

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs ChaMarie Spears and Kathleen Leonard (“Plaintiffs”) and defendant Vitalant (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” collectively means: (1) Plaintiff Spears’s Class Action lawsuit alleging wage and hour violations against Defendant captioned *ChaMarie Spears v. Vitalant*, Case No. 22-CIV-03291, initiated on August 11, 2022 in the Superior Court of the State of California, County of San Mateo, formerly pending in the United States District Court for the Northern District of California, and remanded on May 26, 2023 to the Superior Court of the State of California, County of San Mateo, pursuant to the Parties’ stipulation; and (2) Plaintiff Spears’s PAGA Representative Action lawsuit alleging wage and hour violations against Defendant captioned *ChaMarie Spears v. Vitalant*, Case No 22-CIV-03751, initiated on September 13, 2022 and pending in the Superior Court of the State of California, County of San Mateo.
- 1.2. “Administrator” means ILYM Group, Inc., 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 Total 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.
- 1.4. “PAGA Members” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period.
- 1.5. “California Class Period” means the period of time from August 11, 2018 through July 28, 2023.
- 1.6. “Class” means both the California Class and the FCRA Class, as defined herein. The California Class is defined as all individuals who were employed by Defendant in California and classified as non-exempt at any time during the California Class Period (the “California Class”). The FCRA Class is defined as all individuals who applied to

work for Defendant who were classified as either exempt or non-exempt in the United States during the FCRA Class Period for whom background checks were run using the same federal FCRA form as that contained on page 2 of the forms provided to Plaintiff Spears (the “FCRA Class”).

- 1.7. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.8. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for 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.
- 1.9. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.
- 1.10. “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 a PAGA Member).
- 1.11. “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 by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.12. “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 in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.13. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.14. “Class Period” means, collectively, the California Class Period (defined above) for the California Class and the FCRA Class Period (defined below) for the FCRA Class.

- 1.15. “Class Representatives” means the named Plaintiffs in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.16. “Class Representatives Service Payments” means the service payment made to each of the Plaintiffs as Class Representatives in order to compensate them for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiffs.
- 1.17. “Court” means the Superior Court of California, County of San Mateo.
- 1.18. “Defendant” means Vitalant.
- 1.19. “Defense Counsel means Thomas M. McInerney, Carolyn B. Hall, and Jade Butman of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
- 1.20. “Effective Date” means the date by when both of the following have occurred the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, fifteen (15) days after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, fifteen (15) days after the appellate court affirms the Judgment and issues a remittitur.
- 1.21. “FCRA” means the Fair Credit Reporting Act.
- 1.22. “FCRA Class Period” means the period of time from August 11, 2020 through December 9, 2022.
- 1.23. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.24. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.25. “Total Settlement Amount” means Two Million Dollars (\$2,000,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Total Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments and the Administration Expenses Payment. This Total Settlement Amount is an all-in amount without any reversion to Defendant, and

excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Total Settlement and shall be the separate additional obligation of Defendant.

- 1.26. “Individual Class Payments” means the Participating Class Members’ pro rata shares of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.27. “Individual FCRA Class Payments” means Participating FCRA Class Members’ payment of \$17.50 per person.
- 1.28. Individual PAGA Payments” means the pro rata shares to be paid from the PAGA Payment to PAGA Members that shall in the aggregate comprise 25% of the PAGA Payment, namely \$12,500 as consideration for settlement of claims for civil penalties under PAGA, calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.29. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.30. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.31. “LWDA PAGA Payment” means the payment to be made to the LWDA as its 75% share of the PAGA Payment, namely \$37,500, as consideration for settlement of claims for civil penalties under Labor Code PAGA.
- 1.32. “Net Settlement Amount” means the Total Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.33. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.34. “PAGA Pay Period” means any Pay Period during which a PAGA Member worked for Defendant for at least one (1) day during the PAGA Period.
- 1.35. “PAGA Period” means the period of time from June 29, 2021 through July 28, 2023.
- 1.36. “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698. et seq.).

- 1.37. “PAGA Notice” means Plaintiff Spears’s June 29, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.38. “PAGA Payment” means a gross payment in the aggregate of \$50,000 that is comprised of the LWDA PAGA Payment and all of the Individual PAGA Payments to PAGA Members in settlement of all claims for civil penalties pursuant to PAGA.
- 1.39. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.40. “Participating FCRA Class Member” means a FCRA Class Member who does not submit a valid and timely Request for Exclusion.
- 1.41. “Plaintiffs” means, collectively, ChaMarie Spears (“Plaintiff Spears”) and Kathleen Leonard (“Plaintiff Leonard”) the named plaintiffs in the Action.
- 1.42. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.43. “Released Class Claims” means the following: for the California Class Members, all wage and hour Class claims that were alleged, or reasonably could have been alleged, based on the wage and hour factual or legal theories alleged in the Operative Complaint, including all of the following: (a) all class claims stated in the Operative Complaint alleging violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198 and 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, the alleged failure to pay reporting time pay and the alleged unlawful deductions from earned wages; (c) all claims for meal period violations, including claims for late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for rest break violations, including claims for late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Operative Complaint, including

the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer, and including claims for injuries suffered therefrom; (g) all claims for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims under the Business & Professions Code (including Section 17200 *et seq.*) premised on the facts, claims, and causes of action alleged in the Operative Complaint; and (k) for the FCRA Class Members, all FCRA class claims pled or that could have been pled based on the FCRA factual allegations contained in the Operative Complaint which occurred during the FCRA Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and Class claims based on facts occurring outside the Class Period.

