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IGNACIO MACIEL, RUTH TORRES, and all others similarly situated

[other counsel on next page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IGNACIO MACIEL, RUTH TORRES on behalf
of themselves and all other similarly situated
employees,

Plaintiffs,

v.

M.A.C. COSMETICS INC.; a New York
corporation; and DOES 1-50, inclusive,

Defendants.

Case No. 3:23-CV-03718-AMO

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

Judge: Hon. Araceli Martinez-Olguin

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M.A.C. COSMETICS INC.

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

2 This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,”
3 “Agreement” or “Settlement Agreement”) is made and entered into by and between Plaintiffs Ignacio
4 Maciel (“Maciel”) and Ruth Torres (“Torres”) (collectively, “Plaintiffs”), on behalf of themselves and,
5 subject to the approval of the Court, on behalf of all others similarly situated and purported Class
6 Members and Aggrieved Employees (defined herein), pursuant to the California Private Attorneys
7 General Act, and Defendant M.A.C. Cosmetics Inc. (“M.A.C.”) (together with Plaintiffs, “Parties”).

8 **RECITALS**

9 This Settlement is made and entered into by and between Plaintiffs and M.A.C. and is subject
10 to the terms and conditions hereof and the Court’s approval. The Parties expressly acknowledge that
11 this Agreement is entered into solely for the purpose of compromising significantly disputed claims
12 and that nothing herein is an admission of liability or wrongdoing by M.A.C. If, for any reason, the
13 Settlement is not approved, it will be of no force or effect, and the Parties shall return to their original
14 respective positions.

15 **DEFINITIONS**

16 The following definitions are applicable to this Agreement. Definitions contained elsewhere
17 in this Agreement shall also be effective:

18 1. “Action” means *Ignacio Maciel, Ruth Torres v. M.A.C. Cosmetics Inc.*, U.S. District
19 Court for the Northern District of California Case No. 3:23-CV-03718-AMO (originally filed on April
20 27, 2022, in the Superior Court of California, County of San Francisco, Case No. CGC-22-599387
21 and subsequently removed to federal court on July 26, 2023).

22 2. “Aggrieved Employee” means any person employed by M.A.C. in California as an
23 hourly paid, non-exempt employee, at any time from May 9, 2021, to the date of the Court’s order
24 preliminarily approving this Settlement.

25 3. “Class Counsel” means Righetti Glugoski, P.C. and Nathan & Associates, APC.

26 4. “Class Counsel’s Award” means attorneys’ fees and reasonable costs/expenses
27 incurred by Class Counsel and approved by the Court in the Action. M.A.C. agrees not to oppose Class
28 Counsel’s request for an award of fees up to a maximum of thirty-five percent (35%) of the Gross
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1 Settlement Amount, or Four Million Dollars Two Hundred Thousand and Zero Cents (\$4,200,000.00),
2 and costs/expenses not to exceed One Hundred and Fifty Thousand Dollars and Zero Cents
3 (\$150,000.00) (together, “Class Counsel’s Award”), subject to the Court granting Final Approval of
4 this Settlement and subject to the exhaustion of any and all appeals.

5 5. “Class List and Data” means a complete list of all Class Members and Aggrieved
6 Employees that M.A.C. will diligently and in good faith compile from its records and provide to the
7 Settlement Administrator within thirty (30) calendar days after Preliminary Approval of this
8 Settlement. The Class List and Data shall be formatted in Microsoft Office Excel and shall include
9 each Class Member and Aggrieved Employee’s full name, most recent mailing address, Social
10 Security Number, dates of employment with M.A.C., and the respective number of Class Period
11 Workweeks and PAGA Pay Periods.

12 6. “Class Member” means a person employed by M.A.C. in California as an hourly paid,
13 non-exempt employee, at any time from April 27, 2018, to the date of the Court’s order preliminarily
14 approving this Settlement. Defendant represents that the number of Class Members shall not exceed
15 5,282 individuals.

16 7. “Class Period” means the period from April 27, 2018, to the date of the Court’s order
17 preliminarily approving this Settlement.

18 8. “Class Representatives” means the named Plaintiffs in the Complaint in the Action
19 seeking Court approval to serve as a Class Representatives.

20 9. “Class Representative Enhancement Payments” mean the amounts to be paid to each
21 named Plaintiff in recognition of his or her effort and work in prosecuting the Action on behalf of
22 Class Members. Subject to Court approval, M.A.C. agrees to not oppose a request that Maciel shall
23 be paid up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) and that Torres shall be paid up
24 Twenty Thousand Dollars and Zero Cents (\$20,000.00) from the Gross Settlement Amount, subject
25 to the Court granting Final Approval of this Agreement and subject to the exhaustion of any and all
26 appeals.

27 10. “Complaint” means collectively: (1) the Class Action Complaint originally filed on
28 April 27, 2022 in the Superior Court of California, County of San Francisco, Case No. CGC-22-
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599387 and subsequently removed to federal court on July 26, 2023 (“Original Complaint”); (2) the First Amended Complaint filed on or about June 27, 2023 in the Superior Court of California, County of San Francisco, Case No. CGC-22-599387; (3) the Second Amended Complaint filed on or about January 11, 2024, in the U.S. District Court for the Northern District of California, Case No. 3:23-CV-03718-AMO; and (4) the operative Third Amended Complaint, filed on or about February 21, 2024, in the U.S. District Court for the Northern District of California, Case No. 3:23-CV-03718-AMO (“Third Amended Complaint”), which includes Plaintiffs’ claim for penalties pursuant to the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”) originally filed by Maciel on July 14, 2022, in the Superior Court of California, County of Alameda, Case No. 22CV014282 (“PAGA Complaint”), which Plaintiff dismissed without prejudice following Plaintiffs’ filing of their Third Amended Complaint in this Action.

11. “Counsel for M.A.C.” means Allison Wallin and Emily J. Atherton of Littler Mendelson, P.C., 2049 Century Park East, 5th Floor, Los Angeles, California 90067.

12. “Court” means the United States District Court for the Northern District of California, or any other court taking jurisdiction of the Action.

13. “Defendant” means M.A.C. Cosmetics Inc.

14. “Defendant’s Counsel” means Littler Mendelson PC.

