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behalf of himself and others similarly situated

(Additional counsel on next page)

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

ANSELMO PARDO, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

SHADOW HOLDINGS LLC dba BOCCHI
LABORATORIES, INC., a California Limited
Liability Company; BOCCHI
LABORATORIES OHIO, LLC, a Delaware
Limited Liability Company; BRIGHT
INNOVATION LABS, entity unknown; and
DOES 1 to 10, inclusive,

Defendants.

CASE NO. 22STCV09206

[Assigned to David S. Cunningham, Dept. 11]

CLASS ACTION

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

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HOLDINGS LLC dba BOCCHI LABORATORIES, INC., BOCCHI

LABORATORIES OHIO, LLC.

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Joint Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Anselmo Pardo on his own behalf, on behalf of all similarly situated employees, and on behalf of aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”) (“Plaintiff” or “Class Representative”), and Defendants Shadow Holdings LLC dba Bocchi Laboratories, Inc., a California Limited Liability Company; Bocchi Laboratories Ohio, LLC, a Delaware limited liability company; and Bright Innovations Labs (“Defendants”). Plaintiff and Defendants are sometimes referred to individually as a “Party” and collectively referred to herein as the “Parties.” This Joint Stipulation of Class Action Settlement and Release of Claims shall be binding on Plaintiff, the current and former employees s/he seeks to represent, the Settlement Class and PAGA Settlement Group, and on Defendants, subject to the definitions, recitals, and terms set forth herein and the approval of the Court. THE PARTIES STIPULATE AND AGREE as follows:

1. DEFINITIONS.

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

- 1.1 “Action” means the Plaintiff Pardo’s lawsuit alleging wage and hour violations against Shadow Holdings LLC dba Bocchi Laboratories, Inc.; Bocchi Laboratories Ohio, LLC; and Bright Innovations Labs, captioned Anselmo Pardo v. Shadow Holdings LLC dba Bocchi Laboratories, Inc., et al., Case No. 22STCV09206 initiated on March 15, 2022, and originally filed in the Superior Court of the State of California, County of Los Angeles.
- 1.2 “Administrator” means ILYM Group, Inc., the neutral third party entity the Parties have jointly 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 all current and former non-exempt employees of Defendants in the State of California who worked for Defendants during the PAGA Period of March 15, 2021 through February 24, 2023.
- 1.5 “Attorneys’ Fees and Costs” means attorneys’ fees and costs approved by the Court for Class Counsel’s litigation and resolution of the Action.
- 1.6 “Class” means all current and former non-exempt hourly employees of Defendants in the State of California who worked for Defendants during the Class Period of March 15, 2018 through February 24, 2023.
- 1.7 “Class Claims” refers to all claims in the Class Action Complaint.
- 1.8 “Class Counsel” means Marcus J. Bradley, Kiley L. Grombacher, and Lirit A. King of BRADLEY/GROMBACHER, LLP; John Habashy of LEXICON LAW, PC., who subject to court approval shall act as counsel for the Class Members.
- 1.9 “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, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
- 1.10 “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, dates of employment and Eligible Pay Periods, or data that will allow the Settlement Administrator to reasonably determine Eligible Pay Periods. . Defendants will in good faith compile from its records and provide the Class Data to the Administrator.
- 1.11 “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).

1.12 “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.

1.13 “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 in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.14 “Class Period” means the period from March 15, 2018 through February 24, 2023.

1.15 “Class Representative” means Plaintiff Anselmo Pardo in the operative complaints in the Action seeking Court approval to serve as Class Representative.

1.16 “Class Representative Service Payment” means the amount that the Court authorizes to be paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Payment, in recognition of Plaintiff’s efforts and risks in assisting with the prosecution of the Lawsuit and in return for executing a general release with Defendants.

1.17 “Complaint” means the operative complaint, filed in the Action.

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

1.19 “Defendants” mean Shadow Holdings LLC dba Bocchi Laboratories, Inc.; Bocchi Laboratories Ohio, LLC; and Bright Innovations Labs

1.20 “Defense Counsel” means Cheryl L. Schreck, Anet Drapalski, and Joel Moon of FISHER & PHILLIPS LLP

1.21 “Effective Date” means: (a) the date of entry of the Court’s order granting final approval of the Settlement Agreement and Judgment, if no Objections have been filed or if an Objection was filed and later withdrawn; or (b) if an Objection to the Settlement Agreement is filed, then the date when the time expires to file an appeal of the Court’s granting of final approval of the Settlement Agreement; or (c) if an

1 Objection is filed, as well as a timely Notice of Appeal of the Court's granting of
2 final approval of the Settlement Agreement, then the date the appeal is finally
3 resolved, with the Final Approval unaffected. It is the intention of the Parties that
4 the Settlement shall not become effective until the Court's Order Granting final
5 approval approving the Settlement has become completely final and Judgment has
6 been entered in accordance with the terms of the Settlement, and no timely recourse
7 remains for an appellant or objector to contest the Settlement. "Eligible Pay
8 Periods" means an estimate of the number of pay periods in which Settlement Class
9 Member(s) performed work for Defendants in the State of California, excluding
10 vacation, leaves of absence, or any gaps in employment, during the Class Period
11 based on Defendants' records.

12 1.22 "Final Approval" means the Court's order granting final approval of the Settlement,
13 in a form substantially similar to the order attached hereto as **Exhibit C**.

14 1.23 "Final Approval Hearing" means the Court's hearing on the Motion for Final
15 Approval of the Settlement to ascertain the fairness, reasonableness, and adequacy
16 of the Settlement.

17 1.24 "Final Judgment" means the Judgment Entered by the Court upon Granting Final
18 Approval of the Settlement. The Final Judgment shall constitute a judgment
19 respecting the Parties within the meaning and for purposes of California Code of
20 Civil Procedure sections 577, 581d, and 904.1(a), and on the PAGA claims for
21 purposes of enforcing the rule announced in *Arias v. Superior Court*, 46 Cal. 4th
22 969 (2009).

23 1.25 "Gross Settlement Amount" means Two Hundred and Forty-Five Thousand Dollars
24 (\$245,000) which is the total amount Defendants agree to pay under the Settlement
25 except as provided in Paragraph 8 below and except with respect to the employer's
26 share of payroll taxes. The Gross Settlement Amount will be used to pay Individual
27 Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class
28 Counsel Fees, Class Counsel Litigation Expenses, Class Representatives Service

Payment and the Administrator's Expenses.

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

1.27 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period. Aggrieved Employees will automatically receive their Individual PAGA Payments even if they opt out of the Settlement.

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

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

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

1.31 "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 Representatives 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.

1.32 "Non-Participating Class Member" means any Class Member who timely opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion, as outlined in Section __ Paragraph __ of This Agreement.

1.33 "Notice of Class Action and PAGA Settlement" means the notice of settlement, attached hereto as **Exhibit A**, to be mailed as part of the Notice Packet to all prospective Class Members upon Preliminary Approval.

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

- 1.35 “PAGA Period” means the period from March 15, 2021 through February 24, 2023.
- 1.36 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.37 “PAGA Notice” means Plaintiff’s March 15, 2022 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.38 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$10,000.00) allocated 25% to the Aggrieved Employees (\$2,500.00) and the 75% to LWDA (\$7,500.00) in settlement of PAGA claims.
- 1.39 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement pursuant to Section ___, paragraph ___ of this Agreement.
- 1.40 “Plaintiff” means Anselmo Pardo the named plaintiff in the Action.
- 1.41 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.42 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement in a form substantially similar to the order attached hereto as **Exhibit B**.
- 1.43 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.44 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.45 “Released Parties” means: Defendants and each of its former and present parents, subsidiaries, affiliates, owners, insurers, insurance policies, and benefit plans; each of the former and present officers, directors, employees, equity holders (including, without limitation, partners, shareholders, holders of membership interests, or any other person or entity with an interest in or obligation regarding Defendants’ assets or liabilities), agents, representatives, administrators, fiduciaries, and attorneys of the entities and plans described in this sentence; and any other predecessors,

1 successors, transferees, and assigns of each of the persons and entities described in
2 this sentence.

3 1.46 "Request for Exclusion" means a Class Member's submission of a written request to
4 be excluded from the Class Settlement signed by the Class Member and setting forth
5 the Class Member's name, present address, and a simple statement electing to be
6 excluded from the Class Settlement. .

7 1.47 "Response Deadline" means 45 days after the Administrator mails Notice to Class
8 Members and Aggrieved Employees, and shall be the last date on which Class
9 Members may (a) fax, email, or mail Requests for Exclusion from the Settlement,(b)
10 fax, email, or mail his or her Objection to the Settlement, or (c) dispute the
11 information contained in the Notice of Class Action and PAGA Settlement. Class
12 Members to whom Notice Packets are resent after having been returned
13 undeliverable to the Administrator shall have an additional 14 calendar days beyond
14 the Response Deadline has expired.

15 1.48 "Settlement" means the disposition of the Action effected by this Agreement and the
16 Judgment.

