsel and Defense  
 10 Counsel represent that they are not aware of any other pending matter or action asserting claims  
 11 that will be extinguished or affected by the Settlement.

### 12 3. MONETARY TERMS.

13 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below,  
 14 Defendant promises to pay \$325,000 and no more as the Gross Settlement Amount (and to  
 15 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual  
 16 Class Payments). Defendant has no obligation to pay the Gross Settlement Amount (or any  
 17 payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator  
 18 will disburse the entire Gross Settlement Amount without asking or requiring Participating Class  
 19 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the  
 20 Gross Settlement Amount will revert to Defendant.

21 3.2. Payments from the Gross Settlement Amount. The Administrator will make and  
 22 deduct the following payments from the Gross Settlement Amount, in the amounts specified by  
 23 the Court in the Final Approval:

24 3.2.1. To Plaintiff: Class Representative Service Payment to the Class  
 25 Representative of not more than \$7,500 (in addition to any Individual Class Payment and any  
 26 Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class  
 27 Member and Aggrieved Employee, respectively). In exchange for this payment, the Class  
 28

Representative will sign a full and complete general release of all claims, known and unknown, as further detailed in paragraph 5.1 below. Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment 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 33.33%, which is currently estimated to be \$108,333.33 and a Class Counsel Litigation Expenses Payment of not more than \$20,000. Defendant will not oppose Plaintiff's requests for these payments provided they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (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 will 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 Defendant harmless, and indemnifies Defendant, 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 \$9,000 except for a showing of good cause and as approved by the Court. To the extent the

Administration Expenses are less or the Court approves payment less than \$9,000, 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. 20% 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. The remaining 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of non-wage claims for, e.g., interest and 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 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 \$15,000 will be paid from the Gross Settlement Amount, with 75% (\$11,250) allocated to the LWDA PAGA Payment and 25% (\$3,750) 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 (\$3,750) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

#### 4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks. Defendant estimates there are 7,500 Workweeks during the Class Period.

4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will 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. Defendant has 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 Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant will fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds 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 will 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 will 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 Class Members whose checks are returned undelivered without USPS forwarding addresses. Within seven (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 will 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 will 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 California Code of Civil Procedure Section 384, subd. (b).

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments will not obligate Defendant 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. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. In exchange for the Class Representative Service Payment, Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to her employment with Defendant or the remuneration for, or termination of, such employment. ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time. 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 will be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

1                   5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.

2 For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,  
3 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

9                   5.2. Release by Participating Class Members Who Are Not Aggrieved Employees: All

10 Participating Class Members, on behalf of themselves and their respective former and present  
11 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released  
12 Parties from all claims that reasonably relate to or arise out of the factual allegations pled in the  
13 Operative Complaint in this Action, including but not limited to any and all claims involving any  
14 and all alleged or actual failures to timely, fully, properly, or completely pay any minimum  
15 wages, overtime premium wages, double time wages, meal or rest period premium wages; any  
16 and all alleged or actual failures to comply with meal or rest period requirements; any and all  
17 alleged or actual failures to provide proper, accurate, timely, adequately descriptive, or complete  
18 wage statements or pay stubs; any and all alleged or actual failures to pay all wages, or  
19 compensation owed to a fired, quitting, or otherwise departing employee; any and all alleged or  
20 actual unfair business practices as to the foregoing claims; and any and all alleged or actual  
21 failures to pay any interest or penalties owed as a result of any of the foregoing (the "Released  
22 Claims"). Plaintiff and Participating Class Members will release Defendant and the Released  
23 Parties from all remedies that could be claimed in connection with the Released Claims including  
24 but not limited to statutory, constitutional, contractual damages, unpaid costs, penalties, punitive  
25 damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief. Except as set  
26 forth in Section 5.3 of this Agreement, Participating Class Members do not release any other  
27 claims, including claims for vested benefits, wrongful termination, violation of the Fair

1 Employment and Housing Act, unemployment insurance, disability, social security, workers'  
2 compensation, or claims based on facts occurring outside the Class Period.