15. “Effective Date” means either (a) if no appeal is filed, the date that is sixty-five (65) days after the date the Court enters an order granting Final Approval of this Settlement; or (b) if an appeal is filed timely and not withdrawn, the date on which the appeal has been resolved finally and conclusively with no right to pursue further remedies or relief. The Settlement shall not become effective until the Court’s order approving the Settlement is completely final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

16. “Final Approval” means the entry of an order that the Plaintiffs will seek from the Court, and the entry of which shall reflect the Court’s Judgment finally approving the Settlement.

17. “Gross Settlement Amount” means the Gross Settlement Amount of Twelve Million Dollars and Zero Cents (\$12,000,000.00) to be paid by M.A.C., which includes the Net Settlement Amount, the Class Representative Enhancement Payments, the Labor and Workforce Development

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1 Agency's ("LWDA") portion of the PAGA Settlement Amount, Settlement Administration Costs, and
2 Class Counsel's Award. This Gross Settlement Amount has been agreed to by Plaintiffs and M.A.C.
3 based on the aggregation of the agreed-upon settlement value of the claims. In no event will M.A.C.
4 be liable for more than the Gross Settlement Amount except as otherwise explicitly set forth herein.
5 M.A.C. will be separately responsible for and shall pay the employer's share of taxes and
6 contributions, including and not limited to FICA, FUTA, and SDI contributions, which are due and
7 payable as a result of this Settlement, and which shall not be paid from the Gross Settlement Amount.

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

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

14 20. "Net Settlement Amount" means the portion of the Gross Settlement Amount
15 remaining after deduction of the approved Class Representative Enhancement Payments, Settlement
16 Administration Costs, the LWDA's portion of the PAGA Settlement Amount, and Class Counsel's
17 Award.

18 21. "Notice of Objection" means a Class Member's valid and timely objection to the
19 Settlement Agreement, which may be made in person at the Final Approval Hearing and/or in writing
20 before the Hearing. For a written Notice of Objection to be valid, it must include: (a) the objecting
21 Class Member's name, signature, address, telephone number, and last four digits of Social Security
22 Number; (b) a written statement stating the objection(s) to the Settlement Agreement; and (c) copies
23 of any papers, briefs, or other documents supporting the objection(s).

24 22. "Notice Packet" means the Notice of Proposed Class Action Settlement and Final
25 Fairness and Approval Hearing, substantially in the form attached as **Exhibit A**.

26 23. "PAGA Pay Period" means any pay period during the PAGA Period during which an
27 Aggrieved Employee worked for M.A.C. for at least one day.

28 24. "PAGA Period" means the period from May 9, 2021, to the date of the Court's order

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preliminarily approving this Settlement.

25. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.) as amended.

26. “PAGA Notices” means Plaintiff Maciel’s March 30, 2022, letter and subsequent amended letters to Defendant and the Labor Workforce Development Agency (“LWDA”) providing notice pursuant to Labor Code section 2699.3, subd. (a).

27. “PAGA Settlement Amount” means the amount of Three Hundred Thousand Dollars and Zero Cents (\$300,000.00), to be paid from the Gross Settlement Amount, that the Parties have agreed will be allocated toward penalties under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as further set forth in Paragraph 48.

28. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.

29. “Parties” means Plaintiffs and Defendant collectively.

30. “Plaintiffs” means Ignacio Maciel and Ruth Torres.

31. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement.

32. “Qualified Settlement Fund” means a fund, account, or trust satisfying the requirements of 26 C.F.R. § 1.468B-1, established by the Settlement Administrator for the purpose of distributing the Gross Settlement Amount according to the terms of this Settlement.

33. “Released Claims” means all claims, rights, demands, liabilities and causes of action, whether in law or equity, in any way arising from or related to the facts and/or claims alleged in the Complaint or that were pled or could have been pled (based on the alleged facts or facts ascertained) in the Action, in the Complaint, or in the PAGA Notices submitted to the LWDA by Plaintiffs and/or Class Members, including but not limited to claims for wages, restitution, statutory and civil penalties, interest, fees, and costs, and claims arising from California’s Private Attorneys General Act, based on the following categories of claims and allegations: (1) Failure to Reimburse Business Expenses and Losses (Cal. Labor Code §§ 2800, *et seq.*); (2) Wage Statement Violations; (3) Minimum Wage and Overtime Violations; (4) Wages Upon Separation; (5) Failure to Provide Meal

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1 Periods; (6) Failure to Authorize and Permit Rest Breaks; (7) Unfair Business Practices (Cal. Bus.
2 & Prof. Code §§ 17200, *et seq.*), including incorporated or related claims based on alleged violations
3 of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 551, 552, 1174,
4 1174.5, 1194, 1197, 1197.1, 1198, 2800, and 2802 *et seq.* and California Industrial Welfare
5 Commission (“IWC”) Wage Order 7; and (8) civil penalties under the Private Attorneys General
6 Act (California Labor Code sections 2698 *et seq.*, including incorporated or related claims based on
7 alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512,
8 551, 552, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2800, and 2802 *et seq.* and IWC Wage Order 7.
9 The res judicata effect of the Judgment will be the same as that of the Released Claims.

10 34. “Released Class Claims Period” means the period from April 27, 2018, to the date the
11 Settlement is preliminarily approved by the Court.

12 35. “Released PAGA Claims Period” means the period from May 9, 2021, to the date the
13 Settlement is preliminarily approved by the Court.

14 36. “Released Parties” means M.A.C. Cosmetics Inc., and each of its past, present, and/or
15 future direct and/or indirect officers, owners, directors, members, managers, shareholders, employees,
16 agents, principals, heirs, representatives, partners, investors, administrators, accountants, auditors,
17 consultants, insurers and reinsurers, successors and predecessors in interest, assigns, transferees,
18 beneficiaries, fiduciaries, joint venturers, subsidiaries, affiliates, divisions, parents, and attorneys,
19 individually and collectively.

20 37. “Request for Exclusion” means a timely letter submitted by a Class Member
21 indicating a request to be excluded from the settlement. The Request for Exclusion must: (a) be
22 signed by the Class Member; (b) contain the name, address, telephone number and the last four digits
23 of the Social Security Number of the Class Member requesting exclusion; (c) clearly state that the
24 Class Member does not wish to be included in the settlement of the Action; and (d) be returned to
25 the Settlement Administrator in the manner and time set forth in the Notice. Except as otherwise
26 provided in Paragraph 33 with respect to the settlement and release of Released Claims arising under
27 PAGA, Participating Class Members will be bound by all terms of the Settlement if the Court grants
28 Final Approval.

