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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SPRING STREET

CELESTE GUERRA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

BUFFALO SPOT 2 AZ, LLC, a limited
liability company; BUFFALO SPOT 3 AZ,
LLC, a limited liability company; BUFFALO
SPOT 3, LLC, a limited liability company;
BUFFALO SPOT 4, LLC, a limited liability
company; BUFFALO SPOT 5, LLC, a limited
liability company; BUFFALO SPOT 6, LLC,
a limited liability company; BUFFALO SPOT
7, LLC, a limited liability company;
BUFFALO SPOT 8, LLC, a limited liability
company; BUFFALO SPOT 9, LLC, a limited
liability company; BUFFALO SPOT 10,
LLC, a limited liability company; BUFFALO
SPOT 11, LLC, a limited liability company;
BUFFALO SPOT GLOBAL, LLC, a limited
liability company; BUFFALO SPOT
MANAGEMENT GROUP, LLC, a limited
liability company; BUFFALO SPOT WINGS
AND RIBS, LLC, a limited liability company;
and DOES 1 through 10, inclusive,

Defendants

Case No.: 22STCV16054

[Assigned to Hon. Stuart Rice]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Complaint filed: May 13, 2022
Trial date: Not set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Celeste Guerra (“Plaintiff”) and defendants Buffalo Spot 3, LLC, Buffalo Spot 4, LLC, Buffalo Spot 5, LLC, Buffalo Spot 6, LLC, Buffalo Spot 7, LLC, Buffalo Spot 8, LLC, Buffalo Spot 9, LLC, Buffalo Spot 10, LLC, Buffalo Spot 11, LLC, Buffalo Spot Global, LLC, Buffalo Spot Management Group, LLC, and Buffalo Spot Wings and Ribs, LLC (collectively “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendants captioned 22STCV16054 initiated on May 13, 2022 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Phoenix Class Action and Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Defendants in California and classified as a non-exempt employee during the PAGA Period.
- 1.5. “Class” means all persons employed by Defendants in California and classified as a non-exempt employee during the Class Period.
- 1.6. “Class Counsel” means Kane Moon, Allen Feghali, and Hyunjin Kim of Moon & Yang, APC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendants’ possession

including the Class Member's name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

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

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

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

1.12. "Class Period" means the period from May 13, 2018 through March 4, 2023.

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

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

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

1.16. "Defendants" means named Defendants Buffalo Spot 3, LLC, Buffalo Spot 4, LLC, Buffalo Spot 5, LLC, Buffalo Spot 6, LLC, Buffalo Spot 7, LLC, Buffalo Spot 8, LLC, Buffalo Spot 9, LLC, Buffalo Spot 10, LLC, Buffalo Spot 11, LLC, Buffalo Spot Global, LLC, Buffalo Spot Management Group, LLC, and Buffalo Spot Wings and Ribs, LLC.

1.17. "Defense Counsel" means Guillermo A. Escobedo and Arcelia N. Magaña of Jackson Lewis P.C.

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

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

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

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

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

11 1.22. "Gross Settlement Amount" means \$260,000 which is the total amount Defendants agree to
12 pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement
13 Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the
14 LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class
15 Representative Service Payment and the Administrator's Expenses.

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

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

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

23 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency
24 entitled, under Labor Code section 2699, subd. (i).

25 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under
26 Labor Code section 2699, subd. (i).

27 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments
28 in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA

1 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class
2 Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The
3 remainder is to be paid to Participating Class Members as Individual Class Payments.

4 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement
5 by sending the Administrator a valid and timely Request for Exclusion.

6 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked
7 for Defendants for at least one day during the PAGA Period.

8 1.31. "PAGA Period" means the period from May 8, 2021 to March 4, 2023.

9 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

10 1.33. "PAGA Notice" means Plaintiff's May 8, 2022 letter to Defendants and the LWDA
11 providing notice pursuant to Labor Code section 2699.3, subd. (a).

12 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross
13 Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to
14 LWDA (\$15,000.00) in settlement of PAGA claims.

15 1.35. "Participating Class Member" means a Class Member who does not submit a valid and
16 timely Request for Exclusion from the Settlement.

