

JUDITH DROZ KEYES (State Bar No. 66408)
 jkeyes@dwt.com
 VANDANA KAPUR (State Bar No. 281773)
 vandanakapur@dwt.com
 RAINA SINGER
 rainasinger@dwt.com (State Bar No. 323116)
 DAVIS WRIGHT TREMAINE LLP
 865 South Figueroa Street, 24th Floor
 Los Angeles, California 90017-2566
 Telephone: (213) 633-6800
 Fax: (213) 633-6899

Attorneys for Defendant
 THE AMERICAN SOCIETY FOR THE
 PREVENTION OF CRUELTY TO ANIMALS

Joseph Lavi, Esq. (SBN 209776)
 Vincent C. Granberry, Esq. (SBN 276483)
 Melissa A. Huether, Esq. (SBN 316604)
LAVI & EBRAHIMIAN, LLP
 8889 W. Olympic Blvd., Suite 200
 Beverly Hills, California 90211
 Telephone: (310) 432-0000
 Facsimile: (310) 432-0001
 Emails: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
mhuether@lelawfirm.com
wht3@lelawfirm.com

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

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.

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

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

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

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

1.23. "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.

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

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

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

1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the 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

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

3 2.2. On February 7, 2022, pursuant to Labor Code section 2699.3, subd.(a), Plaintiff
 4 provided timely written notice to Defendant and the LWDA of her claim that she was entitled to
 5 civil penalties under PAGA, including the specific provisions of the Labor Code she contends
 6 were violated and the theories supporting her contentions.

7 2.3. On May 26, 2022, Plaintiff filed the PAGA Action predicated on the same
 8 allegations as those raised in the Action. PAGA penalties were sought based on the following
 9 underlying claims: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3)
 10 failure to provide meal and rest periods; (4) failure to timely pay wages during employment; (5)
 11 failure to provide complete and accurate wage statements; and (6) failure to timely pay wages
 12 upon separation of employment. On December 6, 2022, the Parties participated in an all-day
 13 mediation for the Action and PAGA Action with the Honorable Daniel Buckley, which led to this
 14 Agreement to settle both cases.

15 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, hundreds of
 16 documents relating to Defendant's policies, practices, and procedures regarding paying non-
 17 exempt employees all hours worked, meal and rest period policies, payroll, timekeeping, and
 18 operational policies. Plaintiff also obtained and reviewed time records, pay records, and
 19 information relating to the size and scope of the Class, as well as data permitting Plaintiff to
 20 understand the number of weeks worked during the Class Period. The Parties agree that the
 21 above-described investigation and evaluation, as well as the information exchanged during the
 22 settlement negotiations, was sufficient to satisfy the criteria for court approval set forth in *Dunk v.*
 23 *Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail,*
 24 *Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

25 2.5. Pursuant to the Settlement, Plaintiff will file a Stipulation and Proposed Order to
 26 File a First Amended Complaint (the "Stipulation") in the Action, seeking leave to amend the
 27 Action to add: (1) the PAGA cause of action, as well as any associated allegations in the PAGA
 28

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

1 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class
2 Representative Service Payment will not precede disbursement of Individual Class Payments and
3 Individual PAGA Payments.

4 4.4.1. The Administrator will issue checks for the Individual Class Payments
5 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S.
6 Mail, postage prepaid. The face of each check will prominently state the date (not less than 180
7 days after the date of mailing) when the check will be voided. The Administrator will cancel all
8 checks not cashed by the void date. The Administrator will send checks for Individual Settlement
9 Payments to all Participating Class Members (including those for whom Class Notice was
10 returned undelivered). The Administrator will send checks for Individual PAGA Payments to all
11 Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved
12 Employees (including those for whom Class Notice was returned undelivered). The
13 Administrator may send Participating Class Members a single check combining the Individual
14 Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement
15 Administrator must update the recipients' mailing addresses using the National Change of
16 Address Database.

17 4.4.2. The Administrator must conduct a Class Member Address Search for all
18 Class Members whose checks are returned undelivered without USPS forwarding addresses.
19 Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the
20 USPS forwarding address provided or to an address ascertained through the Class Member
21 Address Search. The Administrator need not take further steps to deliver checks to Class
22 Members whose re-mailed checks are returned as undelivered. The Administrator will promptly
23 send a replacement check to any Class Member whose original check was lost or misplaced,
24 requested by the Class Member prior to the void date.

25 4.4.3. For any Class Member whose Individual Class Payment check or
26 Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator
27 will transmit the funds represented by such checks to the California Controller's Unclaimed
28

1 Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to
2 the requirements of California Code of Civil Procedure Section 384, subd. (b).

3 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments
4 will not obligate Defendant to confer any additional benefits or make any additional payments to
5 Class Members (such as 401(k) contributions or bonuses) beyond those specified in this
6 Agreement.