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1 38. “Response Deadline” means the deadline by which Class Members must submit a
2 valid Request for Exclusion, Workweek dispute, or Notice of Objection to the Settlement. The
3 Response Deadline will be forty-five (45) calendar days from the initial mailing of the Notice Packet
4 by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday, in which
5 case the Response Deadline will be extended to the next day on which the U.S. Postal Service is
6 open. The Response Deadline for Requests for Exclusion will be extended ten (10) calendar days
7 for any Class Member who is re-mailed a Notice Packet by the Settlement Administrator in
8 accordance with the notice procedure set forth herein. Under no circumstances will the re-mailing
9 of a Notice Packet extend the original deadline of forty-five (45) calendar days by more than ten
10 (10) calendar days, except by express agreement between Class Counsel and Defendant.
11 Additionally, under no circumstances will the Settlement Administrator have the authority to extend
12 the deadline for Class Members to submit a Request for Exclusion or object to the Settlement.

13 39. “Settlement Administrator” means ILYM Group, Inc. (“ILYM”), or any other third-
14 party class action settlement administrator agreed to by the Parties and approved by the Court for the
15 purposes of administering this Settlement. The Parties each represent that they do not have any
16 financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement
17 Administrator that could create a conflict of interest.

18 40. “Settlement Administration Costs” means the costs payable from the Gross Settlement
19 Amount to the Settlement Administrator for administering this Settlement, including, but not limited
20 to, printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the
21 Gross Settlement Amount, and providing necessary reports and declarations, as requested by the
22 Parties. The Settlement Administration Costs shall be paid from the Gross Settlement Amount,
23 including, if necessary, any such costs in excess of the amount represented by the Settlement
24 Administrator as being the maximum costs necessary to administer the Settlement. The Settlement
25 Administration Costs are currently estimated to be Twenty Nine Thousand Dollars (\$29,000.00).

26 41. “Settlement Payment Check” means the payment to Participating Class Members
27 pursuant to this Settlement reflecting a gross and net amount after applicable withholdings. The back
28 of the Settlement Payment Check shall state, immediately next to the space where the check is to be

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1 endorsed by the payee: “By endorsing this check, I acknowledge that I read and understood the Notice
2 of Proposed Class Action Settlement and Final Fairness and Approval Hearing and did not exclude
3 myself from the Settlement as set forth in the Notice. I also understand that even if I negotiate this
4 check, but I choose not to endorse this check, I am bound by all the terms of the Settlement and the
5 Judgment in the matter.”

6 42. “Workweek” means any calendar week during the Class Period in which a Class
7 Member performed at least one day of work for Defendant. Defendant represents the number of
8 Workweeks worked by Class Members shall not exceed 269,334 Workweeks.

9 TERMS OF AGREEMENT

10 The Plaintiffs, on behalf of themselves and Participating Class Members, and Defendant, agree
11 as follows:

12 43. No Admission or Concession by the Released Parties. Defendant and the Released
13 Parties deny any and all claims alleged in this Action and deny all wrongdoing whatsoever.
14 Defendant reserves the right to contest any issues relating to certification and liability if the
15 Settlement is not approved. This Agreement is not a concession or admission and shall not be used
16 against Defendant or any of the Released Parties as an admission or indication with respect to any
17 claim of any fault, concession, or omission by Defendant or any of the Released Parties. Whether
18 or not the Court grants Final Approval, neither the Settlement, nor any document, statement,
19 proceeding, or conduct related to this Agreement, nor any reports or accounts thereof, shall in any
20 event (i) be construed as, offered, admitted into evidence as, or received as evidence of a
21 presumption, concession, indication, or admission by any of the Released Parties of any liability,
22 fault, wrongdoing, omission, concession, or damage; or (ii) disclosed, referred to, or offered or
23 received in evidence against any of the Released Parties, in any further proceeding in the Action, or
24 any other civil, criminal, or administrative action or proceeding except for purposes of enforcing
25 this Agreement. However, the Released Parties may file the Judgment, Settlement, or any other
26 papers and records on file in the Action as evidence of the Settlement to support Preliminary
27 Approval, Final Approval and/or a defense of *res judicata*, *collateral estoppel*, release, waiver, or
28 other theory of claim preclusion or issue preclusion or similar defense as to the Released Claims

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1 and/or in defense of any future claim in this or any other proceeding.

2 44. Funding of the Gross Settlement Amount and Disbursement of Payments. Within
3 thirty (30) calendar days after the Effective Date of the Settlement, M.A.C. will make a one-time
4 deposit of the Gross Settlement Amount into a Qualified Settlement Fund account to be established
5 by the Settlement Administrator. Within fifteen (15) calendar days of the funding of the Settlement,
6 the Settlement Administrator will issue payments to (a) Participating Class Members; (b) the Labor
7 and Workforce Development Agency; (c) Aggrieved Employees; (d) Plaintiffs; and (e) Class
8 Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved
9 services performed in connection with the Settlement.

10 45. Class Counsel and Class Counsel's Award.

11 45(a) Solely for purposes of this Settlement, the Parties stipulate and agree that
12 Righetti Glugoski, P.C. and Nathan & Associates, APC shall be appointed
13 as Class Counsel for the Class Members.

14 45(b) Defendant agrees not to oppose or impede any application or motion by
15 Class Counsel for attorneys' fees and costs of up to a maximum of thirty-
16 five percent (35%) of the Gross Settlement Amount, or Four Million Two
17 Hundred Thousand Dollars and Zero Cents (\$4,200,000.00), and
18 costs/expenses not to exceed One Hundred and Fifty Thousand Dollars
19 and Zero Cents (\$150,000.00) subject to Final Approval and subject to the
20 exhaustion of any and all appeals. The Settlement Administrator (and not
21 Defendant) shall issue an IRS Form 1099 to Class Counsel reflecting the
22 awarded attorneys' fees, costs, and expenses. Any portion of the Class
23 Counsel's Award not awarded to Class Counsel shall be a part of the Net
24 Settlement Amount. Defendant will not be responsible for any attorneys'
25 fees or costs and expenses incurred by any counsel for Plaintiffs or Class
26 Members that is not Class Counsel.