3 5.3. Release by Non-Participating Class Members Who Are Aggrieved Employees: All  
4 Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to  
5 release, on behalf of themselves and their respective former and present representatives, agents,  
6 attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for  
7 PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA  
8 Period facts stated in the Operative Complaint and the PAGA Notice, including but not limited to  
9 any and all claims involving any and all alleged or actual failures to timely, fully, properly, or  
10 completely pay any minimum wages, overtime premium wages, double time wages, meal or rest  
11 period premium wages; any and all alleged or actual failures to comply with meal or rest period  
12 requirements; any and all alleged or actual failures to provide proper, accurate, timely, adequately  
13 descriptive, or complete wage statements or pay stubs; any and all alleged or actual failures to pay  
14 all wages, or compensation owed to a fired, quitting, or otherwise departing employee; any and all  
15 alleged or actual unfair business practices as to the foregoing claims; and any and all alleged or  
16 actual failures to pay any interest or penalties owed as a result of any of the foregoing (the  
17 "Released PAGA Claims"). Plaintiff and Aggrieved Employees will release Defendant and the  
18 Released Parties from all remedies that could be claimed in connection with the Released PAGA  
19 Claims including but not limited to statutory, constitutional, contractual damages, unpaid costs,  
20 penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable  
21 relief.

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

25 6.1. Plaintiff's Responsibilities. At least five (5) court days ahead of the filing  
26 deadline, Plaintiff will prepare and deliver to Defense Counsel all documents necessary for  
27 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, subd. (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; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; 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 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; (v) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration will 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 of the Action.

6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement; 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 is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.3. 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 Simpluris to serve as the Administrator and verified that, as a condition of appointment, Simpluris agrees 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. Employer Identification Number. The Administrator will have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

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

### 7.4. Notice to Class Members.

7.4.1. No later than fifteen (15) days after Defendant receives notice that preliminary approval has been granted, Defense Counsel is to deliver the Class Data to the Administrator. No later than three (3) business days after receipt of the Class Data, the Administrator will notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice (with Spanish translation, if applicable) substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice will 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 will update Class Member addresses using the National Change of Address database.

7.4.3. Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator will re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator will 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.

7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the sixty (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.

7.4.5. If the Administrator, Defendant, 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

1 Notice requiring them to exercise options under this Agreement not later than fourteen (14) days  
2 after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

3 7.5. Requests for Exclusion (Opt-Outs).

4 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class  
5 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for  
6 Exclusion not later than sixty (60) days after the Administrator mails the Class Notice (plus an  
7 additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for  
8 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates  
9 the Class Member's election to be excluded from the Settlement and includes the Class Member's  
10 name, address and email address or telephone number. To be valid, a Request for Exclusion must  
11 be timely faxed, emailed, or postmarked by the Response Deadline.

12 7.5.2. The Administrator may not reject a Request for Exclusion as invalid  
13 because it fails to contain all the information specified in the Class Notice. The Administrator  
14 will accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the  
15 identity of the person as a Class Member and the Class Member's desire to be excluded. The  
16 Administrator's determination will be final and not appealable or otherwise susceptible to  
17 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,  
18 the Administrator may demand additional proof of the Class Member's identity. The  
19 Administrator's determination of authenticity will be final and not appealable or otherwise  
20 susceptible to challenge.

21 7.5.3. Every Class Member who does not submit a timely and valid Request for  
22 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all  
23 benefits and bound by all terms and conditions of the Settlement, including the Participating Class  
24 Members' Releases under Paragraph 5.2 of this Agreement, regardless whether the Participating  
25 Class Member actually receives the Class Notice or objects to the Settlement.

26 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion  
27 is a Non-Participating Class Member and will not receive an Individual Class Payment or have the  
28

1 right to object to the class action components of the Settlement. Because future PAGA claims are  
2 subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who  
3 are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this  
4 Agreement and are eligible for an Individual PAGA Payment.

5 7.6. Challenges to Calculation of Workweeks. Each Class Member will have sixty (60)  
6 days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for  
7 Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks  
8 and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class  
9 Member may challenge the allocation by communicating with the Administrator via fax, email or  
10 mail. The Administrator must encourage the challenging Class Member to submit supporting  
11 documentation. In the absence of any contrary documentation, the Administrator is entitled to  
12 presume that the Workweeks contained in the Class Notice are correct so long as they are  
13 consistent with the Class Data. The Administrator's determination of each Class Member's  
14 allocation of Workweeks and/or Pay Periods will be final and not appealable or otherwise  
15 susceptible to challenge. The Administrator will promptly provide copies of all challenges to  
16 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the  
17 Administrator's determination the challenges.