- 1.44. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts or legal theories alleged in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period, including the following: (a) all claims for civil penalties stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including Industrial Wage Order 7(A)(3); (b) all claims for civil penalties for violations of unpaid wages, including unpaid minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) all claims for civil penalties for meal period violations, including late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for civil penalties for rest period violations, including late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for civil penalties for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all

claims for civil penalties for inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the PAGA Notice, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer; (g) all claims for civil penalties for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for civil penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for civil penalties for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties for failing to provide suitable seating; (k) all claims for civil penalties for alleged violations of Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began and ended each shift and meal period; and (l) all claims for civil penalties for the alleged failure to pay employees for reporting time pay. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violations of the Fair Employment and Housing Act, unemployment insurance, disability, social security, and worker's compensation, and PAGA claims outside of the PAGA Period.

- 1.45. "Released Parties" means: Defendant and each of its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, executors, insurers, parent companies, subsidiaries (including Blood Centers of the Pacific and BloodSource, Inc.), affiliates, divisions (including United Blood Services), consultants, subcontractors, predecessors, successors, assigns, and joint venturers, and all persons acting under, by, through, or in concert, with any of them, and each of them.
- 1.46. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member. Specific details of how to submit a "Request for Exclusion" will be provided by the Class Notice.
- 1.47. "Response Deadline" means sixty (60) calendar days after the Administrator mails Class Notice Packet to Class Members and PAGA Members and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, (b) submit his or her Objection to the Settlement; or (c) dispute the information contained the Class Notice. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.
- 1.48. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.49. “Workweek” means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one (1) day.

2. RECITALS

The Class Action

2.1. On August 11, 2022, Plaintiff Spears commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of San Mateo (the “Class Action”). Plaintiff Spears’s Class Action Complaint asserted several wage and hour claims against the Defendant including, but not limited to, the following claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802.
- (g) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226; and,
- (h) Failed to pay sick wages in violation of California Labor Code §§ 201-204, 233, 246;
- (i) Violated the Fair Credit Reporting Act for failure to make proper disclosures [15 U.S.C. § 1681, et seq.]; and,
Violated the Fair Credit Reporting Act for failure to obtain proper authorization [15 U.S.C. § 1681, et seq.].

2.2. On October 31, 2022, Defendants removed the Class Action to the United States District Court for the Northern District of California, Case No. 3:22-cv-06711-VC.

2.3. On November 7, 2022, Defendant filed a Motion to Dismiss the Class Action Complaint, which Plaintiff Spears opposed on November 21, 2023.

2.4. On November 17, 2022, the Parties filed a Stipulation to Stay the Class Action pending mediation, which was granted on November 28, 2022, and in so doing, the Court denied Defendant’s Motion to Dismiss without prejudice.

The PAGA Action

2.5. On September 14, 2022, Plaintiff Spears filed a separate Representative Action

Complaint against Defendant in the Superior Court of the State of California, County of San Mateo (the “PAGA Action”), alleging one cause of action for Civil Penalties Pursuant to Labor Code § 2699, *et seq.* for various alleged wage and hour violations of Labor Code including, but not limited to, the following: Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the Applicable Wage Orders.

- 2.6. On November 15, 2022, the Parties filed a Stipulation to Stay the PAGA Action pending mediation, which was granted on November 23, 2022.

Remand and Pleading Amendment

- 2.7. As part of this Settlement Agreement, the parties agree to stipulate to remand of the Class Action to State Court and then stipulate to the filing of a First Amended Class Action and Representative Action Complaint that adds the claims and parties from the PAGA Action into the first-filed Class Action in state court. The First Amended Class Action and Representative Action Complaint shall also add Plaintiff Leonard as a named plaintiff to the class claims. The First Amended Class Action and Representative Action Complaint, which was filed on June 13, 2023, is the operative complaint in the Action (the “Operative Complaint”)
- 2.8. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.9. Defendant retains all rights to remove the Operative Complaint to federal court in the event the state court does not grant final approval of the settlement and Plaintiffs will not oppose such removal on timeliness grounds, though Plaintiffs retain their rights to move to remand in such instance.

Mediation and Settlement

- 2.10. On April 28, 2023, the Parties participated in an all-day mediation presided over by David A. Rotman, Esq., a respected mediator of wage and hour representative and class actions. The mediator facilitated an agreement among the Parties that was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
- 2.11. Prior to mediation, Plaintiffs obtained documents and information sufficient to investigate the claims such that Plaintiffs’ investigation satisfied 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*”).

- 2.12. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiffs or the Class have merit or that Defendant bears any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.13. 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.

3. MONETARY TERMS

- 3.1. Total Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$2,000,000 and no more as the Total Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Total Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Total Settlement Amount without asking or requiring Participating Class Members or PAGA Members to submit any claim as a condition of payment. None of the Total Settlement Amount will revert to Defendant.
- 3.2. Payments from the Total Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Total Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$12,500 to each Plaintiff (in addition to any Individual Class Payment, any Individual PAGA Payment each Class Representative is entitled to receive as a Participating Class Member, and Plaintiff Spears’s Separate Agreement and Release). Defendant will not oppose Plaintiffs’ request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay

the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments. In the event that the Court reduces or does not approve the requested Class Representative Service Payments, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiffs or Class Counsel seek, request or demand an increase to the Total Settlement Amount on that basis.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Total Settlement Amount, which is currently estimated to be \$666,666, and a Class Counsel Litigation Expenses Payment of not more than \$20,000. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs and, in the event that the Court reduces or does not approve the requested Class Counsel Fees Payment and/or Class Litigation Expenses Payment, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiffs or Class Counsel seek, request or demand an increase to the Total Settlement Amount on that basis.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$40,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less, or the Court approves payment less than \$40,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and PAGA Members: PAGA Payment in the amount of \$50,000 to be paid from the Total Settlement Amount, with 75% (\$37,500) allocated to the LWDA PAGA Payment and 25% (\$12,500) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Members' 25% share of PAGA Payment (\$12,500) by