27 46. Class Representatives and Class Representative Enhancement Payments.

28 46(a) Solely for purposes of this Settlement, the Parties stipulate and agree that

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1 Plaintiffs Maciel and Torres shall be appointed as Class Representatives
2 for the Class Members.

3 46(b) In recognition of their efforts and work in prosecuting the Action on behalf
4 of Class Members, Defendant agrees not to oppose or impede an
5 application or motion by Plaintiffs for a Class Representative
6 Enhancement Payment of up to Twenty Thousand Dollars and Zero Cents
7 (\$20,000.00) from the Gross Settlement Amount, to each Plaintiff, subject
8 to Final Approval and subject to the exhaustion of any and all appeals.
9 Any portion of the Class Representative Enhancement Payments not
10 awarded to Plaintiffs will be added to the Net Settlement Amount. The
11 Class Representative Enhancement Payments, which shall be paid from
12 the Gross Settlement Amount, shall be in addition to Plaintiffs' Individual
13 Class Payments. In exchange for the Class Representative Enhancement
14 Payments, Plaintiffs shall execute a general release in favor the Released
15 Parties as set forth herein. The Settlement Administrator (and not
16 Defendant) shall issue an IRS Form 1099 to the Plaintiffs reflecting their
17 Class Representative Enhancement Payments. Plaintiffs agree to assume
18 responsibility for remitting to all relevant taxing authorities the amounts to
19 be deducted by law, if any, from their Class Representative Enhancement
20 Payments. In addition, Plaintiffs shall hold Defendants and the Released
21 Parties harmless for all taxes, interest, penalties, and costs incurred by
22 Defendants or the Released Parties in connection with any claims relating
23 to their non-withholding of taxes from the Class Representative
24 Enhancement Payments.

25 47. Settlement Administration Costs. The Settlement Administrator will be paid for the
26 reasonable costs of administration of the Settlement and distribution of payments from the Gross
27 Settlement Amount, which, subject to Paragraph 50, are estimated to equal Twenty-Nine Thousand
28 Dollars (\$29,000). These costs will include, *inter alia*, calculating, paying, and reporting the

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1 required payments on the Individual Class Payments; the issuing and collection of 1099 and W-2
2 IRS Forms; distributing the Notice Packet after skip tracing for current address information;
3 processing Requests for Exclusion, Notices of Objection, and Workweek disputes; performing “skip
4 trace” on Notice Packets returned as undeliverable; calculating and distributing from the Gross
5 Settlement Amount all Individual Class Payments, the PAGA Settlement Amount, Class
6 Representative Enhancement Payments, and Class Counsel’s Award; and providing necessary
7 reports and declarations, among other tasks that the Parties may agree upon or as set forth in this
8 Agreement.

9 48. PAGA Settlement and Release. The Parties acknowledge and agree that for purposes
10 of PAGA and the Judgment, Aggrieved Employees were allegedly aggrieved in the same manner
11 pursuant to California Labor Code section 2698, *et. seq.*, in that each Aggrieved Employee allegedly
12 suffered at least one of the alleged Labor Code violations asserted in the Complaint for which the
13 PAGA provides an available remedy. The Parties also acknowledge and agree that, by law:
14 (i) Aggrieved Employees have no right to opt out of, or object to, the settlement of PAGA claims;
15 (ii) the settlement of PAGA claims is subject to Court approval; and (iii) a judgment with respect to
16 PAGA claims is binding with respect to the Aggrieved Employees upon Court approval, pursuant
17 to California Labor Code section 2699(l), *Arias v. Superior Court (Dairy)*, 46 Cal. 4th 969 (2009),
18 and *Cardenas v. McLane Foodservice, Inc.*, No. SACV 10–473 DOC (FFMx), 2011 WL 379413, at
19 *3 (C.D. Cal. Jan. 31, 2011). As such, regardless of whether a Class Member submits a Request for
20 Exclusion, upon approval of the Settlement, Aggrieved Employees will be issued Individual PAGA
21 Payments as provided herein, and upon the Effective Date, shall be deemed to have released the
22 Released Claims arising under PAGA, as set forth in Paragraph 33.

23 48(a) The Parties agree that the amount of Three Hundred Thousand Dollars and
24 Zero Cents (\$300,000.00) (“PAGA Settlement Amount”) to be paid from
25 the Gross Settlement Amount will be paid as follows:

26 (i) Seventy-Five Percent (75%) of the PAGA Settlement Amount, or
27 \$225,000.00, of this sum will be paid to the California Labor and
28 Workforce Development Agency (“LWDA”). The Settlement

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Administrator shall be responsible for transmitting the LWDA's portion of the PAGA Settlement Amount to the LWDA in conformity with the rules and procedures that are in effect at the time that payment is being made.

(ii) Twenty-Five Percent (25%) of the PAGA Settlement Amount (Aggrieved Employees' PAGA Portion), or \$75,000.00, will be distributed to Aggrieved Employees as part of the Net Settlement Amount on a *pro rata* basis based on Workweeks during the applicable PAGA limitations period of May 9, 2021, to the date of the Court's order preliminarily approving this Settlement.

49. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual Class Payments to Participating Class Members in accordance with the terms of this Agreement. Defendant shall not maintain any reversionary right to any portion of the Gross Settlement Amount, including the Net Settlement Amount.

50. Acknowledgment of Potential Administration Cost Increases. The Parties hereby acknowledge that Settlement Administration Costs may increase above the current estimate of \$29,000.00 and that any such additional Settlement Administration Costs shall be taken out of the Gross Settlement Amount. Any portion of the estimated or designated Settlement Administration Costs that are not in fact required to fulfill the total Settlement Administration Costs shall be a part of the Net Settlement Amount.