17 1.36. "Plaintiff" means Celeste Guerra, the named plaintiff in the Action.

18 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the
19 Settlement.

20 1.38. "Preliminary Approval Order" means the proposed Court Order Granting Preliminary
21 Approval and Approval of PAGA Settlement.

22 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5 below.

23 1.40. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA
24 Counsel and as described in Paragraph 5 below.

25 1.41. "Released Parties" means: Defendants and each of its former and present directors, officers,
26 shareholders, members, owners (including Ivan Flores), members, agents (including any
27 investment bankers, accountants, attorneys, insurers, reinsurers, and any past, present, or
28 future officers, directors, and employees), predecessors, successors, assigns, subsidiaries,

1 affiliates, and related companies.

2 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be
3 excluded from the Class Settlement signed by the Class Member.

4 1.43. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members
5 and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax,
6 email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or
7 her Objection to the Settlement. Class Members to whom Notice Packets are resent after
8 having been returned undeliverable to the Administrator shall have an additional 14 calendar
9 days beyond the Response Deadline has expired.

10 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the
11 Judgment.

12 1.45. "Workweek" means any week during which a Class Member worked for Defendants for at
13 least one day, during the Class Period.

14
15 **2. RECITALS.**

16 2.1. On May 13, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of
17 action against Defendants for (1) Failure to Pay Minimum Wage and Straight Time Wages
18 [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation
19 [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§
20 226.7 and 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code § 226.7];
21 (5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; (6) Failure
22 to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (7) Failure to
23 Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and (8) Unfair
24 Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]. On September 22, 2022,
25 Plaintiff filed a First Amended Complaint alleging causes of action against Defendants for
26 civil penalties under PAGA. The First Amended Complaint is the operative complaint in
27 the Action (the "Operative Complaint.") Defendants deny the allegations in the Operative
28 Complaint, deny any failure to comply with the laws identified in in the Operative Complaint

and deny any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice on or about May 8, 2022.

2.3. On December 9, 2022, the Parties participated in an all-day mediation presided over by Steve Rottman, Esq., which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, policy documents, time and pay records, and data point related to the Class Members. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

2.6. 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.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay \$260,000.00 and no more as the Gross Settlement Amount and 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 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of

1 not more than \$7,500, in addition to any Individual Class Payment and any
2 Individual PAGA Payment the Class Representative is entitled to receive as a
3 Participating Class Member. Plaintiff will provide a general release and waiver of
4 Civil Code section 1542 rights. Defendants will not oppose Plaintiff's request for a
5 Class Representative Service Payment that does not exceed this amount. As part of
6 the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment,
7 Plaintiff will seek Court approval for any Class Representative Service Payments no
8 later than 16 court days prior to the Final Approval Hearing. If the Court approves a
9 Class Representative Service Payment less than the amount requested, the
10 Administrator will retain the remainder in the Net Settlement Amount. The
11 Administrator will pay the Class Representative Service Payment using IRS Form
12 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on
13 the Class Representative Service Payment.

14 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 3 1/3 %,
15 which is currently estimated to be \$86,666.66 and a Class Counsel Litigation
16 Expenses Payment of not more than \$20,000.00. Defendants will not oppose
17 requests for these payments provided that do not exceed these amounts. Plaintiff
18 and/or Class Counsel will file an application or motion for Class Counsel Fees
19 Payment and Class Litigation Expenses Payment. If the Court approves a Class
20 Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less
21 than the amounts requested, the Administrator will allocate the remainder to the Net
22 Settlement Amount. Released Parties shall have no liability to Class Counsel or any
23 other Plaintiff's Counsel arising from any claim to any portion any Class Counsel
24 Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator
25 will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment
26 using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and
27 liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel
28 Litigation Expenses Payment and holds Defendants harmless, and indemnifies

Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$20,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$20,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

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

1 allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the
2 Individual PAGA Payments.

3 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)
4 dividing the amount of the Aggrieved Employees' 25% share of PAGA
5 Penalties \$5,000.00 by the total number of PAGA Period Pay Periods
6 worked by all Aggrieved Employees during the PAGA Period and (b)
7 multiplying the result by each Aggrieved Employee's PAGA Period Pay
8 Periods. Aggrieved Employees assume full responsibility and liability for
9 any taxes owed on their Individual PAGA Payment.