17 **2. STIPULATED BACKGROUND**

18 2.1 On March 15, 2022, Plaintiff Pardo filed a Complaint alleging causes of action
19 against Defendants alleging claims for (1) Failure to Pay Overtime Wages in
20 Violation of Labor Code sections 510 and 1198; (2) Failure to Pay All Wages and
21 Minimum Wages in Violation of Labor Code Sections 1182, 1194, 1197, 1198; (3)
22 Failure to Provide Compliant Meal Breaks in Violation of Labor Code section
23 226.7; (4) Failure to Provide Compliant Rest Breaks in Violation of Labor Code
24 section 226.7; (5) Failure to Provide Suitable Seating in Violation of Labor Code
25 section 1198; (6) Failure to adopt standards that minimize excessive indoor heat in
26 violation of Labor Code sections 6720, 226.7; (7) Failure to timely pay wages
27 during employment in violation of Labor Code section 204; (8) Failure to timely
28 furnish accurate itemized wage statements in violation of Labor Code section 226(a)

and failure to maintain accurate records; (9) Waiting time penalties pursuant to Labor Code sections 201, 203; (10) Failure to reimburse business expenses in violation of Labor Code section 2802; and (11) Violations of Business & Professions Code section 17200 et seq.

2.2 On May 19, 2022, the LWDA did not take any action to investigate or prosecute the matters alleged in Plaintiff's March 15, 2022 written notice.

2.3 On June 23, 2022, Plaintiff filed his First Amended Complaint adding a twelfth cause of action for civil penalties pursuant to PAGA California Labor Code §§ 2698, et seq.

2.4 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff Pardo gave timely written notice to all Defendants and the LWDA by sending the PAGA Notice.

2.5 On October 24, 2022, the Parties participated in an all-day mediation presided over by Gail A. Glick, which led to this Agreement to settle the Action on a class-wide and representative basis.

2.6 Prior to mediation and negotiating the Settlement, Plaintiff obtained, through informal discovery Plaintiff's personnel records, earnings histories, and copies of wage statements. Defendant also provided Plaintiff's counsel with pertinent data for the Class Members so that the Parties could fully-investigate the claims at issue and understand their strengths and weaknesses. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("Dunk/Kullar").

2.7 The Court has not granted class certification.

2.8 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement. Solely for purposes of settling the Action, the Parties and their respective counsel stipulate and agree that the requisites for establishing conditional class certification with respect to the Class Members have been met and

are met. If the Court does not grant either preliminary or final approval of this Settlement, the Parties agree that this stipulation regarding class certification will be revoked and the Parties will return to a point in litigation prior to the execution of this Agreement. More specifically, for settlement purposes only, the Parties stipulate and agree that:

2.8.1 The Class is ascertainable and so numerous as to make it impracticable to join all Class Members.

2.8.2 There are common questions of law and fact including, but not limited to, the following:

2.8.2.1 Whether Defendants paid proper wages to the Class;

2.8.2.2 Whether Defendants paid proper minimum wages to the Class;

2.8.2.3 Whether Defendants paid proper overtime wages to the Class;

2.8.2.4 Whether Defendants provided meal periods to the Class;

2.8.2.5 Whether Defendants provided rest periods to the Class;

2.8.2.6 Whether Defendants indemnified the Class for employment-related expenditures;

2.8.2.7 Whether Defendants paid compensation timely throughout Class Members' employment;

2.8.2.8 Whether Defendants provided accurate itemized wage statements to the Class;

2.8.2.9 Whether waiting-time penalties are available to Class Members who are no longer employed by Defendants for violation of Labor Code section 203;

2.8.2.10 Whether Defendants provided suitable seating;

2.8.2.11 Whether Defendants adopted standards to minimize excessive indoor heat;

2.8.2.12 Whether Defendants paid proper meal period pay or rest period pay to the Class; and

2.8.2.13 Whether Defendants engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code sections 17200 through 17208.

2.8.3 Plaintiff's claims are typical of the claims of the Class Members.

2.8.4 Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.

2.8.5 The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.

2.8.6 With respect to the Class, questions of law and fact common to the members of the Class predominate over any questions affecting any individual member in such Class, and a class action is superior to other available means for the fair and efficient adjudication of the controversy.

2.9 Should, for whatever reason, the Settlement not become effective, the fact that the Parties were willing to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or in any other lawsuit. Further, Should, for whatever reason, the Court deny Final Approval, or this Settlement not become effective, the Parties' stipulation to class certification as part of the Settlement shall become null and void *ab initio* and shall have no bearing on and shall not be admissible in connection with the issue of whether or not certification would be appropriate in a non-settlement context. Defendants expressly reserve their right to oppose class certification in the Action or any other action should this Settlement not become effective.

2.10 Defendants deny any liability or wrongdoing of any kind whatsoever associated with the claims alleged in the Class Action Complaint, and Defendants further deny, for any purpose other than settling the Action, that the Action is appropriate for

1 class or representative treatment. With respect to Plaintiff's claims, Defendants
2 contend, among other things, that Plaintiff, the Class Members, and the Aggrieved
3 Employees have been paid proper wages, have been paid proper minimum wages,
4 have been paid proper overtime wages, have been provided meal periods or they
5 have been made available as required, have been provided rest periods or they have
6 been authorized and permitted as required, have been paid meal and rest period
7 premiums when appropriate at the correct rate, have been reimbursed for all
8 employment-related expenditures, have been paid timely wages during employment,
9 have been paid timely wages upon separation from employment, have been
10 provided with suitable seating, have been provided with indoor heat related
11 standards, and have been provided with accurate itemized wage statements.
12 Defendants contend, among other things, that they have complied at all times with
13 the Labor Code and the applicable Wage Orders of the Industrial Welfare
14 Commission. Furthermore, with respect to all claims, Defendants contend that they
15 have complied at all times with the California Business and Professions Code.

16 2.11 It is the desire of the Parties to fully, finally, and forever settle, compromise, and
17 discharge all disputes and claims arising from or related to the Class Action
18 Complaint, and the Action.

19 2.12 Class Counsel has conducted a thorough investigation into the facts of the Action,
20 including an extensive review of relevant documents, and has diligently pursued an
21 investigation of the claims of the Class and Aggrieved Employees against
22 Defendants. Based on their own independent investigation and evaluation, Class
23 Counsel is of the opinion that the Settlement with Defendants for the consideration
24 and on the terms set forth in this Joint Stipulation of Class Action and PAGA
25 Settlement is fair, reasonable, and adequate, and is in the best interest of the Class in
26 light of all known facts and circumstances, including the risk of significant delay,
27 the risk the Class will not be certified by the Court, defenses asserted by
28 Defendants, and numerous potential appellate issues. Defendants and Defendants'

Counsel also agree that the Settlement is fair and in the best interest of the Class.

2.13 Defendants have concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendants' time, energy, and resources have been and, unless this Settlement is completed, will continue to be devoted to, the defense of the claims asserted by Plaintiff and Settlement Class Members. Defendants have also taken into account the risks of further litigation in reaching its decision to enter into this Settlement. Even though Defendants continue to contend that it is not liable for any of the claims set forth by Plaintiff in this Action, Defendants have agreed, nonetheless, to settle in the manner and upon the terms set forth in this Agreement to put to rest the claims in this Action. Defendants contend that they have complied with all applicable state, federal, and local laws.

2.14 It is agreed by Plaintiff (on behalf of himself and the Class) and Defendants, that the Action and any claims, damages, or causes of action arising out of the disputes that are the subject of the Action, be settled and compromised as between Plaintiff, the Class and the Aggrieved Employees, on one hand, and Defendants, on the other, subject to the terms and conditions set forth in this Settlement and approval of the Court, as of the Effective Date.

2.15 This Agreement is a compromise of disputed claims. Defendants have claimed and continue to claim that the Released Claims have no merit and do not give rise to liability. Settlement Class Members have claimed and continue to claim that the Released Claims have merit and give rise to liability on the part of Defendants. This Agreement is a compromise of disputed claims.

2.16 The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this Settlement.

2.17 The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay Two Hundred and Forty-Five Thousand Dollars and Zero Cents (\$245,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

3.2 The Net Settlement Amount will be determined by the Settlement Administrator by Subtracting the Class Representative Service Payment, Class Counsel's Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the LWDA Payment, and the Administrator's Expenses. The anticipated Net Settlement Amount is \$119,250.00. The Parties estimate the amount of the Net Settlement Fund as follows, subject to the Court's approval:

Gross Settlement Fund:	\$	245,000.00
Class Representative Service Payment:	\$	15,000.00
Class Counsel Fees Payment:	\$	85,750.00
Class Counsel Litigation Expenses:	\$	10,000.00
LWDA Payment:	\$	7,500.00
<i>(\$7,5000 to the LWDA and \$2,500.00 to remain in Net Settlement Fund for distribution to PAGA Settlement Group)</i>		
Administrator's Expenses:	\$	7,500.00
Net Settlement Amount	\$	119,250.00

This is a non-reversionary Settlement in which Defendants are required to pay the entire Gross Settlement Amount, which includes, Class Representative Service

1 Payment, Class Counsel's Counsel Fees Payment, Class Counsel Litigation
2 Expenses Payment, the LWDA Payment, Individual Class Payments, Individual
3 PAGA Payments, and the Administrator's Expenses. No portion of the Gross
4 Settlement Fund will revert to Defendants.