51. Individual Class Payment Calculations. Individual Class Payments shall be calculated and apportioned from the Net Settlement Amount to Participating Class Members based on the number of Workweeks a Class Member worked during the Class Period. The Individual Class Payments are only being made in exchange for the promises set forth in this Agreement and will not be construed as compensation for purposes of determining eligibility for any health and welfare benefits or unemployment compensation. Specific calculations of Individual Class Payments shall be made as follows:

51(a) The Settlement Administrator will divide the Net Settlement Amount by 4988-3740-0588.1 / 119593-1010

the total number of Workweeks worked by all Class Members. This calculation will yield the “Initial Workweek Amount.”

51(b) Next, the Initial Workweek Amount is multiplied by each Class Member’s total number of Workweeks to arrive at the amount that each Class Member is entitled to receive (“Estimated Settlement Share”).

51(c) If the total Estimated Settlement Shares attributed to Class Members, as calculated, equals less than the Net Settlement Amount, the Individual Class Payments to be issued to the Participating Class Members will be proportionately increased for each Participating Class Member such that the total of the Individual Class Payments equals not less than the Net Settlement Amount.

51(d) The Individual Class Payment will be reduced by the Participating Class Member’s share of taxes and withholdings with respect to the portion of the payment that is deemed wages.

52. No Credit Toward Benefit Plans. Any and all payments made pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to which any Participating Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’ intention that this Settlement will not affect any rights, contributions, or amounts to which any Participating Class Members may be entitled under any benefit plan(s).

53. Allocation of Individual Class Payments to Wages. Seventy-eight percent (78%) of each gross Individual Class Payment will be allocated as non-wage payments consisting of interest, penalties, liquidated damages, and related aspects of the settlement (the “Non-Wage Income Settlement Payment”), and twenty-two percent (22%) of each gross Individual Class Payment will be allocated as wages (“Wage Income Settlement Payment”). The Wage Income Settlement Payments will be reported on IRS Forms W-2 and the Non-Wage Income Settlement Payments will be reported on an IRS Forms-1099 by the Settlement Administrator. Individual PAGA Payments to Aggrieved

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1 Employees shall be treated as non-wage payments and will be reported on an IRS Form 1099 by the
2 Settlement Administrator.

3 54. Settlement Administration Process. The Parties agree to cooperate in the
4 administration of the Settlement and to make all reasonable efforts to control and minimize the costs
5 and expenses incurred in the administration of the Settlement. The Settlement Administrator will
6 provide the following services:

7 54(a) Establish and maintain a Qualified Settlement Fund account.

8 54(b) Confirm the calculation of the total number of Workweeks worked by each
9 Class Member and calculate the amount of the Net Settlement Amount that
10 each Class Member is eligible for.

11 54(c) Updating, verifying, and searching for the last known addresses of Class
12 Members.

13 54(d) Printing and mailing the Notice Packets to each Class Member.

14 54(e) Establishing and maintaining a toll-free informational telephone support
15 line to assist Class Members who have questions regarding the Settlement
16 or Notice Packets.

17 54(f) Providing weekly email updates to the Parties showing Notice Packets
18 mailed, undeliverable mail returned and remailings, communications
19 received from Class Members, and Requests for Exclusion, Workweek
20 disputes, and Notices of Objection received, as well as providing any
21 updated reports to counsel for both Parties regarding the administration of
22 the Settlement as needed or requested.

23 54(g) Receiving, calculating, and processing Individual Class Payments for
24 Participating Class Members. This service will include claim amount
25 calculations, printing and issuance of checks, and preparation of W-2 and/or
26 1099 Forms. Basic accounting and tax preparation and forwarding of
27 Participating Class Members' tax withholdings will also be included as part
28 of this service.

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1 54(h) Informing Defendant of the employer-side tax liability and forwarding
2 Defendant's share of applicable employer payroll tax payments and
3 penalties to the appropriate government authorities.

4 54(i) Providing declarations and/or other information to the Court as requested
5 by the Parties and/or the Court.

6 54(j) Mailing a postcard reminder to those Class Members who have not
7 negotiated his/her check after ninety (90) days.

8 55. Delivery of the Class List and Data. Within thirty (30) calendar days of Preliminary
9 Approval, M.A.C. shall provide the Class List and Data to the Settlement Administrator.

10 56. Notice by First-Class U.S. Mail.

11 56(a) Within ten (10) calendar days after receiving the Class List and Data from
12 Defendant, the Settlement Administrator shall mail a Notice Packet, in
13 English and Spanish, to all Class Members via regular First-Class U.S.
14 Mail, using the most current, known mailing addresses identified in the
15 Class List and Data. Prior to the mailing, the Settlement Administrator
16 shall perform a search based on the National Change of Address Database
17 provided by the U.S. Postal Service or any other similar service available,
18 such as the NCOA service provided by Experian, to update and correct the
19 Class List and Data with any known or identifiable address changes.

20 56(b) If a new address is obtained by a way of a returned Notice Packet, then the
21 Settlement Administrator shall promptly forward the original Notice
22 Packet to the updated address via First-Class U.S. Mail, indicating on the
23 original Notice Packet the date of such re-mailing. Where a Notice Packet
24 is returned as undeliverable, without a forwarding address, the Settlement
25 Administrator will perform a computer/SSN and "skip trace" search to
26 obtain an updated address. The Parties agree to cooperate with the
27 Settlement Administrator to locate a more recent address for Class
28 Members, where necessary.

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1 57. Notice Packets. All Class Members will be mailed a Notice Packet in English and
2 Spanish as approved by the Court. Each Notice Packet will provide: (a) information regarding the
3 nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Class Member
4 definition; (d) the total number of Workweeks the respective Class Member worked for Defendant
5 during the Class Period; (e) the Class Member's estimated Individual Class Payment and the formula
6 for calculating Individual Class Payments; (f) the dates which comprise the Class Period; (g)
7 instructions on how to submit a valid Request for Exclusion or Notice of Objection; (h) instructions
8 on how to dispute the Workweeks allocated to a Class Member as reflected in the Notice Packet; (i)
9 the Response Deadline by which the Class Member must submit disputes, Requests for Exclusions,
10 and Notices of Objection; (j) the claims to be released, as set forth herein; and (k) the date for the
11 Final Approval Hearing. Class Members and Aggrieved Employees will be specifically informed that
12 neither Defendant nor Class Counsel make any representations regarding the tax implications of any
13 amounts paid under this Settlement and that if Class Members or Aggrieved Employees have any
14 questions regarding those implications, they can and should consult a tax expert.