10 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the
11 Administrator will allocate the remainder to the Net Settlement Amount. The
12 Administrator will report the Individual PAGA Payments on IRS 1099
13 Forms.

14
15 **4. SETTLEMENT FUNDING AND PAYMENTS.**

16 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
17 to date, Defendants estimates there are 789 Class Members who collectively worked a total
18 of 13,542 of Workweeks, and 291 of Aggrieved Employees who worked a total of 2,706
19 PAGA Pay Periods.

20 4.2. Class Data. Within 21 days after the Court grants Preliminary Approval of the Settlement,
21 Defendants will simultaneously deliver the Class Data to the Administrator in the form of a
22 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator
23 must maintain the Class Member Data in confidence, use the Class Member Data only for
24 purposes of this Settlement and for no other purpose, and restrict access to the Class Member
25 Data to Administrator employees who need access to the Class Member Data to effect and
26 perform under this Agreement. Defendants has a continuing duty to immediately notify
27 Class Counsel if it discovers that the Class Member Data omitted employee identifying
28 information and to provide corrected or updated Class Member Data as soon as reasonably

feasible. Without any extension of the deadline by which Defendants must send the Class Member Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Member Data.

4.3. Funding of Gross Settlement Amount. First payment will be due 30 calendar days after final approval. Payments will be made in equal installments thereafter and paid on the same day each month. Settlement is to be fully paid by June 9, 2025.

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

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

1 using the National Change of Address Database.

2 4.4.2. The Administrator must conduct a Class Member Address Search for all Class
3 Members whose checks are returned undelivered without USPS forwarding address.
4 Within 7 days of receiving a returned check the Administrator must re-mail checks
5 to the USPS forwarding address provided or to an address ascertained through the
6 Class Member Address Search. The Administrator need not take further steps to
7 deliver checks to Class Members whose re-mailed checks are returned as
8 undelivered. The Administrator shall promptly send a replacement check to any
9 Class Member whose original check was lost or misplaced, requested by the Class
10 Member prior to the void date.

11 4.4.3. For any Class Members whose Individual Class Payment check or Individual PAGA
12 Payment check is uncashed and cancelled after the void date, the Administrator shall
13 transmit the funds represented by such checks to the California Controller's
14 Unclaimed Property Fund in the name of the Class Member thereby no "unpaid
15 residue" subject to the requirements of California Code of Civil Procedure Section
16 384, subd. (b).

17 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
18 not obligate Defendants to confer any additional benefits or make any additional
19 payments to the Class Members (such as 401(k) contributions or bonuses) beyond
20 those specified in this Agreement.

21
22 **5. RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire
23 Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the
24 Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against
25 all Released Parties as follows:

26 5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives,
27 agents, attorneys (including Class Counsel), heirs, administrators, successors, and assigns
28 generally, release and discharge Released Parties from all claims, transactions, or

1 occurrences that occurred during the Class period, and through the date of execution of this
2 Agreement, including, but not limited to: (a) all claims that were, or reasonably could have
3 been, alleged, based on the facts contained In the Operative Complaint and the PAGA
4 Notice: (b) any claims associated with Plaintiff's employment with Defendant(s), including
5 claims relating to the hiring or separation of her employment, interactions with employees
6 or guests, and claims for wrongful termination, discrimination, harassment, breach of
7 contract, and/or tort-based claims under local, state or federal law, ("Plaintiff's Release").
8 Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to
9 any claims for vested benefits, unemployment benefits, disability benefits, social security
10 benefits, or workers' compensation benefits that arose at any time,. Plaintiff acknowledges
11 that Plaintiff may discover facts or law different from, or in addition to, the facts or law that
12 Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release
13 shall be and remain effective in all respects, notwithstanding such different or additional
14 facts or Plaintiff's discovery of them.