the total number of PAGA Period Pay Periods worked by all PAGA Members during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Period Pay Periods. PAGA Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- ii. If the Court approves a PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: For the Participating Class Members, an Individual Class Payment is calculated as follows: For the California Class members, by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the California Class Period and (b) multiplying the result by each Participating Class Member's Workweeks during the California Class Period. For the Participating FCRA Class Members, the allocation of payment of the Individual FCRA Class Payments will be \$17.50 per person for what is estimated to be approximately 3,567 persons for an approximate total of \$62,422.50.
- i. Tax Allocation of Individual Class Payments. For the Individual Class Payments, 20% of each California 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. 80% of each California Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). For the Individual FCRA Class Payments, 100% Participating FCRA Class Member's Individual Class Payment shall be attributed to penalties. 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.
 - ii. 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.

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and PAGA Member Pay Periods. Based on its records, Defendant has represented that, as of April 28, 2023, the Class consists of 1,127 California Class Members who collectively worked a total of 127,038 Workweeks during the California Class Period, 845 PAGA Members who worked a total of 21,151 PAGA Pay Periods, and

3,567 FCRA Class Members to whom disclosures were made that were the same as those on page 2 of Spears's federal during the FCRA Class Period.

- 4.2. Class Data. Not later than twenty (20) days after the Court grants Preliminary Approval of the proposed settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of the Total Settlement Amount. Defendant shall fully fund the Total Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than fifteen (15) days after the Effective Date.

5. PAYMENTS FROM THE TOTAL SETTLEMENT AMOUNT

- 5.1. Within fourteen (14) days after Defendant funds the Total Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. 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 "void date", which is one hundred eighty (180) days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class 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 PAGA Members including Non-Participating Class Members who qualify as PAGA Members (including those for whom Class Notice was returned undelivered). The Individual Class Payment and Individual PAGA Payment may be combined into a single check by the Administrator, unless otherwise ordered by the Court. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the

National Change of Address Database. If a Participating Class Member's or PAGA Member's check is not cashed within one hundred twenty (120) days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.

- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator 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.
- 5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 5.5. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.
6. **RELEASE OF CLAIMS.** Effective on the date when Defendant fully funds the entire Total Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, PAGA Members and the LWDA will release claims against all Released Parties as follows:
 - 6.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses/domestic partners, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred through the Effective Date, including, but not limited to: all known and unknown claims against the Released Parties, including any Released Class Claims and Released PAGA Claims as well as all other wage and hour claims, claims under California Business & Professions Code section 17200, claims under the Labor Code, including, but not limited to, claims under the Private Attorneys General Act ("PAGA"), claims under the Fair Labor Standards Act ("FLSA"), and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum wages, penalties, liquidated damages, and interest, and all other claims under state,

federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, the Age Discrimination in Employment Act of 1967 (as to Plaintiff Kathleen Leonard only) as well as the common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to each Plaintiff's relationship, or termination of relationship, with any Released Party through the date of Final Approval for any type of relief. Plaintiffs further covenant that each of them will not become a member of any other legal actions against the Released Parties asserting any of Plaintiffs' Released Claims, and will opt out of any such actions if necessary. For the avoidance of doubt, this is a complete and general release to the maximum extent permitted by law. The scope of this release does not include claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

- (a) Plaintiffs' Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

Plaintiffs may hereafter discover claims or facts in addition to, or different from, those which each now knows or believes to exist, but Plaintiffs expressly agree to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Agreement, including, but not limited to, any and all claims relating to or arising from each Plaintiff's respective employment with Defendant.

- (b) Plaintiff Spears' Separation Agreement and Release. Plaintiff Spears represents that they are also entering into a Separation Agreement and Release. The amount paid to Plaintiff Spears under this Separation Agreement and Release is in addition to the Total Settlement Amount and is memorialized in a Separation Agreement and Release that is separate from this Agreement. If the Court requires the Parties to submit the terms of this Separation Agreement and Release to obtain approval of this Settlement, the Parties agree that the Separation Agreement and Release will be submitted in camera under seal to the Court.
- (c) ADEA Waiver for Kathleen Leonard. Without limiting the scope of this Agreement, Plaintiff Kathleen Leonard agrees that this Agreement constitutes a knowing and

voluntary waiver of any and all rights or claims that exist or that she may claim to have under the Age Discrimination in Employment Act of 1967 (“ADEA”). Plaintiff Kathleen Leonard acknowledges that she has been advised by this writing, as required by the Older Workers’ Benefit Protection Act: (i) her waiver and release does not apply to any rights or claims that may arise after she signs this Agreement; (ii) she should consult with an attorney prior to executing this Agreement; (iii) she has at least twenty-one (21) days to consider this Agreement (although she may by her own choice execute this Agreement earlier); (iv) she has seven (7) days following her execution of this Agreement to revoke the Agreement; and (v) this Agreement shall not be effective until the next business day following the expiration of this 7-day revocation period. Plaintiff Kathleen Leonard may revoke this Agreement only by giving Defendant formal, written notice of her revocation of this Agreement, addressed to: Thomas M. McInerney, Esq., at Ogletree, Deakins, Nash, Smoak & Stewart, P.C., One Embarcadero Center, Suite 900, San Francisco, California 94111. In the event Plaintiff Kathleen Leonard revokes the waiver of ADEA claims, she understands and agrees that she will not be entitled to a Class Representative Service Payment.

6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All PAGA Members and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

7. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s procedures and instructions.

7.1. Defendant’s Responsibilities. Within 21 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a declaration under penalty of perjury confirming the number of California Class Member and workweeks they worked during the Class Period and that the number of FCRA Class Members is estimated to be 3,567.