15 58. Dispute Procedures. A Class Member may dispute the number of Workweeks
16 allocated to him or her, as reflected in his or her Notice Packet, by submitting a written dispute. The
17 Class Member shall be required to submit the dispute in this manner, prior to the Response Deadline,
18 along with supporting documentation to show the number of Workweeks that he or she contends are
19 appropriately attributable to the Class Member. A written dispute should contain as much of the
20 following information as possible: (1) the name and current address of the Class Member, (2) the
21 last four digits of his or her Social Security Number, (3) the name of the case, (4) a statement that
22 s/he disputes the Workweeks attributed to him or her, (5) a statement of the number of Workweeks
23 that s/he contends should be attributable to him or her, and (6) the Class Member's signature. If a
24 Class Member disputes the number of Workweeks attributed to him or her, Defendant's records
25 shall presumptively control. If there is a dispute, the Settlement Administrator will consult with the
26 Parties to determine both whether (i) any additional information is needed to resolve the dispute,
27 and (ii) an adjustment to the Class Member's Workweeks is warranted. The Parties shall engage in
28 a good faith effort to reach an agreement as to whether an adjustment for the Class Member is

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1 warranted and, if the Parties are unable to reach an agreement, the Claims Administrator shall
2 resolve the dispute based on information made available to the Claims Administrator by the Parties
3 and the Class Member.

4 59. Request for Exclusion Procedures. Any Class Member who wants to opt-out from
5 the Settlement must sign and submit a written Request for Exclusion to the Settlement Administrator
6 on or before the Response Deadline. Should the delivery be by mail, the postmark on the return
7 mailing envelope will be the exclusive means of determining whether a Request for Exclusion has
8 been timely submitted. All Requests for Exclusion will be submitted to the Settlement
9 Administrator, who will certify to Class Counsel and Defendant's Counsel, jointly, the Requests for
10 Exclusion that were timely submitted.

11 60. Settlement Terms Bind All Participating Class Members. Except as otherwise
12 provided in Paragraphs 33 and 48 with respect to the settlement and release of Released Claims
13 arising under PAGA, any Class Member who does not affirmatively opt-out of the Settlement by
14 submitting a timely and valid Request for Exclusion will become a Participating Class Member and
15 will be bound by all of the Settlement's terms, including those pertaining to the Released Claims, as
16 well as any Judgment that may be entered by the Court on Final Approval.

17 61. Objection Procedures. Class Members who do not opt-out of the Settlement may
18 object to the Settlement. To object to the Settlement, a Class Member must appear at the Final
19 Approval Hearing and/or file a Notice of Objection with the Court that complies with Paragraph 21
20 before the Response Deadline. Class Members who fail to object as specified above will be deemed
21 to have waived all objections to the Settlement and will be foreclosed from making any objections
22 to or seeking any adjudication or review, whether by appeal or otherwise, of the Settlement. At no
23 time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members
24 to submit a Notice of Objection to the Settlement Agreement or appeal from the Judgment.

25 62. Uncashed Settlement Checks. Any checks issued to Participating Class Members and
26 Aggrieved Employees will be negotiable for one hundred and twenty (120) calendar days. The
27 Settlement Administrator shall mail a postcard reminder to those Class Members who have not
28 negotiated his/her check after ninety (90) days. Thereafter, those funds represented by settlement

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1 checks that are returned as undeliverable or which remain uncashed shall be transmitted to the
2 California State Controller's Unclaimed Property Division in the name of the Participating Class
3 Member and/or Aggrieved Employee who failed to timely negotiate their checks.

4 63. Certification of Completion. Upon completion of administration of the Settlement,
5 the Settlement Administrator will provide a written declaration under oath to certify such completion
6 to the Court and counsel for all Parties.

7 64. Administration of Taxes by the Settlement Administrator. The Settlement
8 Administrator will be responsible for issuing to Plaintiffs, Participating Class Members, Aggrieved
9 Employees, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all
10 amounts paid pursuant to this Agreement. The Settlement Administrator will also be responsible for
11 forwarding to the appropriate government authorities (i) all Participating Class Members' share of
12 taxes and withholdings, and (ii) Defendant's share of applicable employer payroll tax payments and
13 penalties.

14 65. Tax Liability. Defendant makes no representation as to the tax treatment or legal
15 effect of the payments called for hereunder, and Plaintiffs, Class Members, and Aggrieved
16 Employees are not relying on any statement, representation, or calculation by Defendant or by the
17 Settlement Administrator in this regard. Plaintiffs, Participating Class Members, and Aggrieved
18 Employees understand and agree that except for the payment of the employer's portion of any
19 payroll taxes, Plaintiffs, Participating Class Members, and Aggrieved Employees will be solely
20 responsible for the payment of any taxes and penalties assessed on the payments described herein
21 and will hold Defendant and the Released Parties free and harmless for any taxes, penalties, interest,
22 liabilities, costs, and expenses caused by any such taxing authority relating in any way to the Class
23 Members', including Plaintiffs', Participating Class Members', and Aggrieved Employees', tax
24 treatment of payments made to them pursuant to this Settlement or failure to timely or properly pay
25 any taxes owed on their respective Individual Class Payment or Individual PAGA Payment.

26 66. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defendant's Counsel
27 are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
28 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10,

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as amended) or otherwise.

67. No Prior Assignments. Plaintiffs, Class Members, and Class Counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

68. Release of Claims by Participating Class Members. Upon the Effective Date, Plaintiffs and Participating Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Released Claims with respect to all of the Released Parties, and, as provided by Paragraph 33 and 48, as of the Effective Date, Plaintiffs and Aggrieved Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Released Claims arising under PAGA, with respect to all of the Released Parties.