15 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes
16 of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
17 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

21 5.2. Release by Participating Class Members Who Are Not Aggrieved Employees. All
22 Participating Class Members, on behalf of themselves and their respective former and
23 present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
24 release Released Parties from (i) all claims that were alleged, or reasonably could have been
25 alleged, based on the Class Period facts stated in the Operative Complaint and ascertained
26 in the course of the Action including any and all claims involving any alleged failure to pay
27 minimum wage; failure to pay overtime wages, failure to provide meal and/or rest periods;
28 failure to indemnify; failure to pay wages due at termination; failure to provide accurate

1 itemized wage statements ; unfair business practices; and PAGA penalties. Except as set
2 forth in Section 5.2 of this Agreement, Participating Class Members do not release any other
3 claims, including claims for vested benefits, wrongful termination, violation of the Fair
4 Employment and Housing Act, unemployment insurance, disability, social security,
5 workers' compensation, or claims based on facts occurring outside the Class Period. Release
6 by Non-Participating Class Members Who Are Aggrieved Employees: All Non-
7 Participating Class Members who are Aggrieved Employees are deemed to release, on
8 behalf of themselves and their respective former and present representatives, agents,
9 attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims
10 for PAGA penalties that were alleged, or reasonably could have been alleged, based on the
11 PAGA Period facts stated in the Operative Complaint, the PAGA Notice, and ascertained in
12 the course of the Action including, any and all claims involving any alleged failure to pay
13 minimum wage; failure to pay overtime wages, failure to provide meal and/or rest periods;
14 failure to indemnify; failure to pay wages due at termination; failure to provide accurate
15 itemized wage statements ; unfair business practices; and PAGA penalties.

16
17 **6. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and
18 file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the
19 Court's current checklist for Preliminary Approval.

20 6.1. Defendants' Declaration in Support of Preliminary Approval. Within 30 days of the full
21 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
22 Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual
23 or potential conflicts of interest with the Administrator. In their Declarations, Defense
24 Counsel and Defendant shall aver that they are not aware of any other pending matter or
25 action asserting claims that will be extinguished or adversely affected by the Settlement.

26 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
27 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice,
28 and memorandum in support, of the Motion for Preliminary Approval that includes an

analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator ; (v) a signed declaration from 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 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 45 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for

1 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
2 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in
3 person or by telephone, and in good faith, to resolve the disagreement. If the Court does not
4 grant the Motion for Preliminary Approval or conditions its approval on any material change
5 to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on
6 behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the
7 Agreement and otherwise satisfy the Court's concerns.
8

9 **7. SETTLEMENT ADMINISTRATION.**

10 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action
11 Administration Solutions to serve as the Administrator and verified that, as a condition of
12 appointment, Phoenix Class Action Administration Solutions agrees to be bound by this
13 Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
14 for payment of Administration Expenses. The Parties and their Counsel represent that they
15 have no interest or relationship, financial or otherwise, with the Administrator other than a
16 professional relationship arising out of prior experiences administering settlements.

17 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
18 Identification Number for purposes of calculating payroll tax withholdings and providing
19 reports state and federal tax authorities.

20 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
21 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation
22 section 468B-1.

23 7.4. Notice to Class Members.

24 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator
25 shall notify Class Counsel that the list has been received and state the number of
26 Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

27 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days
28 after receiving the Class Data, the Administrator will send to all Class Members

1 identified in the Class Data, via first-class United States Postal Service ("USPS")
2 mail, the Class Notice with Spanish translation, if applicable, substantially in the
3 form attached to this Agreement as Exhibit A. The first page of the Class Notice
4 shall prominently estimate the dollar amounts of any Individual Class Payment
5 and/or Individual PAGA Payment payable to the Class Member, and the number of
6 Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts.
7 Before mailing Class Notices, the Administrator shall update Class Member
8 addresses using the National Change of Address database.

9 7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice
10 returned by the USPS as undelivered, the Administrator shall re-mail the Class
11 Notice using any forwarding address provided by the USPS. If the USPS does not
12 provide a forwarding address, the Administrator shall conduct a Class Member
13 Address Search, and re-mail the Class Notice to the most current address obtained.
14 The Administrator has no obligation to make further attempts to locate or send Class
15 Notice to Class Members whose Class Notice is returned by the USPS a second time.

16 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
17 and/or Pay Periods, and Requests for Exclusion will be extended an additional 10
18 days beyond the 45 days otherwise provided in the Class Notice for all Class
19 Members whose notice is re-mailed. The Administrator will inform the Class
20 Member of the extended deadline with the re-mailed Class Notice.