5 3.3 Payments from the Gross Settlement Amount. The Administrator will make and
6 deduct the following payments from the Gross Settlement Amount, in the amounts
7 specified by the Court in the Final Approval:

8 3.3.1 To Plaintiff: Plaintiff will request that the court approve a Class Representative
9 Service Payment to the Class Representative of not more than \$15,000 (in addition
10 to any Individual Class Payments and, as to Plaintiff, any Individual PAGA
11 Payment the Class Representative is entitled to receive as a Participating Class
12 Member). Defendants will not oppose Plaintiff's request for Class Representative
13 Service Payment that does not exceed this amount. As part of the motion for Class
14 Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek
15 Court approval for any Class Representative Service Payments no later than 16
16 court days prior to the Final Approval Hearing. If the Court approves the Class
17 Representative Service Payment less than the amounts requested, the Administrator
18 will retain the remainder in the Net Settlement Amount. The Administrator will pay
19 the Class Representatives Service Payment using IRS Form 1099. Plaintiff assumes
20 full responsibility and liability for employee taxes owed on the Class Representative
21 Service Payment and shall hold harmless Defendants and Class Counsel from any
22 claim or liability for taxes, penalties, or interest arising as a result of the Class
23 Representative Service Payment.

24 3.3.2 To Class Counsel: Class counsel will request that the Court approve a Class
25 Counsel Fees Payment of not more than 35% of the Gross Settlement Payment,
26 which is currently estimated to be \$85,750.00 and a Class Counsel Litigation
27 Expenses Payment of not more than \$10,000.00 Defendants will not oppose
28 requests for these payments provided that do not exceed these amounts. Plaintiff

1 and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class
2 Litigation Expenses Payment no later than 16 court days prior to the Final Approval
3 Hearing. This Settlement is not contingent upon the Court awarding Class Counsel
4 any particular amount in attorneys' fees and costs. If the Court approves a Class
5 Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less
6 than the amounts requested, the Administrator will allocate the remainder to the Net
7 Settlement Amount. Released Parties shall have no liability to Class Counsel or any
8 other Plaintiff's Counsel arising from any claim to any portion any Class Counsel
9 Fee Payment and/or Class Counsel Litigation Expenses Payment. The
10 Administrator will pay the Class Counsel Fees Payment and Class Counsel
11 Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel
12 assumes full responsibility and liability for taxes owed on the Class Counsel Fees
13 Payment and the Class Counsel Litigation Expenses Payment and holds Defendants
14 harmless, and indemnifies Defendants, from any dispute or controversy regarding
15 any division or sharing of any of these Payments.

16 3.3.3 To the Administrator: The Administrator will pay out of the Gross Settlement
17 Amount to itself its reasonable fees and expenses that are documented and approved
18 by the Court in an amount not to exceed \$7,500.00 the extent the Settlement
19 Administration Expenses that are documented and approved by the Court are less
20 than \$7,500.00 the remainder will be retained in the Net Settlement Amount for
21 distribution to Participating Class Members. The Administrator shall have the
22 authority and obligation to make payments, credits and disbursements to Class
23 Members and Aggrieved Employees in the manner set forth herein, calculated in
24 accordance with the methodology set out in this Agreement and orders of the Court.
25 The Parties agree to cooperate in the settlement administration process and to make
26 all reasonable efforts to control and minimize the cost and expenses incurred in
27 administration of the Settlement
28

3.3.4 To Each Participating Class Member/Class Member Payment Ratio: Participating Class Members will be paid on a pro-rata basis. To determine each prospective Class Member's estimated Individual Settlement Payment, the Administrator will use the following formula: the Net Settlement Amount will be divided by the aggregate total number of pay periods worked by all prospective Class Members during the Class Period, resulting in the Eligible Pay Period Value for Class Members. Each prospective Class Member's estimated Individual Settlement Payment will then be calculated by multiplying each prospective Class Member's total number of Eligible Pay Periods by the Eligible Pay Period Value for Class Members.

3.3.4.1 Tax Allocation of Individual Class Payments. All Individual Class Settlement Payments to Participating Class Members will be allocated as follows: Twenty percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"), and eighty percent (80%) as interest and penalties ("the Non-Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment and shall hold harmless Defendants and Class Counsel from any claim or liability for taxes, penalties, or interest arising as a result of the Individual Class Payment.

3.3.4.2 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.

1 3.3.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of Ten
2 Thousand Dollars and Zero Cents (\$10,000.00) to be paid from the Gross Settlement
3 Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25%
4 (\$2,500.00) allocated to the Individual PAGA Payments. One hundred percent
5 (100%) of the PAGA Penalties is in settlement of claims for penalties and not be
6 subject to wage withholdings, and shall be reported on IRS Form 1099.

7 3.3.5.1 Individual PAGA Payments to Aggrieved Employees will be
8 calculated and apportioned from the percentage of the PAGA
9 Allocation allocated to the Aggrieved Employees (i.e., 25% of the
10 PAGA Allocation or \$2,500.00) based on the number of Pay Periods
11 the PAGA Employee worked during the PAGA Period as an hourly,
12 non-exempt employee of Defendants in California. Calculations of
13 Individual PAGA Payments will be made as follows:

14 3.3.5.1.1 The Settlement Administrator will first calculate the total
15 number of Pay Periods worked by each Aggrieved
16 Employee as a non-exempt hourly-paid employee in
17 California during the PAGA Period and the aggregate
18 total number of Pay Periods worked by all Aggrieved
19 Employees as non-exempt, hourly employees in
20 California during the PAGA Period. An Aggrieved
21 Employee who worked any portion of a PAGA Pay
22 Period will be credited with the entire Pay Period.
23 Aggrieved Employees assume full responsibility and
24 liability for any taxes owed on their Individual PAGA
25 Payment and shall hold harmless the Released Parties
26 and Class Counsel from any claim or liability for taxes,
27 penalties, or interest arising as a result of the Individual
28 PAGA Payment.

1 3.3.5.2 If the Court approves PAGA Penalties of less than the amount requested,
2 the Administrator will allocate the remainder to the Net Settlement
3 Amount. The Administrator will report the Individual PAGA Payments
4 on IRS 1099 Forms.

5 3.3.5.3 The Participating Class Members and Aggrieved Employees agree to
6 hold harmless the Released Parties, Class Counsel, Defendants' Counsel,
7 and the Settlement Administrator for any tax liability, including penalties
8 and interest, arising out of or relating to the Participating Class
9 Members' or Aggrieved Employees' failure to pay taxes on any amounts
10 paid pursuant to this Settlement.

11 3.3.6 No Credit Toward Benefit Plans. All settlement payments to Class Members
12 and Aggrieved Employees shall be deemed to be paid to such Class
13 Members and Aggrieved Employees solely in the year in which such
14 payments actually are received by the Class Member or Aggrieved
15 Employee. It is expressly understood and agreed that the Individual
16 Settlement Payments made to Class Members and Individual PAGA
17 Payments made to Aggrieved Employees under this Settlement, as well as
18 any other payments made pursuant to this Settlement, will not be used to
19 calculate any additional benefits under any benefit plans to which any Class
20 Members or Aggrieved Employees may be eligible, including, but not
21 limited to: (a) profit-sharing plans; (b) bonus plans; (c) 401(k) plans; (d)
22 stock purchase plans; (e) vacation plans; (f) sick leave plans; (g) PTO plans;
23 and (h) any other benefit plan. It is the Parties' intention that this Settlement
24 will not affect any rights, contributions, or amounts to which any Class
25 Members or Aggrieved Employees may be entitled under any benefit plans.

26 3.3.7 Tax Liability and Medicare. The Parties make no representations as to the
27 tax treatment or legal effect of the payments called for hereunder, and
28 Class Members and/or Aggrieved Employees are not relying on any

1 statement or representation by the Parties in this regard. Participating Class
2 Members understand and agree that they will be responsible for the
3 payment of taxes and penalties assessed on the payments described herein
4 and will hold the Parties free and harmless from and against any claims
5 resulting from treatment of such payments as non-taxable damages,
6 including the treatment of such payment as not subject to withholding or
7 deduction for payroll and employment taxes. Moreover, this Agreement is
8 based upon a good faith determination of the Parties to resolve a disputed
9 claim. The Parties have not shifted responsibility of medical treatment to
10 Medicare in contravention of 42 U.S.C. Sec. 1395y(b), especially since this
11 is strictly a wage and hour case. The Parties resolved this matter in
12 compliance with both state and federal law. The Parties made every effort
13 to adequately protect Medicare's interest and incorporate such into the
14 settlement terms. Plaintiff warrants that she is not a Medicare beneficiary
15 as of the date of this Agreement. Because Plaintiff is not a Medicare
16 recipient as of the date of this Agreement, no conditional payments have
17 been made by Medicare.