69. Release of Additional Claims and Rights by Plaintiffs. Upon the Effective Date, as a condition of receiving any portion of their Class Representative Enhancement Payment, Plaintiffs will agree to the additional, following general release: In consideration of Defendant's promises and agreements as set forth herein, each Plaintiff hereby fully releases the Released Parties from any and all Released Claims and also generally releases and discharges the Released Parties from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or could have been asserted against the Released Parties arising out of or relating to Plaintiffs' employment by Defendant or termination thereof, including but not limited to claims for wages, restitution, penalties, retaliation, or wrongful termination of employment, as well as claims based on alleged discrimination on the basis of sex, race, national origin, ancestry, age, religion, disability, handicap, and/or veteran status, and/or any other state or federal or common law, statutory, or other claims arising out of or relating to Plaintiffs' employment by Defendant, including any interest thereon. This release specifically includes any and all claims, demands, obligations, and/or causes of action for damages, restitution, penalties, interest, and attorneys' fees and costs (except as provided by the Agreement) relating to or in any way connected with the matters referred to herein, whether or not known or suspected to exist, whether or not specifically or particularly described

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herein, and whether or not which, if known, would have materially affected the decision to enter into this Agreement. Thus, Plaintiffs expressly waive any right, claim, or right to assert hereafter that any claim, demand, obligation, and/or cause of action has, through ignorance, oversight, or error, been omitted from the terms of this Settlement. This Agreement will remain in effect as a full and complete release of all claims notwithstanding the discovery hereafter of the existence of any presently unknown claims, injuries, or facts. Additionally, California Civil Code Section 1542 provides:

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

Plaintiffs, having been advised by counsel, expressly waive all rights and benefits afforded by California Civil Code Section 1542, as well as all rights and benefits afforded by any other similar state or federal statute or common law principle. The release of claims set forth in this paragraph does not include claims for workers' compensation benefits, or any claims that may not be released by law.

70. Nullification of Settlement Agreement. If three percent (3%) or more of the Class Members submit timely Requests for Exclusion, Defendant may, at its election, rescind the Settlement and all actions taken in its furtherance will be thereby null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel, within fourteen (14) calendar days after the Settlement Administrator certifies to the Parties of the total number of Requests for Exclusion that were timely submitted. However, if Defendant exercises this right of rescission, Defendant must pay the Settlement Administration Costs incurred as of that date. In the event that: (a) the Court does not grant Final Approval as provided herein; or (b) the Settlement does not become final for any other reason, then this Settlement, and any documents generated to bring it into effect, will be null and void. If the Settlement does not become final, any order or Judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void.

71. Preliminary Approval Hearing. Plaintiffs will obtain a hearing before the Court to request the preliminary approval of the Settlement Agreement, and the entry of Preliminary Approval for: (a) conditional class certification of the Action for settlement purposes only, (b)

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1 Preliminary Approval of the proposed Settlement, and (c) setting a date for a Final Approval
2 Hearing. The Court's grant of Preliminary Approval will provide for the Notice Packet to be sent to
3 all Class Members as specified herein. In conjunction with the Preliminary Approval hearing,
4 Plaintiffs shall submit this Agreement, which sets forth the terms of this Settlement, and will include
5 the proposed Notice Packet. Class Counsel will be responsible for drafting all documents necessary
6 to obtain Preliminary Approval.

7 72. Final Approval Hearing and Entry of Judgment. Upon expiration of the deadlines to
8 submit Requests for Exclusion, or Notices of Objection, and with the Court's permission, a Final
9 Approval Hearing will be conducted to determine the Final Approval of the Settlement along with
10 the amounts properly payable for (a) Individual Class Payments; (b) the Labor and Workforce
11 Development Agency's portion of the PAGA Payment; (c) the Class Counsel's Award; (d) the Class
12 Representative Enhancement Payments; and (e) all Settlement Administration Costs. The Final
13 Approval Hearing will not be held earlier than thirty (30) calendar days after the Response Deadline.
14 Class Counsel will be responsible for drafting all documents necessary to obtain final approval.
15 Class Counsel will also be responsible for drafting the attorneys' fees and costs application, as well
16 as the Class Representative Enhancement Payments application, to be heard at the Final Approval
17 Hearing.

18 73. Judgment and Continued Jurisdiction. At or after the Final Approval Hearing, the
19 Parties will present a proposed Judgment form to the Court for its approval and entry. After entry of
20 the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the
21 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters,
22 and (c) such post-Judgment matters as may be appropriate under the Court's rules or as set forth in
23 this Agreement.

24 74. Exhibits Incorporated by Reference. The terms of this Agreement include the terms
25 set forth in any of the attached Exhibits, which are incorporated by this reference as though fully set
26 forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

27 75. Confidentiality. The Parties and their counsel agree that they will not issue any press
28 releases, initiate any contact with the press, respond to any press inquiries, or have any communication

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1 with the press about the fact, amount, or terms of the Settlement. In addition, the Parties and their
2 counsel agree that they will not engage in any advertising or distribute any marketing materials relating
3 to the Settlement of this case, including but not limited to any postings on any websites maintained by
4 Class Counsel. Any communication about the Settlement to Class Members prior to the court approved
5 mailing of the Notice Packet will be limited to a statement that a settlement has been reached and the
6 details will be communicated in a forthcoming Court-approved notice. However, nothing herein shall
7 prevent the Parties from informing counsel purporting to represent Class Members that the Action
8 has been resolved subject to approval by the Court and will settle Released Claims. Further,
9 Defendant may disclose the existence of the Settlement and Preliminary Approval status in its
10 quarterly earnings press release and related quarterly Form 10-Q report as well as any other similar
11 securities filings.

12 76. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
13 the entirety of the Parties' settlement terms. The Parties agree that there are no other agreements,
14 understandings, or representations, oral or written, between the Parties relating to the subject matter
15 of this Agreement, and no other prior or contemporaneous written or oral agreements,
16 understandings, or representations may be deemed binding on the Parties. The Parties expressly
17 recognize California Civil Code section 1625 and California Code of Civil Procedure section
18 1856(a), which provide that a written agreement is to be construed according to its terms and may
19 not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral
20 or written representations or terms will modify, vary, or contradict the terms of this Agreement.

21 77. Amendment or Modification. This Settlement Agreement may be amended or
22 modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

23 78. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrants
24 and represents that they are expressly authorized by the Parties whom they represent to negotiate
25 this Settlement and to take all appropriate action required or permitted to be taken by such Parties
26 pursuant to this Settlement to effectuate its terms and to execute any other documents required to
27 effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other
28 and use their best efforts to effectuate the implementation of the Settlement. If the Parties are unable

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1 to reach agreement on the form or content of any document needed to implement the Settlement, or
2 on any supplemental provisions that may become necessary to effectuate the terms of this
3 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

4 79. Binding on Successors and Assigns. This Settlement Agreement will be binding
5 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
6 defined.