7.2. Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve;

competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs 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. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(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, the Administrator. In their Declarations, Plaintiffs 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, and that Class Counsel does not represent any employees of Defendant other than Plaintiffs.

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

7.4. 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.

8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. 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 Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice

Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. 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.

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

8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 1.468B-1.

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than seven (7) days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) 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 the Response Deadline (plus an additional fourteen (14) 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 must: (1) contain the name, address and telephone number of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered in this Action. Any Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under the class Settlement and will not be bound by the terms of the Class Settlement or have any right to object to or appeal the class settlement. A Request for Exclusion has no effect to the PAGA portion of this Settlement; PAGA Members cannot request exclusion from the PAGA Settlement and will receive an Individual PAGA Payment regardless of whether they submit a Request for Exclusion.
- (b) 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 Paragraph 6.2 of the Agreement,

regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the proposed settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative

Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than seven (7) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include providing the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator’s Declaration. Not later than seven (7) days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within ten (10) days after the Administrator disburses all funds of the Total Settlement Amount, the Administrator will provide Class

Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least seven (7) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least seven (7) days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

- 9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided estimated figures as to the Class size as set forth in paragraph 4.1 above. Should the number of actual workweeks as of April 28, 2023 increase by more than 10% of the amount stated herein in paragraph 4.1, Defendant shall increase the Total Settlement Amount proportionally by 1% for every 1% increase in workweeks over the 10% threshold. Should the number of FCRA Class Members exceed 10% of the amount stated herein in paragraph 4.1 (i.e., 4,447), Defendant will increase the Total Settlement Amount proportionally by 1% for every 1% increase in the number of FCRA Class members over the 10% threshold.
- 10. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may elect, but is not obligated, to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.
- 11. MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 11.1. Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court

no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

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

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

11.4. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Total Settlement Amount remains unchanged. In the event that Class Counsel appeals the Court's ruling as to the Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment, the Parties agree that any such appeal constitutes a dispute between Class Counsel and the Court, and that Defendant and Defendant's Counsel will not be involved and will not be expected to appear, file papers, argue any position, or participate in any manner. In the event of any such appeal, Defendant shall not fund the settlement, and its obligation to fund it will be stayed until such appeal is fully resolved.

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. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an

admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. Defendant contends that at all times it has complied with all applicable state, federal and local laws related to the Class Members' and/or PAGA Members' employment. Nevertheless, Defendant has entered into this Settlement to avoid the cost, risk and inconvenience of further litigation. Nothing contained in this Settlement, nor the fact of this Settlement itself, shall be construed or deemed as an admission of liability, or wrongdoing on the part of the Defendant, or an admission that class or representative action treatment would be allowed outside the settlement context. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reason, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement). The Parties agree that this Settlement cannot be used to support any claim for subsequent penalty violation rates under the PAGA in any subsequent litigation. Pursuant to California Evidence Code sections 1152 and 1154, this Settlement shall not be admissible in evidence in any proceeding; except that the Settlement may be filed and used in this litigation or any related litigation as necessary to approve, interpret, or enforce this Settlement, or in any subsequent action against or by Defendant to support a stay of such subsequent action, or to establish a defense of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement

except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and 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.
- 13.4. 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.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6. 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.
- 13.7. 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.
- 13.8. Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. Participating Class Members, PAGA Members and Class Counsel shall be solely responsible for the reporting any payment of their share of any federal, state and/or local income tax or other tax or any other withholdings, if any, on any of the payments made pursuant to this Settlement. Defendant makes no representation, and it is understood and agreed that Defendant has made no representation, as to the taxability of any Participating Class Members of any portion of the Individual Settlement Payments, to any PAGA Members regarding the Individual

PAGA Payments, the payment of attorneys' fees and expenses to Class Counsel, or the payment of the Class Representative Service Payments to the Class Representatives. The Class Notice will advise each Class and PAGA Member to seek his/her own personal tax advice prior to acting in response to the Class Notice.

- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant.
- 13.15. 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.
- 13.16. 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.
- 13.17. 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 Plaintiffs and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Thomas M. McInerney
Carolyn B. Hall
Jade Butman
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111
Tel: (415) 442-4810
Fax: (415) 442-4870
E-Mail: tmm@ogletree.com
carolyn.hall@ogletree.com
jade.butman@ogletree.com

13.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile or electronically (e.g., DocuSign) 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.

13.19. Stay of Litigation. The Parties agree that upon the full execution of this Agreement, the Parties will jointly notify the Court and request that the Court stay the litigation 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 a period of not less than one (1) year starting from the date of the signing of this Agreement by all parties until the entry of the final approval order and judgment or if not entered the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

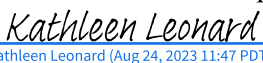
The Parties hereby execute this Agreement.

Dated: Aug 21, 2023


ChaMarie Spears (Aug 21, 2023 10:47 PDT)

Plaintiff ChaMarie Spears

Dated: Aug 24, 2023


Kathleen Leonard (Aug 24, 2023 11:47 PDT)

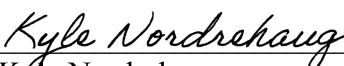
Plaintiff Kathleen Leonard

Dated: _____

Bhavi A. Shah
Executive Vice President, Chief Legal Officer, General Counsel
For Defendant Vitalant

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE NAMED PLAINTIFFS,
AND AS A SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE
SETTLEMENT GROUP:

Dated: Aug. 24, 2023


Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

APPROVED AS TO FORM AND CONTENT ON BEHALF OF DEFENDANT:

Dated: _____

Thomas M. McNerney,
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Attorney for Defendant

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties hereby execute this Agreement.