18 19 **4. SETTLEMENT FUNDING AND PAYMENTS.**

- 20 4.1 Class Member and Aggrieved Employee Pay Periods. Based on a review of its
21 records to date, Defendants estimate there are 163 Class Members who collectively
22 worked a total of 9,893 Pay Periods. Defendants estimate there are 19,684
23 workweeks during the Class Period and 3,700 Pay Periods during the PAGA Period.
- 24 4.2 Class Data. No later than 21 days after the Court enters an Order Granting
25 Preliminary Approval of the Settlement, Defendants will provide to the
26 Administrator an electronic database containing each Class Member's Class Data.
27 If any or all of the Class Data is unavailable to Defendants, Defendants will inform
28 Class Counsel and the Parties will make their best efforts to reconstruct or otherwise

1 agree upon the Class Data prior to when it must be submitted to the Administrator.
2 This information will otherwise remain confidential and will not be disclosed to
3 anyone, except as required to applicable taxing authorities, in order to carry out the
4 reasonable efforts described in section 7, or pursuant to Defendants' express written
5 authorization or by order of the Court. All Class Data will be used for settlement
6 notification and settlement administration and shall not be used for any other
7 purpose by Class Counsel or the Administrator. This provision shall not be
8 construed to impede Class Counsel's ability to discharge their fiduciary duties to the
9 Settlement Class, and if additional disclosures are necessary, Class Counsel will
10 obtain written authorization of Defendants and/or an order from the Court. The
11 Administrator shall provide reasonable and appropriate administrative, physical, and
12 technical safeguards for any personally identifiable information ("PII") that it
13 receives from Defendants; and promptly provide Defendants with notice if PII is
14 subject to unauthorized access, use, disclosure, modification, or destruction.

15 4.3 Funding of Gross Settlement Amount. Defendants shall fully fund the Gross
16 Settlement Amount, and also fund the amounts necessary to fully pay Defendants'
17 share of payroll taxes by transmitting the funds to the Administrator no later than
18 twenty-one (21) 21 days after the Effective Date. The Administrator must provide
19 no later than five (5) days after the Effective Date to Defendants the total amount
20 to be paid by Defendants to cover its share of payroll taxes.

21 4.4 Payments from the Gross Settlement Amount. Within ten (10) days after
22 Defendants fund the Gross Settlement Amount, the Administrator will mail checks
23 for all Individual Class Payments, all Individual PAGA Payments, the LWDA
24 PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees
25 Payment, the Class Counsel Litigation Expenses Payment, and the Class
26 Representatives Service Payment. Disbursement of the Class Counsel Fees
27 Payment, the Class Counsel Litigation Expenses Payment and the Class
28

Representatives Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

1 4.4.3 For any Class Member whose Individual Class Payment check or Individual
2 PAGA Payment check is uncashed and cancelled after the void date, the
3 Administrator shall transmit the funds represented by such checks to the
4 Court-approved nonprofit organization or foundation consistent with Code
5 of Civil Procedure Section 384, subd. (b), Bet Tzedek Legal Services (“Cy
6 Pres Recipient”). The Parties, Class Counsel and Defense Counsel represent
7 that they have no interest or relationship, financial or otherwise, with the
8 intended Cy Pres Recipient. The Parties agree that there is a nexus between
9 the mission of Bet Tzedek and the interests of the Settlement Class
10 Members.

11 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments
12 will not result in any modification of previously credited hours of service or
13 other eligibility criteria under any employee pension or employee welfare
14 benefit plan sponsored by Defendants or any of the Released Parties or any
15 additional benefit payments (including without limitation vacation pay,
16 holiday pay, bonus pay, pension or 401(k) plan contributions) beyond those
17 provided by this Agreement to Plaintiff or Participating Class Members, and
18 Plaintiff and Participating Class Members will be deemed to have waived all
19 such claims, whether known or unknown by them, as part of their release of
20 claims under this Agreement.

21 **5. RELEASES OF CLAIMS.** On the Effective Date, Plaintiff, Participating Class
22 Members, and Aggrieved Employees will release claims against all Released Parties as follows:

23 5.1 Plaintiff's Releases. Plaintiff and his respective former and present spouses,
24 representatives, agents, attorneys, heirs, administrators, successors, and assigns
25 generally, release and discharge Released Parties from all from any and all claims,
26 actions, charges, complaints, grievances and causes of action, of whatever nature,
27 whether known or unknown, which exist or may exist on Plaintiff's behalf as of the
28 date of this Agreement, including, but not limited to, any and all tort claims,

1 contract claims, wage claims, wrongful termination claims, disability claims, benefit
2 claims, public policy claims, retaliation claims, harassment claims, statutory claims,
3 personal injury claims, emotional distress claims, invasion of privacy claims,
4 defamation claims, fraud claims, quantum meruit claims, and any and all claims
5 arising under any federal, state or other governmental statute, law, regulation or
6 ordinance, including, but not limited to, claims for violation of the Fair Labor
7 Standards Act (including the Equal Pay Act), the California Labor Code,
8 specifically including but not limited to the Private Attorney General Act pursuant
9 to Labor Code 2699, the Wage Orders of California's Industrial Welfare
10 Commission, other state wage and hour laws, the Americans with Disabilities Act,
11 the Age Discrimination in Employment Act (ADEA), the Employee Retirement
12 Income Security Act, Title VII of the Civil Rights Act of 1964, 1866, and 1991, the
13 California Fair Employment and Housing Act, the California Family Rights Act, the
14 Family Medical Leave Act, California's Whistleblower Protection Act, California
15 Business & Professions Code §§17200 et seq., Section 503 of the Rehabilitation Act
16 of 1973, the California Constitution, the California Government Code, the
17 Employee Retirement Income Security Act, the California Pregnancy
18 Discrimination Act, the Immigration Reform and Control Act, the National Labor
19 Relations Act, California's Occupational Safety and Health Act, or the Federal
20 equivalent, the Families First Coronavirus Response Act, the California
21 Supplemental paid sick leave law or any other federal, state, or local paid sick leave
22 law, and any and all claims arising under any federal, state or other governmental
23 statute, law, regulation or ordinance.

24 Plaintiff may hereafter discover claims or facts in addition to, or different
25 from, those which he now knows or believes to exist, but Plaintiff expressly agrees
26 to fully, finally and forever settle and release any and all claims against the Released
27 Parties, known or unknown, suspected or unsuspected, which exist or may exist on
28 behalf of or against the other at the time of execution of this Agreement, including,

1 but not limited to, any and all claims relating to or arising from Plaintiff's alleged
2 employment with Defendants. This Release is intended to resolve any claims that
3 can be validly released.

4 This Release does not release claims that cannot be released by Plaintiff as
5 a matter of law, including but not limited to Plaintiff's right to file a charge with or
6 participate in a charge by the Department of Fair Employment and Housing or any
7 other federal, state, or local administrative body or government agency authorized to
8 enforce laws related to employment, claims for Workers' Compensation,
9 unemployment compensation, or state disability insurance benefits pursuant to the
10 terms of applicable state law

11 5.1.1. Plaintiff's Waivers of Rights Under California Civil Code Section 1542. For
12 purposes of Plaintiff's Releases, Plaintiff expressly waives and relinquishes the
13 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
14 which reads:

15 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
16 **WHICH THE CREDITOR OR RELEASING PARTY DOES**
17 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
18 **FAVOR AT THE TIME OF EXECUTING THE RELEASE**
19 **AND THAT, WHICH IF KNOWN BY HIM OR HER, WOULD**
20 **HAVE MATERIALLY AFFECTED HIS OR HER**
21 **SETTLEMENT WITH THE DEBTOR OR RELEASED**
22 **PARTY.**

23 5.2. Release by Participating Class Members: All Participating Class Members, on behalf
24 of themselves and their respective former and present representatives, agents,
25 attorneys, heirs, administrators, successors, and assigns, release Released Parties
26 from all claims arising under federal, state, and/or local statutory, constitutional,
27 contractual, or common law for wages, damages, costs, penalties, liquidated
28 damages, punitive damages, interest, attorney fees, litigation costs, expenses, other
fees of any kind, restitution, equitable relief, other relief under California Business
& Professions Code Section 17200 et seq. ("Section 17200"), whether known or
unknown, asserted or unasserted, accrued or un-accrued, that have been, could have