7 80. California Law Governs. All terms of this Settlement and Exhibits hereto will be
8 governed by and interpreted according to the laws of the State of California.

9 81. Execution and Counterparts. This Settlement is subject only to the execution of all
10 Parties. However, the Agreement may be executed in one or more counterparts. All executed
11 counterparts and each of them, including facsimile and scanned copies of the signature page, will be
12 deemed to be one and the same instrument.

13 82. Acknowledgement that the Settlement Is Fair and Reasonable. The Parties believe
14 this Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
15 Settlement after extensive investigation, research of the law, formal and informal discovery, data
16 and valuation analysis, and arms-length negotiations, in the context of adversarial litigation, taking
17 into account all relevant factors, present and potential. The Parties further acknowledge that they are
18 each represented by competent counsel and that they have had an opportunity to consult with their
19 counsel regarding the fairness and reasonableness of this Agreement.

20 83. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
21 the Court shall first attempt to construe the provision as valid to the fullest extent possible, consistent
22 with applicable precedents, so as to render all provisions of this Agreement valid and enforceable. Any
23 invalid, illegal, or unenforceable provision determined by the Court shall in no way affect any other
24 provision if Defendant and Class Counsel, on behalf of the Parties and the Class Members, mutually
25 elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been
26 included in this Agreement.

27 84. Plaintiffs' Waiver of Right to Be Excluded and Object. Plaintiffs agree to sign this
28 Settlement and, by signing this Settlement, are hereby bound by the terms herein. For good and

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1 valuable consideration, Plaintiffs further agree that they will not submit a Request for Exclusion
2 from the Settlement, nor object to any terms herein, provided that the Court does not seek to
3 materially alter the terms of the Settlement. Any such Request for Exclusion or objection by
4 Plaintiffs will be void and of no force or effect. Efforts by Plaintiffs to circumvent the terms of this
5 Paragraph will be void and of no force or effect.

6 85. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
7 certification for purposes of this Settlement only; except, however, that Plaintiffs or Class Counsel
8 may appeal any reduction in the Class Counsel's Award below the amount Class Counsel requests
9 from the Court, and either party may appeal any court order that materially alters the Agreement's
10 terms.

11 86. Class Action Certification for Settlement Purposes Only. The Parties agree to
12 stipulate to class action certification solely for purposes of the Settlement. The Parties are not
13 certifying the Released Claims, as defined in Paragraph 33, which arise under PAGA for settlement
14 purposes. This stipulation shall not constitute, in this or any other proceeding, an admission of any
15 kind by Defendant, including without limitation, that certification of a class for trial or any other
16 purpose is appropriate or proper or that Plaintiffs could establish any of the requisite elements for
17 class treatment of any of the claims in this Action. If, for any reason, the Settlement is not approved,
18 the stipulation to class certification will be void and automatically vacated. The Parties further agree
19 that this Agreement will not be admissible in this or any other proceeding as evidence that either (i) a
20 class action should be certified; or (ii) Defendant is liable to Plaintiffs or any Class Member, other
21 than according to this Settlement's terms. In the event that this Settlement is not approved or is
22 otherwise voided, Defendant expressly reserves all rights to challenge certification of a class for trial
23 in this Action or in any other action on all available grounds as if no class had been certified for
24 settlement purposes in this Action, and no reference to the prior certification of a class, or any
25 documents related thereto, shall be made for any purpose.

26 87. Appointment of Class Counsel. Defendant agrees that solely for purposes of this
27 Settlement, Righetti Glugoski, P.C. and Nathan & Associates, APC, shall be appointed as Class
28 Counsel for the Class Members.

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1 88. Captions. The captions and section numbers in this Agreement are inserted for the
2 reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the
3 provisions of this Agreement.

4 89. Waiver. No waiver of any condition or covenant contained in this Agreement or failure
5 to exercise a right or remedy by any of the Parties hereto shall be considered to imply or constitute a
6 further waiver by such party of the same or any other condition, covenant, right, or remedy.

7 90. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
8 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
9 against one party than another merely by virtue of the fact that it may have been prepared by counsel
10 for one of the Parties, it being recognized that, because of the arms-length negotiations between the
11 Parties, all Parties have contributed to the preparation of this Agreement.

12 91. Representation By Counsel. The Parties acknowledge that they have been
13 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
14 and that this Agreement has been executed with the consent and advice of counsel and reviewed in
15 full. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on this
16 Settlement.

17 92. All Terms Subject to Final Court Approval. All amounts and procedures described
18 in this Settlement will be subject to final Court approval.

19 93. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
20 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
21 this Settlement.

22 94. Binding Agreement. The Parties warrant that they understand and have full authority
23 to enter into this Agreement, and further intend that this Agreement will be fully enforceable and
24 binding on all Parties, and they further agree that it will be admissible and subject to disclosure in
25 any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that
26 otherwise might apply under federal or state law.

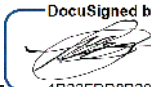
27 **THE UNDERSIGNED HAVE CAREFULLY READ THE ABOVE TERMS BEFORE**
28 **SIGNING, AND HEREBY AGREE TO THE ABOVE TERMS.**

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Dated: 1/15/2025, 2025

IGNACIO MACIEL

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Plaintiff Ignacio Maciel

Dated: 1/15/2025, 2025

RUTH TORRES

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Plaintiff Ruth Torres

Dated: 1/15, 2025

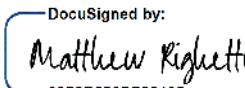
M.A.C. COSMETICS INC.


Sabrina Mizrachi
Please print name of authorized signatory

APPROVED AS TO FORM

Dated: 1/15/2025, 2025

RIGHETTI GLUGOSKI, P.C.

DocuSigned by:

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Matthew Righetti
John Glugoski

Attorneys for Plaintiffs
IGNACIO MACIEL and RUTH TORRES

Dated: 1/15/2025, 2025

NATHAN & ASSOCIATES, APC

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Reuben D. Nathan

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Reuben D. Nathan

Attorneys for Plaintiffs
IGNACIO MACIEL and RUTH TORRES

Dated: 1/15/2025, 2025

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