Dated: _____

Plaintiff ChaMarie Spears

Dated: _____

Plaintiff Kathleen Leonard

Dated: 8/21/23



Bhavi A. Shah

Executive Vice President, Chief Legal Officer, General Counsel
For Defendant Vitalant

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE NAMED PLAINTIFFS,
AND AS A SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE
SETTLEMENT GROUP:

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

APPROVED AS TO FORM AND CONTENT ON BEHALF OF DEFENDANT:

Dated: 8/24/23



Thomas M. McInerney,
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

EXHIBIT “A”

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT
AND HEARING DATE FOR FINAL COURT APPROVAL**

***Spears v. Vitalant, Superior Court of the State of California,
County of San Mateo, Case No. 22-CIV-03291***

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Vitalant (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiffs ChaMarie Spears and Kathleen Leonard (“Plaintiffs”) and seeks payment of (1) wages and other relief on behalf of all individuals who were employed by Defendant in California and classified as non-exempt at any time during the California Class Period (August 11, 2018 through July 28, 2023) (“California Class Members”), (2) penalties and other relief on behalf of all individuals who applied to work for Defendant who were classified as either exempt or non-exempt in the United States during the FCRA Class Period (August 11, 2020 through December 9, 2022) for whom certain background checks were run (“FCRA Class Members”), and (3) penalties under the California Private Attorney General Act (“PAGA”) for all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period (June 29, 2021 through July 28, 2023) (“PAGA Members”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments and Individual FCRA Class Payments to Class Members, and (2) a PAGA Settlement requiring Defendant to fund the PAGA Payment to pay penalties to the California Labor and Workforce Development Agency (“LWDA”) and to PAGA Members.

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be <<\$_____>> (less withholding), your Individual FCRA Class Payment is estimated to be <<\$_____>>, and your share of the PAGA Payment is estimated to <<be \$_____>>.** The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Defendant’s records showing that **you worked <<_____>> workweeks** during the Class Period and **you worked <<_____>> pay periods** during the PAGA Period. If you believe that these numbers need correction, you can submit a challenge by the deadline date. See Section 5 of this Notice below.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to

finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and PAGA Members to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the California Class Period and/or the PAGA Period, or applied for employment and were subject to a background check during the FCRA Class Period, you have two basic options under the Settlement:

- (1) **Do Nothing and receive your share of the Settlement amount.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment, an Individual FCRA Class Payment, and/or a share of the PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims, FCRA class claims and PAGA Period penalty claims against Defendant as described below in Section 4 below.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment or an Individual FCRA Class Payment and you will keep your right as an individual to sue Defendant separately about the same legal claims that are being settled. If you are a PAGA Member, you remain eligible for a share of the PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and/or an Individual FCRA Class Payment, and a share of the PAGA Payment (if any).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is ____.	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment or an Individual FCRA Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice. However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are also a PAGA Member and exclude yourself, you will still be paid your share of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.

Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by the Response Deadline _____	If you think that the Settlement is not fair, and you don't opt out of the Settlement, then you can object to the Settlement in writing as explained in Section 8 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the San Mateo County Superior Court, located at 400 County Center, Redwood City, CA 94063, in Department 3 and Courtroom 2B before Judge Susan Greenberg. This hearing may change as explained below in Section 9. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice
You Can Challenge the Calculation of Your Workweeks / Pay Periods Written Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The amount of your share of the PAGA Payment (if any) depends on how many pay periods you worked at least one day during the PAGA Period, respectively. The number of Class Period workweeks and number of PAGA Period pay periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Notice

1. What is action about?

Plaintiffs ChaMarie Spears and Kathleen Leonard are former employees of Defendant. The Action alleges that Defendant failed to pay minimum and overtime wages, failed to provide meal and rest breaks and related premiums, failed to pay sick pay, failed to provide accurate itemized wage statements, failed to reimburse business expenses, failed to provide timely wage payments failed to make proper disclosures and to obtain proper authorizations pertaining to background checks, and unfair competition. Plaintiffs also seek penalties under the Private Attorneys General Act ("PAGA").

Defendant denies that it has done anything wrong and disputes all the claims in the Action. After good-faith negotiations, in which both sides recognized the substantial risk of an uncertain outcome, Plaintiffs and the Defendant agreed to settle the Action pursuant to the terms and

conditions of the Settlement. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that Plaintiffs' claims in the Action have merit or that Defendant has any liability to Plaintiffs or the proposed class on those claims. Defendant denies all such liability.

The parties and their counsel have concluded that the Settlement is advantageous, considering the risks and uncertainties to each side of continued litigation. The parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and is in the best interests of the members of the proposed Class.

Consistent with Defendant's policies, there will be no retaliation or adverse action taken against any Class Member who participates in the Settlement or opts out of the Settlement.

2. What does it mean that the action has settled?

This settlement does not involve any decision by the Court on the merits of the Action. Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. What are the terms of the Settlement?

Total Settlement Amount. Defendant has agreed to pay an "all in" amount of Two Million Dollars (\$2,000,000) (the "Total Settlement Amount") to fund the settlement of the Action. The Total Settlement Amount includes all payments of Individual Class Payments and Individual FCRA Class Payments to Class Members, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, the Administration Expenses Payment, and the PAGA Payment for alleged civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Within fifteen (15) days of the Effective Date, Defendant will fund the Total Settlement Amount by depositing the money with the Administrator. The Effective Date means the date the Judgment is entered, unless there are objections in which case the Effective Date is when the Judgment is no longer subject to appeal. Fourteen (14) days after the Settlement is funded, the Administrator will mail checks for the Individual Class Payments and Individual FCRA Class Payments to Participating Class Members.