21 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
22 discovers any persons who believe they should have been included in the Class Data
23 and should have received Class Notice, the Parties will expeditiously meet and
24 confer in person or by telephone, and in good faith, in an effort to agree on whether
25 to include them as Class Members. If the Parties agree, such persons will be Class
26 Members entitled to the same rights as other Class Members, and the Administrator
27 will send, via email or overnight delivery, a Class Notice requiring them to exercise
28 options under this Agreement not later than 10 days after receipt of Class Notice, or

the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 10 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

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

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment

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

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

19 7.7. Objections to Settlement.

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

25 7.7.2. Participating Class Members may send written objections to the Administrator, by
26 fax, email, or mail. In the alternative, Participating Class Members may appear in
27 Court (or hire an attorney to appear in Court) to present verbal objections at the Final
28 Approval Hearing. A Participating Class Member who elects to send a written

1 objection to the Administrator must do so not later than 45 days after the
2 Administrator's mailing of the Class Notice (plus an additional 10 days for Class
3 Members whose Class Notice was re-mailed).

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

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

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

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

26 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports
27 to Class Counsel and Defense Counsel that, among other things, tally the number of:
28 Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for

1 Exclusion (whether valid or invalid) received, objections received, challenges to
2 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
3 Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The
4 Weekly Reports must include provide the Administrator's assessment of the validity
5 of Requests for Exclusion and attach copies of all Requests for Exclusion and
6 objections received.

7 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
8 address and make final decisions consistent with the terms of this Agreement on all
9 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
10 The Administrator's decision shall be final and not appealable or otherwise
11 susceptible to challenge.

12 7.8.5. Administrator's Declaration. Not later than 14 days before the date by which
13 Plaintiff is required to file the Motion for Final Approval of the Settlement, the
14 Administrator will provide to Class Counsel and Defense Counsel, a signed
15 declaration suitable for filing in Court attesting to its due diligence and compliance
16 with all of its obligations under this Agreement, including, but not limited to, its
17 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
18 Class Notices, attempts to locate Class Members, the total number of Requests for
19 Exclusion from Settlement it received (both valid or invalid), the number of written
20 objections and attach the Exclusion List. The Administrator will supplement its
21 declaration as needed or requested by the Parties and/or the Court. Class Counsel is
22 responsible for filing the Administrator's declaration(s) in Court.

23 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
24 disburses all funds in the Gross Settlement Amount, the Administrator will provide
25 Class Counsel and Defense Counsel with a final report detailing its disbursements
26 by employee identification number only of all payments made under this Agreement.
27 At least 15 days before any deadline set by the Court, the Administrator will prepare,
28 and submit to Class Counsel and Defense Counsel, a signed declaration suitable for

1 filing in Court attesting to its disbursement of all payments required under this
2 Agreement. Class Counsel is responsible for filing the Administrator's declaration in
3 Court.
4

5 **8. CLASS SIZE ESTIMATES AND ESCALATION CLAUSE.** Defendants have
6 represented that the class consists of an estimated total of 789 Class Members who worked an
7 estimated 13,542 workweeks during the Class Period as of December 9, 2022. Should the number
8 of workweeks in the Class Period increase by more than 15% (2,031 workweeks) or exceed a total
9 of 15,573 workweeks, Defendants will have the option to increase the Gross Settlement Amount by
10 a proportionate additional amount for each additional qualifying workweek or, if Defendants decline
11 to exercise this option, the Gross Settlement Amount will cover no more than 15,573 workweeks
12 (15% more than 13,542, the number of workweeks as of December 9, 2022), and the end of the Class
13 Period and PAGA Period will be moved back to only cover the Class Period and PAGA Period
14 during which no more than 15,573 workweeks worked by the Class Members.
15

16 **9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion
17 identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendants may, but
18 is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants
19 withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither
20 Party will have any further obligation to perform under this Agreement; provided, however,
21 Defendants will remain responsible for paying all Settlement Administration Expenses incurred to
22 that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later
23 than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late
24 elections will have no effect.
25

26 **10. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared
27 Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement
28 that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd.