7 **5. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire
8 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of
9 the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release
10 claims against all Released Parties as follows:

11 5.1. Plaintiff's Release. In exchange for the Class Representative Service Payment,
12 Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs,
13 administrators, successors, and assigns generally, release and discharge Released Parties from any
14 and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies,
15 damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and
16 expenses of any nature whatsoever, known or unknown, suspected or unsuspected, whether in
17 tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule,
18 ordinance or regulation, including but not limited to all claims arising out of, based upon, or
19 relating to her employment with Defendant or the remuneration for, or termination of, such
20 employment. ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions
21 to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
22 benefits, social security benefits, or workers' compensation benefits that arose at any time.
23 Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to,
24 the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that
25 Plaintiff's Release will be and remain effective in all respects, notwithstanding such different or
26 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

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

5.3. Release by Non-Participating Class Members Who Are Aggrieved Employees: 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 PAGA Period facts stated in the Operative Complaint and the PAGA Notice, including but not limited to any and all claims involving any and all alleged or actual failures to timely, fully, properly, or completely pay any minimum wages, overtime premium wages, double time wages, meal or rest period premium wages; any and all alleged or actual failures to comply with meal or rest period requirements; any and all alleged or actual failures to provide proper, accurate, timely, adequately descriptive, or complete wage statements or pay stubs; any and all alleged or actual failures to pay all wages, or compensation owed to a fired, quitting, or otherwise departing employee; any and all alleged or actual unfair business practices as to the foregoing claims; and any and all alleged or actual failures to pay any interest or penalties owed as a result of any of the foregoing (the "Released PAGA Claims"). Plaintiff and Aggrieved Employees will release Defendant and the Released Parties from all remedies that could be claimed in connection with the Released PAGA Claims including but not limited to statutory, constitutional, contractual damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief.

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. Plaintiff's Responsibilities. At least five (5) court days ahead of the filing deadline, 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, 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.

1 7.4.2. Using best efforts to perform as soon as possible, and in no event later than
2 fourteen (14) days after receiving the Class Data, the Administrator will send to all Class
3 Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
4 the Class Notice (with Spanish translation, if applicable) substantially in the form attached to this
5 Agreement as Exhibit A. The first page of the Class Notice will prominently estimate the dollar
6 amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class
7 Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate
8 these amounts. Before mailing Class Notices, the Administrator will update Class Member
9 addresses using the National Change of Address database.

10 7.4.3. Not later than three (3) business days after the Administrator’s receipt of
11 any Class Notice returned by the USPS as undelivered, the Administrator will re-mail the Class
12 Notice using any forwarding address provided by the USPS. If the USPS does not provide a
13 forwarding address, the Administrator will conduct a Class Member Address Search, and re-mail
14 the Class Notice to the most current address obtained. The Administrator has no obligation to
15 make further attempts to locate or send Class Notice to Class Members whose Class Notice is
16 returned by the USPS a second time.

17 7.4.4. The deadlines for Class Members’ written objections, Challenges to
18 Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional
19 fourteen (14) days beyond the sixty (60) days otherwise provided in the Class Notice for all Class
20 Members whose notice is re-mailed. The Administrator will inform the Class Member of the
21 extended deadline with the re-mailed Class Notice.

22 7.4.5. If the Administrator, Defendant, or Class Counsel is contacted by or
23 otherwise discovers any persons who believe they should have been included in the Class Data
24 and should have received Class Notice, the Parties will expeditiously meet and confer in person or
25 by telephone, and in good faith. in an effort to agree on whether to include them as Class
26 Members. If the Parties agree, such persons will be Class Members entitled to the same rights as
27 other Class Members, and the Administrator will send, via email or overnight delivery, a Class
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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
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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
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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
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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

1 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
2 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
3 will not constitute a material modification of the Judgment within the meaning of this paragraph,
4 as long as the Gross Settlement Amount remains unchanged.

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

8 **12. ADDITIONAL PROVISIONS.**

9 12.1. No Admission of Liability, Class Certification or Representative Manageability for
10 Other Purposes. This Agreement represents a compromise and settlement of highly disputed
11 claims. Nothing in this Agreement is intended or should be construed as an admission by
12 Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has
13 any liability for any claims asserted; nor should it be intended or construed as an admission by
14 Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class
15 certification and representative treatment is for purposes of this Settlement only. If, for any
16 reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant
17 reserves the right to contest certification of any class for any reasons, and Defendant reserves all
18 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
19 certification on any grounds available and to contest Defendant's defenses. The Settlement, this
20 Agreement, and Parties' willingness to settle the Action will have no bearing on, and will not be
21 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
22 Settlement and this Agreement).

23 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant
24 and Defense Counsel separately agree that, until the Motion for Preliminary Approval of
25 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause
26 or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement
27 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, Defendant 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, any with 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. No Solicitation. 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 will 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. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits will 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. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, 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 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 Dated: 03/14/2023, 2023

ESMERALDA GUERRERO

DocuSigned by:

Esmeralda Guerrero

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5 Dated: _____, 2023

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

By: _____

Title:

APPROVED AS TO FORM AND CONTENT:

11 Dated: 03/14/_____, 2023

LAVI & EBRAHIMIAN, LLP

DocuSigned by:

Joseph Lavi

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Joseph Lavi, Esq.

Vincent Granberry, Esq.

Melissa Huether, Esq.

Attorneys for Plaintiff Esmeralda Guerrero, on behalf of
themselves and all others similarly situated

17 Dated: _____, 2023

DAVIS WRIGHT TREMAINE LLP

Judith Droz Keyes, Esq.

Vandana Kapur, Esq.

Raina Singer, Esq.

Attorneys for Defendant The American Society for the
Prevention of Cruelty to Animals

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: Rafael S. Jones
Title: SVP + Chief Legal Officer

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

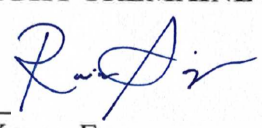
11 Dated: _____, 2023

LAVI & EBRAHIMIAN, LLP

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

17 Dated: March 21, 2023

DAVIS WRIGHT TREMAINE LLP

18 
19 _____
20 Judith Droz Keyes, Esq.
21 Vandana Kapur, Esq.
22 Raina Singer, Esq.
Attorneys for Defendant The American Society for the
Prevention of Cruelty to Animals