Court Approved Deductions from Total Settlement Amount. The proposed payments, subject to Court approval, will be deducted from the Total Settlement Amount before payments of Individual Class Payments and Individual FCRA Class Payments are made to Class Members who do not request exclusion ("Participating Class Members"). At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the

Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$40,000, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- Attorneys' Fees and Costs. Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Total Settlement Amount, which presently equals \$666,666, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$20,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the proposed Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- Class Representative Service Payments. A Class Representative Service Payment in an amount not more than \$12,500 to each of the two named Plaintiffs as service awards, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook. The amounts stated are what Plaintiffs will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- PAGA Payment. A payment of \$50,000 relating to Plaintiffs' claim under PAGA, \$37,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$12,500 will be distributed to the PAGA Members as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Members' 25% share of PAGA Payment (\$12,500) by the total number of PAGA Pay Periods worked by all PAGA Members during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Pay Periods. PAGA Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any pay period during which a PAGA Member was employed by Defendant for at least one day during the PAGA Period, which is June 29, 2021 through July 28, 2023.
- To Each Participating Background Class Member. An Individual FCRA Class Payment paid out at a flat rate of \$17.50 per individual. Individual FCRA Class Payments are 100% for penalties and interest, which are not subject to wage withholdings and will be reported on IRS 1099 Forms. Non-Participating Class Members will not receive any Individual FCRA Class Payments.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

Calculation of Payments to Class Members. After all of the payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payments, the PAGA Payment, and the Administration Expenses Payment are deducted from the Total Settlement Amount, the

remaining portion, the “Net Settlement Amount”, shall be distributed to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$ _____. The Administrator will distribute the Net Settlement Amount to each Participating Class Member as follows: First, for the Participating FCRA Class Members, the allocation of payment of the Individual FCRA Class Payments will be \$17.50 per person for what is estimated to be approximately 3,567 persons for an approximate total of \$62,422.50 from the Net Settlement Amount. Second, for the California Class Members, the amount remaining in the Net Settlement amount will be allocated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the California Class Period and (b) multiplying the result by each Participating Class Member’s Workweeks during the California Class Period. “Workweek” means any week during the California Class Period in which a Class Member was employed by Defendant as a Class Member for at least one day.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Class Payment and/or Individual FCRA Class Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. The Parties agree that twenty Percent (20%) of each Participating California Class Member’s Individual Class Payment is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Eighty Percent (80%) of each Participating California Class Member’s Individual Class Payment is in settlement of claims for alleged non-wages, expense reimbursement, interest and penalties due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099. For the Individual FCRA Class Payments, 100% Participating FCRA Class Member’s Individual Class Payment shall be attributed to penalties. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant’s Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement and your receipt of the Individual Class Payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

Need to Promptly Cash Payment Checks. The front of every check issued will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the funds represented by such checks to the California

Controller's Unclaimed Property Fund in the name of the individual who failed to cash their check.

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against the Defendant.

Administrator. The Court has appointed a neutral company, _____ (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and/or PAGA Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full funding of the Total Settlement Amount by Defendant, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims. "Released Class Claims" means the following: for the California Class Members, all wage and hour Class claims that were alleged, or reasonably could have been alleged, based on the wage and hour factual or legal theories alleged in the Operative Complaint, including all of the following: (a) all class claims stated in the Operative Complaint alleging violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198 and 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, the alleged failure to pay reporting time pay and the alleged unlawful deductions from earned wages; (c) all claims for meal period violations, including claims for late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for rest break violations, including claims for late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the

Operative Complaint, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer, and including claims for injuries suffered therefrom; (g) all claims for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims under the Business & Professions Code (including Section 17200 *et seq.*) premised on the facts, claims, and causes of action alleged in the Operative Complaint; and (k) for the FCRA Class Members, all FCRA class claims pled or that could have been pled based on the FCRA factual allegations contained in the Operative Complaint which occurred during the FCRA Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and Class claims based on facts occurring outside the Class Period.

Released PAGA Claims. As of the Effective Date and upon full funding of the Total Settlement Amount by Defendant, all PAGA Members and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts or legal theories alleged in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period, including the following: (a) all claims for civil penalties stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including Industrial Wage Order 7(A)(3); (b) all claims for civil penalties for violations of unpaid wages, including unpaid minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) all claims for civil penalties for meal period violations, including late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for civil penalties for rest period violations, including late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for civil penalties for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for civil penalties for inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the PAGA Notice, including the

allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer; (g) all claims for civil penalties for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for civil penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for civil penalties for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties for failing to provide suitable seating; (k) all claims for civil penalties for alleged violations of Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began and ended each shift and meal period; and (l) all claims for civil penalties for the alleged failure to pay employees for reporting time pay. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violations of the Fair Employment and Housing Act, unemployment insurance, disability, social security, and worker's compensation, and PAGA claims outside of the PAGA Period.

Released Parties. The Released Parties are: Defendant and each of its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, executors, insurers, parent companies, subsidiaries (including Blood Centers of the Pacific and BloodSource, Inc.), affiliates, divisions (including United Blood Services), consultants, subcontractors, predecessors, successors, assigns, and joint venturers, and all persons acting under, by, through, or in concert, with any of them, and each of them.

5. How much will my payment be?

Individual Class Payments. The Administrator will calculate Individual Class Payments as follows: For the California Class members, by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the California Class Period and (b) multiplying the result by each Participating Class Member's Workweeks during the California Class Period. For the Participating FCRA Class Members, the allocation of payment of the Individual FCRA Class Payments will be \$17.50 per person.

Defendant's records reflect that you worked <<____>> Workweeks during the California Class Period (August 11, 2018 through July 28, 2023).