18 7.7. Objections to Settlement.

19 7.7.1. Only Participating Class Members may object to the class action  
20 components of the Settlement and/or this Agreement, including contesting the fairness of the  
21 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel  
22 Litigation Expenses Payment and/or Class Representative Service Payment.

23 7.7.2. Participating Class Members may send written objections to the  
24 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear  
25 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval  
26 Hearing. A Participating Class Member who elects to send a written objection to the  
27 Administrator must do so not later than sixty (60) days after the Administrator's mailing of the  
28

1 Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was  
2 re-mailed).

3 7.7.3. Non-Participating Class Members have no right to object to any of the class  
4 action components of the Settlement.

5 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks  
6 to be performed or observed by the Administrator contained in this Agreement or otherwise.

7 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will  
8 establish and maintain and use an internet website to post information of interest to Class  
9 Members including the date, time, and location for the Final Approval Hearing and copies of the  
10 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class  
11 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class  
12 Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final  
13 Approval, and the Judgment. The Administrator will also maintain and monitor an email address  
14 and a toll-free telephone number to receive Class Member calls, faxes, and emails.

15 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator  
16 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not  
17 later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion,  
18 the Administrator will email a list to Class Counsel and Defense Counsel containing (a) the names  
19 and other identifying information of Class Members who have timely submitted valid Requests  
20 for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class  
21 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for  
22 Exclusion from Settlement submitted (whether valid or invalid).

23 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide  
24 written reports to Class Counsel and Defense Counsel that, among other things, tally the number  
25 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion  
26 (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay  
27 Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual  
28

PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

7.8.5. Administrator's Declaration. Not later than fourteen (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 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), the number of written objections and attach the Exclusion List. 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.

7.8.6. Final Report by Settlement Administrator. Within ten (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 fifteen (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.** Defendant has estimated that the Settlement Class Members worked 7,500 weeks during the Class Period. To the extent

that the number of Workweeks in the Class Period is found to exceed 7,500 by more than 5% (i.e. 375 weeks above and beyond the 7,500), Defendant has the option to increase the Gross Settlement Amount proportionally for any Workweek above the 5%, or to set the Class Period end date to a date at which the number of Workweeks reached 7,875.

**9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement will 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, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) 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 sixteen (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, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff will provide drafts of these documents to Defense Counsel not later than five (5) court 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. Response to Objections. 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. Duty to Cooperate. 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 will not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement will be null and void. The Parties will 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 will not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

**12. ADDITIONAL PROVISIONS.**

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's 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, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves 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 Defendant's 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. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant 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,

1 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses,  
2 all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter;  
3 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a  
4 court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal  
5 government agency. Each Party agrees to immediately notify each other Party of any judicial or  
6 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant  
7 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or  
8 other communication, before the filing of the Motion for Preliminary Approval, any with third  
9 party regarding this Agreement or the matters giving rise to this Agreement except to respond  
10 only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class  
11 Counsel's communications with Class Members in accordance with Class Counsel's ethical  
12 obligations owed to Class Members.

13 12.3. No Solicitation. The Parties separately agree that they and their respective counsel  
14 and employees will not solicit any Class Member to opt out of or object to the Settlement, or  
15 appeal from the Judgment. Nothing in this paragraph will be construed to restrict Class Counsel's  
16 ability to communicate with Class Members in accordance with Class Counsel's ethical  
17 obligations owed to Class Members.

18 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this  
19 Agreement together with its attached exhibits will constitute the entire agreement between the  
20 Parties relating to the Settlement, superseding any and all oral representations, warranties,  
21 covenants, or inducements made to or by any Party.

22 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant  
23 and represent that they are authorized by Plaintiff and Defendant, respectively, to take all  
24 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to  
25 effectuate its terms, and to execute any other documents reasonably required to effectuate the  
26 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 a mediator 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.

12.7.1. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor will 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.

12.7.2. 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.

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

12.7.4. 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.

12.7.5. 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.

12.7.6. 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 will survive the execution of this Agreement.

12.7.7. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant 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 rule of court. Not later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff will destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.7.8. 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.

12.7.9. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement will 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 will be on the first business day thereafter.

12.7.10. 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, to the other Party's respective counsel of record.