1 been, or in the future can or might be asserted by or on behalf of any of the
2 Participating Class Members, which the Participating Class Members ever had, now
3 have, or may have had, from the beginning of time to the Effective Date, by reason
4 of, arising out of, relating to, or in connection with the acts, events, facts, matters,
5 transactions, occurrences, statements, representations, misrepresentations,
6 omissions, or any other matter whatsoever related directly or indirectly to the Action
7 or based on the facts alleged in the Complaint including, but not limited to,
8 including, e.g., (1) Failure to pay overtime wages in violation of California Labor
9 Code §§ 510 and 1198; (2) Failure to pay all Wages and Minimum Wages in
10 Violation of Labor Code §§ 1182, 1181.12, 1194, 1197, 1198; (3) Failure to provide
11 compliant meal breaks in violation of Labor Code §§ 226.7, 512; (4) Failure to
12 provide compliant rest breaks in violation of Labor Code §§ 226.7, 512; (5) Failure
13 to provide suitable seating in violation of Labor Code § 1198; (6) Failure to adopt
14 standards that minimize excessive indoor heat in violation of California Labor Code
15 §§ 6720 and 226.7; (7) Failure to pay wages during employment in violation of
16 Labor Code § 204; (8) Failure to timely furnish an accurate itemized wage statement
17 upon payment of wages in violation of California Labor Code §226 and failure to
18 maintain accurate records; (9) Failure to pay all wages at time of termination in
19 violation of California Labor Code §§201-203; (10) Failure to reimburse business
20 expenses in violation of Labor Code § 2802; (11) Violations of Business &
21 Professions Code section 17200 et seq.; and (12) Penalties pursuant to Labor Code
22 §§2698 et seq. for violations of Labor Code §§201, 202, 203, 204, 210, 226, 226.3,
23 226.7, 510, 512, 558, 1174, 1174.5, 1182, 1182.12, 1194, 1197, 1197.1, 1198, 2802,
24 6720, and the applicable IWC Wage Order, as well as California Business &
25 Professions Code Section 17200. Except as set forth in Section 5.3 of this
26 Agreement, Participating Class Members do not release any other claims, including
27 claims for vested benefits, wrongful termination, violation of the Fair Employment
28

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

3 5.3 Release by Aggrieved Employees (Including Non-Participating Class Members who
4 are Aggrieved Employees): All Aggrieved Employees during the PAGA Period
5 (including but not limited to non-participating Class Members who are aggrieved
6 employees). are deemed to release, on behalf of themselves and their respective
7 former and present representatives, agents, attorneys, heirs, administrators,
8 successors, and assigns, the Released Parties from all claims for PAGA penalties
9 that were alleged, or reasonably could have been alleged, based on the PAGA
10 Period facts and theories alleged in the Action, Complaint, and PAGA Notices
11 including, e.g., (1) Failure to pay overtime wages in violation of California Labor
12 Code §§ 510 and 1198; (2) Failure to pay all Wages and Minimum Wages in
13 Violation of Labor Code §§ 1182, 1182.12 1194, 1197, 1198; (3) Failure to provide
14 compliant meal breaks in violation of Labor Code §§ 226.7, 512; (4) Failure to
15 provide compliant rest breaks in violation of Labor Code §§ 226.7, 512; (5) Failure
16 to provide suitable seating in violation of Labor Code § 1198; (6) Failure to adopt
17 standards that minimize excessive indoor heat in violation of California Labor Code
18 §§ 6720 and 226.7; (7) Failure to pay wages during employment in violation of
19 Labor Code § 204; (8) Failure to timely furnish an accurate itemized wage statement
20 upon payment of wages in violation of California Labor Code §226 and failure to
21 maintain accurate records; (9) Failure to pay all wages at time of termination in
22 violation of California Labor Code §§201-203; (10) Failure to reimburse business
23 expenses in violation of Labor Code § 2802; (11) Violations of Business &
24 Professions Code section 17200 et seq.; and (12) Penalties pursuant to Labor Code
25 §§2698 et seq. for violations of Labor Code §§201, 202, 203, 204, 210, 226, 226. 3,
26 226.7, 510, 512, 558, 1174, 1174.5, 1182, 1182.12, 1194, 1197, 1197.1 1198, 2802,
27 6720, and the applicable IWC Wage Order.
28

- 1 5.4 No Unalleged Claims. Plaintiff and Class Counsel represent that they are not currently
2 aware of any (a) unalleged claims in addition to, or different from, those which are
3 finally and forever settled and released against the Released Parties by this
4 Settlement; and/or (b) unalleged facts or legal theories upon which any claims or
5 causes of action could be brought against Defendants, except such facts and theories
6 specifically alleged in the Action, Complaint, and PAGA Notices. Plaintiff and
7 Class Counsel further represent that, other than the instant Action, they have no
8 current intention of asserting any other claims against Defendants or Released
9 Parties in any judicial or administrative forum. Plaintiff and Class Counsel further
10 represent that they do not currently know of or represent any persons who have
11 expressed any interest in pursuing litigation or seeking any recovery against
12 Defendants or Released Parties. The Parties acknowledge, understand, and agree the
13 representations described in this paragraph are essential to the Settlement and that
14 this Settlement would not have been entered into were it not for this representation
- 15 5.5 Confirmation of No Parallel Actions. Defendants confirm they are not aware of any
16 currently pending class or representative claims against it for violations subject to
17 the releases in Paragraphs 5.2 through 5.3.

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

- 21 6.1 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
22 documents necessary for obtaining Preliminary Approval, including: (i) a draft of
23 the notice, and memorandum in support, of the Motion for Preliminary Approval
24 that includes an analysis of the Settlement under *Dunk/Kullar* and a request for
25 approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii)
26 a draft proposed Order Granting Preliminary Approval and Approval of PAGA
27 Settlement; (iii) a draft proposed Class Notice; (v) signed declaration from Plaintiff
28 confirming willingness and competency to serve and disclosing all facts relevant to

any actual or potential conflicts of interest with Class Members, the Administrator, and/or the proposed Cy Pres; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), operative Complaints (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient.

6.2 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 ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, such Administrator 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 shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities. However, to the

1 extent there is any tax refund related to the employer-side taxes, the Parties agree
2 that Defendants are the beneficial owners of that refund.

3 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that
4 meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
5 Regulation section 468B-1.

6 7.4 Notice to Class Members.

7 7.4.1 No later than five (5) business days after receipt of the Class Data,
8 the Administrator shall notify Class Counsel that the list has been
9 received and state the number of Class Members, PAGA Members,
10 and Pay Periods in the Class Data.

11 7.4.2 Using best efforts to perform as soon as possible, and in no event
12 later than 14 days after receiving the Class Data, the Administrator
13 will send to all Class Members identified in the Class Data, via first-
14 class United States Postal Service ("USPS") mail, the Class Notice
15 [with Spanish translation, if applicable] substantially in the form
16 attached to this Agreement as Exhibit A. The first page of the Class
17 Notice shall prominently estimate the dollar amounts of any
18 Individual Class Payment and/or Individual PAGA Payment payable
19 to the Class Member, and the number of Class and PAGA Pay
20 Periods (if applicable) used to calculate these amounts. Before
21 mailing Class Notices, the Administrator shall update Class Member
22 addresses using the National Change of Address database.

23 7.4.3 Not later than 3 business days after the Administrator's receipt of any
24 Class Notice returned by the USPS as undelivered, the
25 Administrator shall re-mail the Class Notice using any forwarding
26 address provided by the USPS. If the USPS does not provide a
27 forwarding address, the Administrator shall conduct a Class
28 Member Address Search, and re-mail the Class Notice to the most

1 current address obtained. The Administrator has no obligation to
2 make further attempts to locate or send Class Notice to Class
3 Members whose Class Notice is returned by the USPS a second
4 time.

5 7.4.4 The deadlines for Class Members' written objections, Challenges to
6 Pay Periods, and Requests for Exclusion will be extended an
7 additional 14 days beyond the 45 days otherwise provided in the
8 Class Notice for all Class Members whose notice is re-mailed. The
9 Administrator will inform the Class Member of the extended
10 deadline with the re-mailed Class Notice.

11 7.4.5 If the Administrator, Defendants or Class Counsel is contacted by or
12 otherwise discovers any persons who believe they should have been
13 included in the Class Data and should have received Class Notice,
14 the Parties will expeditiously meet and confer in good faith in an
15 effort to agree on whether to include them as Class Members. If the
16 Parties agree, such persons will be Class Members entitled to the
17 same rights as other Class Members, and the Administrator will
18 send, via email or overnight delivery, a Class Notice requiring them
19 to exercise options under this Agreement not later than 14 days after
20 receipt of Class Notice, or the deadline dates in the Class Notice,
21 which ever are later.

22 7.5 Requests for Exclusion (Opt-Outs).

23 7.5.1 Class Members who wish to exclude themselves (opt-out of) the
24 Class Settlement must send the Administrator, by fax, email, or
25 mail, a signed written Request for Exclusion not later than 45 days
26 after the Administrator mails the Class Notice (plus an additional 14
27 days for Class Members whose Class Notice is re-mailed) ("the
28 Response Deadline"). A Request for Exclusion must: (1) contain

1 the name, address, and telephone number of the Class Member
2 requesting exclusion; (2) contain a statement expressing that the
3 Settlement Class Member elects to be excluded from the Settlement;
4 (3) be signed by the Settlement Class Member; and (4) be
5 postmarked or fax stamped by the Response Deadline and returned
6 to the Settlement Administrator at the specified address, email
7 address, or fax number. The Request for Exclusion will be deemed
8 invalid if it does not contain a Settlement Class Member's name,
9 address, telephone number, and signature. The date of the postmark
10 on the return mailing envelope, email, or fax stamp on the Request
11 for Exclusion shall be the exclusive means used to determine
12 whether a Request for Exclusion has been timely submitted. .