Based on this information, your estimated Individual Class Payment from the Net Settlement Amount is <<____>>.

Your estimated FCRA Class Payment is <<____>>.

Defendant's records reflect that you worked <<____>> PAGA Pay Periods during the during the PAGA Period (June 29, 2021 through July 28, 2023). Based on this information your estimated Individual PAGA Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the

address provided in this Class Notice no later than the Response Deadline, which is _____ [sixty (60) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment and or Individual FCRA Class Payment will be mailed automatically to the same address as this Class Notice.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment or an Individual FCRA Class Payment from the Settlement, and you will not be bound by the class settlement, which means you will retain the right to sue Defendant for the Released Class Claims.** However, PAGA Members who opt out will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether they submit a request for exclusion. **The PAGA Payment is \$50,000, of which \$12,500 will be distributed to the PAGA Members to be allocated based on their respective PAGA Pay Periods. Your share of the PAGA Payment, if any, is set forth in Section 5 above.**

To opt out, you must submit to the Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt-out should state in substance that you wish to be excluded from the class settlement in the *Spears v. Vitalant* lawsuit. The request to opt-out should state the Class Member's full name, address and email address or telephone number. Please include the name and number of the case, which is *Spears v. Vitalant*, Case No. 22-CIV-03291. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

The address for the Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Awards stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Spears v. Vitalant* or on the Court's website (<https://odyportal-ext.sanmateocourt.org/portal-external>) and entering the Case No. 22-CIV-03291

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Awards may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The Response Deadline for sending written objections to the Administrator is _____** [sixty (60) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than this Response Deadline. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Spears v. Vitalant*, Case No. 22-CIV-03291, and include your name, current address, email or telephone number, and approximate dates of employment for Defendant and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: _____

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. You also have the option to appear at the hearing by audio or video. Instructions on how to do so are available on the Court's website at https://www.sanmateocourt.org/court_divisions/civil/. Check the Court's website for the most current information. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The address for Class counsel is as follows:

CLASS COUNSEL:

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik DeBlouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: kyle@bamlawca.com

9. Can I Attend the Final Approval Hearing?

You can, but don't have to, attend the Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department 3 - Courtroom 2B of the Superior Court of California, County of San Mateo, 400 County Center, Redwood City, CA 94063, before Judge Susan Greenberg. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiffs. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing remotely using the Court Connect procedure at https://www.sanmateocourt.org/court_divisions/civil/. You may also appear in person. Check the Court's website for the most current information on appearing in Court.

It's possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Spears v. Vitalant*. In addition, hearing dates are posted on the Internet via the Case Access page for the San Mateo County Superior Court (<https://odyportal-ext.sanmateocourt.org/portal-external>) and entering the Case No. 22-CIV-03291.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Spears v. Vitalant* Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service awards, the motion for final approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Spears v. Vitalant*. You may get more details by examining the Court's file on the Internet via the Case Access page for the California Superior Court for the County of San Mateo (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 22-CIV-03291. If you wish to view the Court files in person, you are encouraged to make an appointment with the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. The funds may be claimed at https://www.sco.ca.gov/upd_msg.html.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

VITALANT, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 22-CIV-03291

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Susan L. Greenberg
Dept: 3

Date Filed: August 22, 2022
Trial Date: Not yet set

This matter came before the Honorable Susan L. Greenberg of the Superior Court of the State of California, in and for the County San Mateo, on _____[DATE], for hearing on the unopposed motion by Plaintiffs ChaMarie Spears and Kathleen Leonard (collectively, "Plaintiffs") for preliminary approval of the Settlement with Defendant Vitalant ("Defendant"). The Court, having considered the briefs, argument of counsel and all matters presented to the Court and good

PRELIMINARY APPROVAL ORDER

1 cause appearing, hereby GRANTS Plaintiffs' Motion for Preliminary Approval of Class Action
2 Settlement.

3 **IT IS HEREBY ORDERED:**

4 1. The Court preliminarily approves the Class Action and PAGA Settlement
5 Agreement ("Agreement") attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in
6 Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. This is based
7 on the Court's determination that the Settlement set forth in the Agreement is within the range of
8 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
9 Procedure and California Rules of Court, rule 3.769.

10 2. This Order incorporates by reference the definitions in the Agreement, and all
11 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

12 3. The Total Settlement Amount that Defendant shall pay is Two Million Dollars
13 (\$2,000,000). It appears to the Court on a preliminary basis that the settlement amount and terms
14 are fair, adequate and reasonable as to all potential Class Members when balanced against the
15 probable outcome of further litigation and the significant risks relating to certification, liability and
16 damages issues. It further appears that investigation and research have been conducted such that
17 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears
18 to the Court that the Settlement will avoid substantial additional costs by all Parties, as well as
19 avoid the delay and risks that would be presented by the further prosecution of the Action. It
20 further appears that the Settlement has been reached as the result of serious and non-collusive,
21 arms-length negotiations.

22 4. The Court preliminarily finds that the Settlement appears to be within the range of
23 reasonableness of a settlement that could ultimately be given final approval by this Court. The
24 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
25 preliminarily finds that the monetary settlement awards made available to the Class is fair,
26 adequate, and reasonable when balanced against the probable outcome of further litigation and the
27 significant risks relating to certification, liability, and damages issues.

1 5. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
2 Total Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000, and
3 proposed Class Representative Service Payments to the two Plaintiffs in an amount not to exceed
4 \$12,500 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount
5 of any service award, until the Final Approval Hearing. Plaintiffs will be required to present
6 evidence supporting these requests, including lodestar, prior to final approval.