1 (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final
2 Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than
3 [seven] days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
4 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any
5 disagreements concerning the Motion for Final Approval.

6 10.1. Response to Objections. Each Party retains the right to respond to any objection raised
7 by a Participating Class Member, including the right to file responsive documents in
8 Court no later than five court days prior to the Final Approval Hearing, or as
9 otherwise ordered or accepted by the Court.

10 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
11 Approval on any material change to the Settlement (including, but not limited to, the
12 scope of release to be granted by Class Members), the Parties will expeditiously work
13 together in good faith to address the Court's concerns by revising the Agreement as
14 necessary to obtain Final Approval. The Court's decision to award less than the
15 amounts requested for the Class Representative Service Payment, Class Counsel Fees
16 Payment, Class Counsel Litigation Expenses Payment and/or Administrator
17 Expenses Payment shall not constitute a material modification to the Agreement
18 within the meaning of this paragraph.

19 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,
20 the Court will retain jurisdiction over the Parties, Action, and the Settlement solely
21 for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing
22 settlement administration matters, and (iii) addressing such post-Judgment matters as
23 are permitted by law.

24 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
25 conditions of this Agreement, specifically including the Class Counsel Fees Payment
26 and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement,
27 the Parties, their respective counsel, and all Participating Class Members who did not
28 object to the Settlement as provided in this Agreement, waive all rights to appeal from

1 the Judgment, including all rights to post-judgment and appellate proceedings, the
2 right to file motions to vacate judgment, motions for new trial, extraordinary writs,
3 and appeals. The waiver of appeal does not include any waiver of the right to oppose
4 such motions, writs or appeals. If an objector appeals the Judgment, the Parties'
5 obligations to perform under this Agreement will be suspended until such time as the
6 appeal is finally resolved and the Judgment becomes final, except as to matters that
7 do not affect the amount of the Net Settlement Amount.

8 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
9 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires
10 a material modification of this Agreement (including, but not limited to, the scope of
11 release to be granted by Class Members), this Agreement shall be null and void. The
12 Parties shall nevertheless expeditiously work together in good faith to address the
13 appellate court's concerns and to obtain Final Approval and entry of Judgment,
14 sharing, on a 50-50 basis, any additional Administration Expenses reasonably
15 incurred after remittitur. An appellate decision to vacate, reverse, or modify the
16 Court's award of the Class Representative Service Payment or any payments to Class
17 Counsel shall not constitute a material modification of the Judgment within the
18 meaning of this paragraph, as long as the Gross Settlement Amount remains
19 unchanged.
20

21 11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil
22 Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed
23 amended judgment.
24

25 12. ADDITIONAL PROVISIONS.

26 12.1. No Admission of Liability, Class Certification or Representative Manageability for Other
27 Purposes. This Agreement represents a compromise and settlement of highly disputed
28 claims. Nothing in this Agreement is intended or should be construed as an admission by

1 Defendants that any of the allegations in the Operative Complaint have merit or that
2 Defendants has any liability for any claims asserted; nor should it be intended or construed
3 as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties
4 agree that class certification and representative treatment is for purposes of this Settlement
5 only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter
6 Judgment, Defendants reserve the right to contest certification of any class for any reasons,
7 and Defendants reserve all available defenses to the claims in the Action, and Plaintiff
8 reserves the right to move for class certification on any grounds available and to contest
9 Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the
10 Action will have no bearing on, and will not be admissible in connection with, any litigation
11 (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and
13 Defense Counsel separately agree that, until the Motion for Preliminary Approval of
14 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or
15 cause or permit another person to disclose, disseminate or publicize, any of the terms of the
16 Agreement directly or indirectly, specifically or generally, to any person, corporation,
17 association, government agency, or other entity except: (1) to the Parties' attorneys,
18 accountants, or spouses, all of whom will be instructed to keep this Agreement confidential;
19 (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate
20 taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an
21 inquiry or subpoena issued by a state or federal government agency. Each Party agrees to
22 immediately notify each other Party of any judicial or agency order, inquiry, or subpoena
23 seeking such information. Plaintiff, Class Counsel, Defendants and Defense Counsel
24 separately agree not to, directly or indirectly, initiate any conversation or other
25 communication, before the filing of the Motion for Preliminary Approval, any with third
26 party regarding this Agreement or the matters giving rise to this Agreement except to
27 respond only that "the matter was resolved," or words to that effect. This paragraph does not
28 restrict Class Counsel's communications with Class Members in accordance with Class

Counsel's ethical obligations owed to Class Members.