13 7.5.2 If the Administrator has reason to question the authenticity of a
14 Request for Exclusion, the Administrator may demand additional
15 proof of the Class Member's identity. The Administrator's
16 determination of authenticity shall be final and not appealable or
17 otherwise susceptible to challenge.

18 7.5.3 Every Class Member who does not submit a timely and valid
19 Request for Exclusion is deemed to be a Participating Class Member
20 under this Agreement, entitled to all benefits and bound by all terms
21 and conditions of the Settlement and any Final Judgment in this
22 Action if the Settlement is approved by the Court, including the
23 Participating Class Members' Releases under Paragraphs 5.2 and
24 5.3 of this Agreement, regardless whether the Participating Class
25 Member actually receives the Class Notice or objects to the
26 Settlement.

27 7.5.4 Every Class Member who submits a valid and timely Request for
28 Exclusion is a Non-Participating Class Member and shall not

1 receive an Individual Class Payment or have the right to object to
2 the class action components of the Settlement. Non-Participating
3 Class Members who are Aggrieved Employees are deemed to
4 release Released PAGA Claims as outlined in Paragraph 5.3 and are
5 eligible for an Individual PAGA Payment.

6 7.6 Challenges to Calculation of Pay Periods. Each Class Member shall have 45 days
7 after the Administrator mails the Class Notice (plus an additional 14 days for Class
8 Members whose Class Notice is re-mailed) to challenge the number of Class and/or
9 PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The
10 Class Member may challenge the allocation by communicating with the
11 Administrator via fax, email or mail. The Administrator must encourage the
12 challenging Class Member to submit supporting documentation. In the absence of
13 any contrary documentation, the Administrator is entitled to presume that the Pay
14 Periods contained in the Class Notice are correct so long as they are consistent with
15 the Class Data. The Administrator's determination of each Class Member's
16 allocation of Pay Periods shall be final and not appealable or otherwise susceptible
17 to challenge. The Administrator shall promptly provide copies of all challenges to
18 calculation of Pay Periods to Defense Counsel and Class Counsel and the
19 Administrator's determination the challenges. In the absence of circumstances
20 indicating fraud, manipulation or destruction, Defendants' records will be given a
21 rebuttable presumption of accuracy.

22 7.7 Objections to Settlement.

23 7.7.1 Only Participating Class Members may object to the class action
24 components of the Settlement and/or this Agreement, including
25 contesting the fairness of the Settlement, and/or amounts requested
26 for the Class Counsel Fees Payment, Class Counsel Litigation
27 Expenses Payment and/or Class Representative Service Payment.
28

1 7.7.2 Participating Class Members may send written objections to the
2 Administrator, by fax, email, or mail. In the alternative,
3 Participating Class Members may appear in Court (or hire an
4 attorney to appear in Court) to present verbal objections at the Final
5 Approval Hearing. A Participating Class Member who elects to
6 send a written objection to the Administrator must do so not later
7 than 45 days after the Administrator's mailing of the Class Notice
8 (plus an additional 14 days for Class Members whose Class Notice
9 was re-mailed). The date of mailing on the envelope shall be
10 deemed the exclusive means for determining that a Notice of
11 Objection was timely received.

12 7.7.3 The Notice of Objection must be signed by the Class Member and
13 state: (1) the full name of the Class Member; (2) the dates of
14 employment of the Class Member; (3) the basis for the objection;
15 and (4) if the Class Member intends to appear at the final approval
16 hearing.

17 7.7.4 Class Counsel will ensure that any Notice of Objection received by
18 the Administrator by the Response Deadline are filed with the Court
19 along with the Motion for Final Approval. Either of the Parties may
20 file a responsive document to any objection before the Final
21 Approval Hearing. Any attorney who will represent an individual
22 objecting to this Settlement who has not filed a written objection
23 must file a notice of appearance with the Court and serve Class
24 Counsel and counsel for Defendants no later than the Response
25 Period Deadline. Class Counsel shall not represent any Settlement
26 Class Members with respect to any such objections.

27 7.7.5 Any Class Member who fails to submit a timely written objection or
28 to present an objection in person at the Final Approval Hearing shall

1 be deemed to have waived any objections and shall be foreclosed
2 from making any objection to the Settlement whether by appeal or
3 otherwise

4 7.7.6 Non-Participating Class Members have no right to object to any of
5 the class action components of the Settlement.

6 7.8 No Solicitation of Settlement Objections and Exclusions. The Parties agree to use
7 their best efforts to carry out the terms of this Settlement. At no time shall any of
8 the Parties or their counsel seek to solicit or otherwise encourage Class Members to
9 submit either written objections to the Settlement, requests for exclusion from the
10 Settlement, or to appeal from the Court's Final Judgment. Nothing in this paragraph
11 shall be construed to restrict Class Counsel's ability to communicate with Class
12 Members in accordance with Class Counsel's ethical obligations owed to Class
13 Members.

14 7.9 Administrator Duties. The Administrator, as a condition of appointment, will agree
15 to be bound by this Agreement with respect to the performance of its duties and its
16 compensation. The Administrator has a duty to perform or observe all tasks to be
17 performed or observed by the Administrator contained in this Agreement or
18 otherwise.

19 7.9.1 Website, Email Address and Toll-Free Number. The Administrator
20 will establish and maintain and use an internet website to post
21 information of interest to Class Members including the date, time
22 and location for the Final Approval Hearing and copies of the
23 Settlement Agreement, Motion for Preliminary Approval, the
24 Preliminary Approval, the Class Notice, the Motion for Final
25 Approval, the Motion for Class Counsel Fees Payment, Class
26 Counsel Litigation Expenses Payment and Class Representative
27 Service Payment, the Final Approval and the Judgment. The
28 Administrator will also maintain and monitor an email address and a

1 toll-free telephone number to receive Class Member calls, faxes and
2 emails.

3 7.9.2 Requests for Exclusion (Opt-outs) and Exclusion List. The

4 Administrator will promptly review on a rolling basis Requests for
5 Exclusion to ascertain their validity. Not later than 5 days after the
6 expiration of the deadline for submitting Requests for Exclusion, the
7 Administrator shall email a list to Class Counsel and Defense
8 Counsel containing (a) the names and other identifying information
9 of Class Members who have timely submitted valid Requests for
10 Exclusion ("Exclusion List"); (b) the names and other identifying
11 information of Class Members who have submitted invalid Requests
12 for Exclusion; (c) copies of all Requests for Exclusion from
13 Settlement submitted (whether valid or invalid).

14 7.9.3 Weekly Reports. The Administrator must, on a weekly basis,

15 provide written reports to Class Counsel and Defense Counsel that,
16 among other things, tally the number of: Class Notices mailed or re-
17 mailed, Class Notices returned undelivered, Requests for Exclusion
18 (whether valid or invalid) received, objections received, challenges
19 to Pay Periods received and/or resolved, and checks mailed for
20 Individual Class Payments and Individual PAGA Payments
21 ("Weekly Report"). The Weekly Reports must include provide the
22 Administrator's assessment of the validity of Requests for Exclusion
23 and attach copies of all Requests for Exclusion and objections
24 received.

25 7.9.4 Pay Period Challenges. The Administrator has the authority to

26 address and make final decisions consistent with the terms of this
27 Agreement on all Class Member challenges over the calculation of
28 Pay Periods. Class Members will have the opportunity, should they

1 disagree with Defendants' records regarding the dates of
2 employment stated on their Notice of Class Action Settlement, to
3 provide documentation and/or an explanation to show contrary
4 information by the Response Deadline. If there is a dispute, the
5 Administrator will consult with the Parties to determine whether an
6 adjustment is warranted. The Administrator shall determine the
7 eligibility for, and the amounts of, any Individual Settlement
8 Payments under the terms of this Agreement. The Settlement
9 Administrator's determination of the eligibility for and amount of
10 any Individual Settlement Payment shall be binding upon the
11 Settlement Class Members and the Parties. In the absence of
12 circumstances indicating fraud, manipulation or destruction,
13 Defendants' records will be given a rebuttable presumption of
14 accuracy.

15 7.9.5 Administrator's Declaration. Not later than 14 days before the date
16 by which Plaintiff is required to file the Motion for Final Approval
17 of the Settlement, the Administrator will provide to Class Counsel
18 and Defense Counsel, a signed declaration suitable for filing in
19 Court attesting to its due diligence and compliance with all of its
20 obligations under this Agreement, including, but not limited to, its
21 mailing of Class Notice, the Class Notices returned as undelivered,
22 the re-mailing of Class Notices, attempts to locate Class Members,
23 the total number of Requests for Exclusion from Settlement it
24 received (both valid or invalid), the number of written objections
25 and attach the Exclusion List. The Administrator will supplement
26 its declaration as needed or requested by the Parties and/or the
27 Court. Class Counsel is responsible for filing the Administrator's
28 declaration(s) in Court.

1 7.9.6 Final Report by Settlement Administrator. Within 10 days after the
2 Administrator disburses all funds in the Gross Settlement Amount,
3 the Administrator will provide Class Counsel and Defense Counsel
4 with a final report detailing its disbursements by employee
5 identification number only of all payments made under this
6 Agreement. At least 15 days before any deadline set by the Court,
7 the Administrator will prepare, and submit to Class Counsel and
8 Defense Counsel, a signed declaration suitable for filing in Court
9 attesting to its disbursement of all payments required under this
10 Agreement. Class Counsel is responsible for filing the
11 Administrator's declaration in Court.