12.8. 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

1 Agreement will be accepted as an original. All executed counterparts and each of them will be  
2 deemed to be one and the same instrument if counsel for the Parties will exchange between  
3 themselves signed counterparts. Any executed counterpart will be admissible in evidence to  
4 prove the existence and contents of this Agreement.

5 12.9. Stay of Litigation. The Parties agree that upon the execution of this Agreement the  
6 litigation will be stayed, except to effectuate the terms of this Agreement. The Parties further  
7 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the  
8 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement  
9 process.

10 //

11 //

1  
2 Dated: 03/14/2023, 2023

**ESMERALDA GUERRERO**

DocuSigned by:  
*Esmeralda Guerrero*  
EE8376F2AAB7484...

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4  
5 Dated: \_\_\_\_\_, 2023

**THE AMERICAN SOCIETY FOR THE PREVENTION  
OF CRUELTY TO ANIMALS**

6  
7  
8 By:  
9 Title:

10 **APPROVED AS TO FORM AND CONTENT:**

11 Dated: 03/14/\_\_\_\_\_, 2023

**LAVI & EBRAHIMIAN, LLP**

12 DocuSigned by:  
*Joseph Lavi*  
871E0169FCF244D...

13 Joseph Lavi, Esq.  
14 Vincent Granberry, Esq.  
15 Melissa Huether, Esq.  
16 Attorneys for Plaintiff Esmeralda Guerrero, on behalf of  
17 themselves and all others similarly situated

18 Dated: \_\_\_\_\_, 2023

**DAVIS WRIGHT TREMAINE LLP**

19  
20 Judith Droz Keyes, Esq.  
21 Vandana Kapur, Esq.  
22 Raina Singer, Esq.  
23 Attorneys for Defendant The American Society for the  
24 Prevention of Cruelty to Animals  
25  
26  
27  
28

1 Dated: \_\_\_\_\_, 2023

2 **ESMERALDA GUERRERO**

3  
4  
5 Dated: February 27, 2023

**THE AMERICAN SOCIETY FOR THE PREVENTION  
OF CRUELTY TO ANIMALS**

6  
7  
8   
9 By: Robert S. Jones  
Title: SVP + Chief Legal Officer

10 **APPROVED AS TO FORM AND CONTENT:**

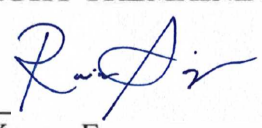
11 Dated: \_\_\_\_\_, 2023

**LAVI & EBRAHIMIAN, LLP**

12  
13 \_\_\_\_\_  
14 Joseph Lavi, Esq.  
15 Vincent Granberry, Esq.  
16 Melissa Huether, Esq.  
17 Attorneys for Plaintiff Esmeralda Guerrero, on behalf of  
18 themselves and all others similarly situated

19 Dated: March 21, 2023

**DAVIS WRIGHT TREMAINE LLP**

20   
21 \_\_\_\_\_  
22 Judith Droz Keyes, Esq.  
23 Vandana Kapur, Esq.  
24 Raina Singer, Esq.  
25 Attorneys for Defendant The American Society for the  
26 Prevention of Cruelty to Animals

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 8889 W. Olympic Blvd., Suite 200, Beverly Hills, California 90211.

On August 28, 2023, I served the foregoing documents, described as:

**1. “[PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT”**

on all interested parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

*Attorney(s) for Defendant THE AMERICAN  
SOCIETY FOR PREVENTION OF CRUELTY  
TO ANIMALS:*

Judith D. Keyes, Esq.

[jkeyes@dwt.com](mailto:jkeyes@dwt.com)

Vandana Kapur, Esq.

[vandanakapur@dwt.com](mailto:vandanakapur@dwt.com)

Raina Singer, Esq.

[rainasinger@dwt.com](mailto:rainasinger@dwt.com)

**DAVIS WRIGHT TREMAINE LLP**

865 South Figueroa Street, 24<sup>th</sup> FL

Los Angeles, CA 90017

☒ **(VIA CASE ANYWHERE)** I caused a true and correct copy of the document(s) described above to be electronically served on counsel of record at the electronic service addresses maintained and transmitted by CASE ANYWHERE

☒ **(STATE)** I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct.

Executed August 28, 2023, at Beverly Hills, California.

/s/ Brenda Castillo  
Brenda Castillo