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

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

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

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

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

12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be

1 relied upon as such within the meaning of United States Treasury Department Circular 230
2 (31 CFR Part 10, as amended) or otherwise.

3 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified,
4 changed, or waived only by an express written instrument signed by all Parties or their
5 representatives, and approved by the Court.

6 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
7 benefit of, the successors of each of the Parties.

8 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
9 governed by and interpreted according to the internal laws of the state of California, without
10 regard to conflict of law principles.

11 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this
12 Agreement. This Agreement will not be construed against any Party on the basis that the
13 Party was the drafter or participated in the drafting.

14 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
15 during Action and in this Agreement relating to the confidentiality of information shall
16 survive the execution of this Agreement.

17 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid.
18 Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
19 Defendants in connection with the mediation, other settlement negotiations, or in connection
20 with the Settlement, may be used only with respect to this Settlement, and no other purpose,
21 and may not be used in any way that violates any existing contractual agreement, statute, or
22 rule of court. Not later than 90 days after the date when the Court discharges the
23 Administrator's obligation to provide a Declaration confirming the final pay out of all
24 Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data
25 received from Defendants unless, prior to the Court's discharge of the Administrator's
26 obligation, Defendants makes a written request to Class Counsel for the return, rather than
27 the destructions, of Class Data.

28 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted

for convenience of reference only and does not constitute a part of this Agreement.

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

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

To Plaintiff:

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
Hyunjin Kim (SBN 345518)
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
Email: kane.moon@moonyanglaw.com
Email: allen.feghali@moonyanglaw.com
Email: hyunjin.kim@moonyanglaw.com

To Defendants:

Guillermo A. Escobedo, Esq.
guillermo.escobedo@jacksonlewis.com
Arcelia N. Magaña, Esq.
arcelia.magana@jacksonlewis.com
JACKSON LEWIS P.C.
225 Broadway, Suite 1800
San Diego, California 92101
Telephone: (619) 573-4900
Fax: (619) 573-4901

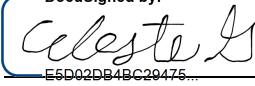
12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement

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

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

Plaintiff:

Dated: 4/14/2023

DocuSigned by:

 By: E5D02DB4BC29475...
 Celeste Guerra

Plaintiff's Counsel:

Dated: 4/14/2023

MOON & YANG, APC

 By: _____
 Kane Moon
 Allen Feghali
 Hyunjin Kim
 Attorneys for Plaintiff

Defendants:

Dated: Buffalo Spot 11, LLC, et al.

By: _____
 Print Name

 Signature

 Title

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

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

Plaintiff:

Dated:

By: _____
Celeste Guerra

Plaintiff's Counsel:

Dated:

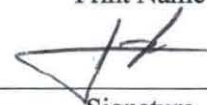
MOON & YANG, APC

By: _____
Kane Moon
Allen Feghali
Hyunjin Kim
Attorneys for Plaintiff

Defendants:

Dated: 4/19/23

Buffalo Spot 11, LLC, et al.

By: Ivan Flores
Print Name

Signature
Manager
Title

1 **Defendants' Counsel:**

2 Dated: 4/20/23

JACKSON LEWIS, P.C.

3 

4 By: _____

Guillermo A. Escobedo, Esq.
Arcelia N. Magaña, Esq.

5
6 Attorneys for Defendants Buffalo Spot 3, LLC,
Buffalo Spot 4, LLC, Buffalo Spot 5, LLC,
7 Buffalo Spot 6, LLC, Buffalo Spot 7, LLC,
Buffalo Spot 8, LLC, Buffalo Spot 9, LLC,
8 Buffalo Spot 10, LLC, Buffalo Spot 11, LLC,
Buffalo Spot Global, LLC,
9 Buffalo Spot Management Group,
LLC, Buffalo Spot Wings and Ribs, LLC
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