12 7.9.7 Disputes Regarding Administration of Settlement. Any disputes not
13 resolved by the Settlement Administrator concerning the
14 administration of the Settlement will be resolved by the Court, under
15 the laws of the State of California. Prior to any such involvement of
16 the Court, counsel for the Parties will confer in good faith to resolve
17 the disputes without the necessity of involving the Court

18 7.9.8 The Settlement Administrator shall have its own Employer
19 Identification Number under Internal Revenue Service Form W-9
20 and shall use its own Employer Identification Number in calculating
21 payroll withholdings for taxes and shall transmit the required
22 employers' and employees' share of the withholdings to the
23 appropriate state and federal tax authorities. The Settlement
24 Administrator shall establish a settlement fund that meets the
25 requirements of a Qualified Settlement Fund ("QSF") under US
26 Treasury Regulation section 468B-1 in which the Gross Settlement
27 Amount and employer's share of payroll taxes shall be deposited.
28

1 **8 CLASS SIZE ESTIMATES.** Based on its records, Defendants estimate that, as of the end
2 date of the Class Period, there are approximately 163 Class Members and 9,893 Total Pay
3 Periods during the Class period. Defendants estimate that there are 19,684 workweeks during
4 the Class Period and 3,700 Pay Periods during the PAGA Period.

5
6 **9 DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion
7 identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendants, at its
8 sole discretion, shall have the right but not the obligation to revoke the Settlement. The Parties
9 agree that, if Defendants exercise its revocation rights, the Settlement shall be void ab initio,
10 have no force or effect whatsoever, and that neither Party will have any further obligation to
11 perform under this Agreement; provided, however, Defendants will remain responsible for
12 paying all Settlement Administration Expenses incurred to that point. Defendants must notify
13 Class Counsel and the Court of its election to revoke not later than 14 days after the
14 Administrator sends the final Exclusion List to Defense Counsel.

15
16 **10 ESCALATOR CLAUSE.** Defendants have estimated that as of January 1, 2023, there are
17 approximately one hundred and sixty three (163) prospective Class Members who worked
18 approximately 9,893 Total Pay Periods during the Class Period. The Maximum Settlement
19 Amount will increase proportionally with added Pay Periods if the number of such additional
20 Pay Periods is more than ten percent (10%) of the estimate number of Pay Periods stated
21 herein. In other words, if the number of actual pay periods during the Class Period exceeds
22 9,893 pay periods by more than 1990 pay periods, the Gross Settlement Amount shall be
23 increased by the actual percentage. For example, if the number of pay periods increases by
24 11%, Defendants shall increase the Gross Settlement Amount by 1%. Defendants have the
25 option of cutting off and/or excluding from this Settlement any pay periods and or "Class
26 Members" that exceed a 10% increase on the 9,893 pay periods agreed upon.

27
28 **11 MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared

1 Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the
2 Settlement that includes a request for approval of the PAGA settlement under Labor Code
3 section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment
4 (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to
5 Defense Counsel a reasonable period prior to filing the Motion for Final Approval. Class
6 Counsel and Defense Counsel will expeditiously meet and confer in good faith, to resolve any
7 disagreements concerning the Motion for Final Approval. Upon expiration of the deadlines to
8 postmark Requests for Exclusion or Objection Forms, and with the Court's permission, a Final
9 Approval/Settlement Fairness Hearing will be conducted to determine the final approval of the
10 Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement
11 Payments; (b) Individual PAGA Payments; (c) Class Representative Enhancement Payments;
12 (d) Attorneys' Fees and Costs; and (e) Settlement Administration Costs. Class Counsel will be
13 responsible for drafting all documents necessary to obtain final approval. Class Counsel will
14 also be responsible for drafting the attorneys' fees and costs application to be heard at the Final
15 Approval/Settlement Fairness Hearing.

16 11.1 Response to Objections. Each Party retains the right to respond to any objection
17 raised by a Participating Class Member, including the right to file responsive
18 documents in Court no later than five court days prior to the Final Approval
19 Hearing, or as otherwise ordered or accepted by the Court.

20 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
21 Approval on any material change to the Settlement (including, but not limited to, the
22 scope of release to be granted by Class Members), the Parties will expeditiously
23 work together in good faith to address the Court's concerns by revising the
24 Agreement as necessary to obtain Final Approval. The Court's decision to award
25 less than the amounts requested for the Class Representative Service Payment, Class
26 Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or
27 Administrator Expenses Payment shall not constitute a material modification to the
28 Agreement within the meaning of this paragraph.

1 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
2 Judgment, the Court will retain jurisdiction over the Parties, Action, and the
3 Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii)
4 addressing settlement administration matters, and (iii) addressing such post-
5 Judgment matters as are permitted by law.

6 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
7 conditions of this Agreement, specifically including the Class Counsel Fees
8 Payment and Class Counsel Litigation Expenses Payment reflected set forth in this
9 Settlement, the Parties, their respective counsel, and all Participating Class
10 Members who did not object to the Settlement as provided in this Agreement, waive
11 all rights to appeal from the Judgment, including all rights to post-judgment and
12 appellate proceedings, the right to file motions to vacate judgment, motions for new
13 trial, extraordinary writs, and appeals. The waiver of appeal does not include any
14 waiver of the right to oppose such motions, writs or appeals. If an objector appeals
15 the Judgment, the Parties' obligations to perform under this Agreement will be
16 suspended until such time as the appeal is finally resolved and the Judgment
17 becomes final, except as to matters that do not affect the amount of the Net
18 Settlement Amount.

19 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If,
20 after a notice of appeal, a petition for review, or a petition for certiorari, or any other
21 motion, petition, or application, the reviewing Court vacates, reverses, or modifies
22 the Judgment such that there is a material modification to the Settlement (including,
23 but not limited to, the scope of release to be granted by Participating Class
24 Members), and that Court's decision is not completely reversed and the Judgment is
25 not fully affirmed on review by a higher Court, then the Parties shall work together
26 in good faith to address any concerns raised by the reviewing Court and propose a
27 revised Settlement for the approval of the Court not later than fourteen days after the
28 reviewing Court's decision vacating, reversing, or materially modifying the

Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payment or the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendants' obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.

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

13. **ADDITIONAL PROVISIONS.**

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. Defendants and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Actions have merit or that Defendants has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. This Settlement and the fact that Plaintiff and Defendants were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest

1 certification of any class for any reasons, and Defendants reserve all available
2 defenses to the claims in the Action, and Plaintiff reserves the right to move for
3 class certification on any grounds available and to contest Defendants' defenses.
4 Whether or not the Judgment becomes Final, neither the Settlement, this Agreement,
5 any document, statement, proceeding or conduct related to the Settlement or the
6 Agreement, nor any reports or accounting of those matters, will be (i) construed as,
7 offered or admitted in evidence as, received as, or deemed to be evidence for any
8 purpose adverse to Plaintiff or Defendants or any of the Released Parties, including,
9 but not limited to, evidence of a presumption, concession, indication or admission
10 by any of the Released Parties of any liability, fault, wrongdoing, omission,
11 concession or damage; or (ii) disclosed, referred to or offered in evidence against
12 any of the Released Parties, in any further proceeding in the Action, or any other
13 civil, criminal or administrative action or proceeding except for purposes of
14 effectuating the Settlement pursuant to this Agreement.

- 15 13.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants
16 and Defense Counsel separately agree that, until the Motion for Preliminary
17 Approval of Settlement is filed, they and each of them will not disclose, disseminate
18 and/or publicize, or cause or permit another person to disclose, disseminate or
19 publicize, any of the terms of the Agreement directly or indirectly, specifically or
20 generally, to any person, corporation, association, government agency, or other
21 entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will
22 be instructed to keep this Agreement confidential; (2) counsel in a related matter;
23 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in
24 response to a court order or subpoena; or (5) in response to an inquiry or subpoena
25 issued by a state or federal government agency. Each Party agrees to immediately
26 notify each other Party of any judicial or agency order, inquiry, or subpoena seeking
27 such information. Plaintiff, Class Counsel, Defendants and Defense Counsel
28 separately agree not to, directly or indirectly, initiate any conversation or other

1 communication, before the filing of the Motion for Preliminary Approval, any with
2 third party regarding this Agreement or the matters giving rise to this Agreement
3 except to respond only that "the matter was resolved," or words to that effect. This
4 paragraph does not restrict Class Counsel's communications with Class Members in
5 accordance with Class Counsel's ethical obligations owed to Class Members.

6 13.3. Limitation on Public Statements About Settlement. Neither Class Counsel nor
7 Defendants' Counsel shall publicize the Settlement, other than filing documents
8 with the Court. Plaintiff, Class Counsel, Defendants and Defendants' Counsel agree
9 that they will not issue any press releases or initiate any contact with the media
10 about the fact, amount, or terms of the Settlement. If Plaintiff, Class Counsel,
11 Defendants or Defendants' Counsel receives an inquiry about the Settlement from
12 the media, they may respond only after the Motion for Preliminary Approval has
13 been filed and only by confirming the accurate terms of the Settlement. Class
14 Counsel and Defendants' Counsel agree to discuss the terms of this Settlement only
15 in filings in the Action as required to approve the Settlement and in discussions with
16 Class Members or the Settlement Administrator in the context of administering this
17 settlement, except that they may include the Action's title in a list of cases for which
18 they were appointed Class Counsel for settlement purposes and provide the
19 percentage of Attorneys' Fees or the Service Award amount awarded in declarations
20 in support of future motions for settlement without providing any other information
21 about the settlements. Class Counsel and Defendants' Counsel will not discuss the
22 settlement with any third parties or otherwise publicize the settlement in any manner
23 except as provided in this paragraph. Class Counsel and Defendants' Counsel will
24 not use any information about the identities, contact information, or other data
25 provided about the Class Members or Aggrieved Employees in the Action other
26 than for purposes of the Action. All parties agree that this settlement is strictly
27 confidential until the Preliminary Approval Motion is filed. This provision also does
28 not limit Settlement Class Counsel from complying with ethical obligations, and

1 does not limit the Settlement Administrator from posting court-filed documents on
2 its website for viewing by Class Members after preliminary approval. Nothing in
3 this provision shall prevent Defendants or Plaintiff from making any required
4 disclosures.

5 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this
6 Agreement together with its attached exhibits shall constitute the entire agreement
7 between the Parties relating to the Settlement, superseding any and all oral
8 representations, warranties, covenants, or inducements made to or by any Party.

9 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
10 represent that they are authorized by Plaintiff and Defendants respectively, to take
11 all appropriate action required or permitted to be taken by such Parties pursuant to
12 this Agreement to effectuate its terms, and to execute any other documents
13 reasonably required to effectuate the terms of this Agreement including any
14 amendments to this Agreement.

15 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use
16 their best efforts, in good faith, to implement the Settlement by, among other things,
17 modifying the Settlement Agreement, submitting supplemental evidence and
18 supplementing points and authorities as requested by the Court. In the event the
19 Parties are unable to agree upon the form or content of any document necessary to
20 implement the Settlement, or on any modification of the Agreement that may
21 become necessary to implement the Settlement, the Parties will seek the assistance
22 of a mediator and/or the Court for resolution.

23 13.7. No Prior Assignments. The Parties separately represent and warrant that they have
24 not directly or indirectly assigned, transferred, encumbered, or purported to assign,
25 transfer, or encumber to any person or entity and portion of any liability, claim,
26 demand, action, cause of action, or right released and discharged by the Party in this
27 Settlement.
28

1 13.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants or any Released
2 Party, nor Defense Counsel are providing any advice regarding taxes or taxability,
3 nor shall anything in this Settlement be relied upon as such within the meaning of
4 United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or
5 otherwise.

6 13.9. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
7 PURPOSES OF THIS PARAGRAPH, THE “ACKNOWLEDGING PARTY” AND
8 EACH PARTY TO THIS AGREEMENT OTHER THAN THE
9 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND
10 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
11 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG
12 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
13 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR
14 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS,
15 TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY
16 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
17 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS,
18 HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR
19 ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
20 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED
21 UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
22 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
23 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY
24 ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX
25 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY;
26 AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS
27 IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
28 ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS

1 OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
2 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX
3 TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
4 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

5 13.10. Modification of Agreement. This Agreement, and all parts of it, may be amended,
6 modified, changed, or waived only by an express written instrument signed by all
7 Parties or their representatives, and approved by the Court.

8 13.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure
9 to the benefit of, the successors of each of the Parties.

10 13.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
11 governed by and interpreted according to the internal laws of the State of California,
12 without regard to conflict of law principles.

13 13.13. Cooperation in Drafting. The Parties have cooperated in the drafting and
14 preparation of this Agreement. This Agreement will not be construed against any
15 Party on the basis that the Party was the drafter or participated in the drafting.

16 13.14. Confidentiality. To the extent permitted by law, all agreements made, and orders
17 entered during Action and in this Agreement relating to the confidentiality of
18 information shall survive the execution of this Agreement.

19 13.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to
20 Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to
21 Class Counsel by Defendants or the Administrator in connection with the mediation,
22 other settlement negotiations, or in connection with the Settlement, may be used
23 only with respect to this Settlement, and no other purpose, and may not be used in
24 any way that violates any existing contractual agreement, statute, or rule of court.
25 Not later than 30 days after the date when the Court discharges the Administrator's
26 obligation to provide a Declaration confirming the final pay out of all Settlement
27 funds, Plaintiff and Class Counsel shall destroy, all paper and electronic versions of
28 any information provided to Class Counsel pursuant to Cal. Evid. Code §1152 and

Class Data received from Defendants and/or the Administrator and, if requested in writing, confirm in writing to Defendants the destruction of all such documents and data.

13.16. 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.

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

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

To Plaintiff ANSELMO PARDO:
Marcus J. Bradley, Esq.
(mbradley@bradleygrombacher.com)
Kiley L. Grombacher, Esq.
(kgrombacher@bradleygrombacher.com)
Bradley/Grombacher, LLP
31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Telephone: (805) 270-7100

John Habashy, Esq.
(john@lexiconlaw.com)
Lexicon Law, PC
633 W. 5th St., 28th Floor
Los Angeles, CA 90071
Telephone: (213) 223-5900

To Defendants SHADOW HOLDINGS LLC
dba BOCCHI LABORATORIES, INC.;
BOCCHI LABORATORIES OHIO, LLC;
BRIGHT INNOVATION LABS:
Cheryl L. Schreck, Esq.
(cschreck@fisherphillips.com)
Anet Drapalski, Esq.
(adrapalski@fisherphillips.com)
Joel Moon
(jmoon@fisherphillips.com)
Fisher & Phillips LLP
444 South Flower Street, Suite 1500
Los Angeles, California 90071
Telephone: (213) 330-4500

13.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for

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

6 13.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
7 litigation shall be stayed, except to effectuate the terms of this Agreement. The
8 Parties further agree that upon the signing of this Agreement that pursuant to CCP
9 section 583.330 to extend the date to bring a case to trial under CCP section
10 583.310 for the entire period of this settlement process.

11 13.21. Continuing Jurisdiction. The Court shall retain continuing jurisdiction over the
12 Action under CCP section 664.6 to ensure the continuing implementation of this
13 Agreement and enforcement of the Settlement until performance in full of the
14 terms of this Settlement.

15 13.22. Enforcement. Except with regard to the motions for preliminary approval, final
16 approval, and attorneys' fees and costs as contemplated herein, should either party
17 be required to enforce the terms of this Agreement, the prevailing party shall be
18 entitled to reasonable attorneys' fees and costs.

19 13.23. Binding Agreement. The Parties warrant they understand and have full authority to
20 enter this Settlement and further intend that this Settlement will be fully
21 enforceable and binding on all Parties. The Parties also agree that this Settlement
22 will be admissible and subject to disclosure in any proceeding to enforce its terms,
23 notwithstanding any mediation confidentiality provisions that otherwise might
24 apply under federal or state law.

25 13.24. Invalidity of Any Provision. Before declaring any provision of this Agreement
26 invalid, the Court shall first attempt to construe the provisions valid to the fullest
27 extent possible consistent with applicable precedents so as to define all provisions
28 of this Agreement valid and enforceable.

13.25. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13.26. Voluntary. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties hereto. The Parties acknowledge that they have had ample opportunity to have this Agreement reviewed by counsel of their choice.

WHEREFORE, Plaintiff, on behalf of himself and the Class Members and Aggrieved Employees, and Defendants have executed this Agreement as of the dates set forth below

IT IS SO AGREED:

DATED: 1/24/2023

DocuSigned by:

Anselmo Pardo, Plaintiff

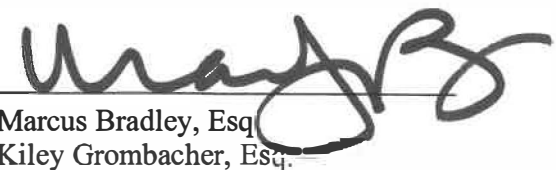
DATED: 1/25/2023


Wayne Byrne
For Defendants Shadow Holdings LLC,
Bocchi Laboratories Ohio, LLC, Bright Innovation Labs

APPROVED AS TO FORM:

DATED: January 23, 2023

BRADLEY/GROMBACHER, LLP

By: 
Marcus Bradley, Esq.
Kiley Grombacher, Esq.
Lirit King, Esq.
Attorneys for Plaintiff

1 DATED: January 25, 2023

LEXICON LAW, PC

2
3
4 By: 

5 John Habashy, Esq.
6 Attorney for Plaintiff

7 DATED: January 25, 2023

FISHER & PHILLIPS, LLP

8
9 By: 

10 Cheryl Schreck, Esq.
11 Anet Drapalski, Esq.
12 Joel Moon, Esq.
13 Attorneys for Defendants
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