7 6. The Court recognizes that Plaintiffs and Defendants stipulate and agree to
8 representative treatment and certification of a class for settlement purposes only. This stipulation
9 will not be deemed admissible in this or any other proceeding should this Settlement not become
10 final. For settlement purposes only, the Court conditionally certifies the Class which consists of
11 both the California Class and the FCRA Class. The California Class is defined as all individuals
12 who were employed by Defendant in California and classified as non-exempt at any time during
13 the California Class Period. The "California Class Period" is from August 11, 2018 through July
14 28, 2023. The FCRA Class is defined as all individuals who applied to work for Defendant who
15 were classified as either exempt or non-exempt in the United States during the FCRA Class Period
16 for whom background checks were run using the same federal FCRA form as that contained on
17 page 2 of the forms provided to Plaintiff Spears. The "FCRA Class Period" is from August 11,
18 2020 through December 9, 2022.

19 7. The Court concludes that, for settlement purposes only, the Class meets the
20 requirements for certification under section 382 of the California Code of Civil Procedure in that:
21 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
22 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
23 community of interest amongst the members of the Class with respect to the subject matter of the
24 litigation; (c) the claims of the Plaintiffs are typical of the claims of the members of the Class; (d)
25 the Plaintiffs will fairly and adequately protect the interests of the members of the Class; (e) a
26 class action is superior to other available methods for the efficient adjudication of this controversy;

1 and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are
2 adequate representatives of the Class.

3 8. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
4 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
5 Nicholas J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche of Blumenthal Nordrehaug
6 Bhowmik De Blouw LLP as Class Counsel for the Class.

7 9. The Agreement provides for a PAGA Payment out of the Total Settlement Amount
8 of \$20,000, which shall be allocated \$37,500 to the Labor & Workforce Development Agency
9 (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
10 Agreement pursuant to the PAGA and \$12,500 will be distributed to the PAGA Members as
11 Individual PAGA Payments. “PAGA Members” are all individuals who were employed by
12 Defendant in California and classified as a non-exempt employee at any time during the PAGA
13 Period. The PAGA Period is from June 29, 2021 through July 28, 2023. Pursuant to Labor Code
14 section 2699, subdivision (1)(2), the LWDA will be provided notice of the Agreement and these
15 settlement terms. The Court finds the PAGA Payment to be reasonable.

16 10. The Court hereby approves, as to form and content, the Class Notice attached to the
17 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
18 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right
19 to be excluded from the Class by submitting a written opt-out request, and of each member’s right
20 and opportunity to object to the Settlement. The Court further finds that the distribution of the
21 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets
22 the requirements of due process, is the best notice practicable under the circumstances, and shall
23 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
24 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class
25 Notice Packet is returned because of an incorrect address, the Administrator will promptly search
26 for a more current address for the Class Member and re-mail the Class Notice Packet to any new
27
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1 address for the Class Member no later than seven (7) days after the receipt of the undelivered
2 Class Notice.

3 11. The Court hereby appoints ILYM Group as the Administrator. No later than
4 twenty (20) days after this Order, Defendant will provide the Class Data to the Administrator. The
5 Administrator will perform address updates and verifications as necessary prior to the first
6 mailing. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14)
7 days after receiving the Class Data, the Administrator will mail the Class Notice Packet to all
8 Class Members via first-class regular U.S. Mail to their last known address.

9 12. The Court hereby preliminarily approves the proposed procedure for exclusion
10 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
11 from the Class as provided in the Class Notice by following the instructions for requesting
12 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
13 postmarked or received no later than sixty (60) calendar days after the date of the mailing of the
14 Class Notice (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline
15 for requests for exclusion will be extended an additional fourteen (14) days. A Request for
16 Exclusion may also be faxed or emailed to the Administrator as indicated in the Class Notice.
17 Any such person who chooses to opt out of and be excluded from the Class will not be entitled to
18 any recovery under the Class Settlement and will not be bound by the Class Settlement or have
19 any right to object, appeal or comment thereon. Class Members who have not requested exclusion
20 shall be bound by all determinations of the Court, the Agreement and the Judgment. A Request
21 for Exclusion may only serve to effect an opt out as to that particular individual, and any attempt
22 to effect an opt-out of a group, class, or subclass of individuals is not permitted and will be
23 deemed invalid.

24 13. Any Class Member who has not opted out may appear at the final approval hearing
25 and may object or express the Member’s views regarding the Settlement, and may present
26 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
27 and determined by the Court as provided in the Notice. Class Members will have until the
28

1 Response Deadline to submit their written objections to the Administrator. Written objections
2 may also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class
3 Notice Packet is re-mailed, the Response Deadline for written objections will be extended an
4 additional fourteen (14) days. Alternatively, Class Members may appear at the Final Approval
5 Hearing to make an oral objection.

6 14. A final approval hearing shall be held before this Court on _____
7 _____ at _____ in Department 3 – Courtroom 2B at the San Mateo County
8 Superior Court to hear the motion for final approval and the motion for attorneys’ fees and costs,
9 and to determine all necessary matters concerning the Settlement, including: whether the proposed
10 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
11 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
12 Order and Judgment should be entered herein; whether the plan of allocation contained in the
13 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
14 finally approve attorneys’ fees and costs, service awards, and the fees and expenses of the
15 Administrator. All papers in support of the motion for final approval and the motion for attorneys’
16 fees, costs and service awards shall be filed with the Court and served on all counsel no later than
17 sixteen (16) court days before the hearing and both motions shall be heard at this final approval
18 hearing.

19 15. Neither the Settlement nor any exhibit, document, or instrument delivered
20 thereunder shall be construed as a concession or admission by Defendant in any way that the
21 claims asserted have any merit or that this Action was properly brought as a class or representative
22 action, and shall not be used as evidence of, or used against Defendant as, an admission or
23 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
24 omission by Defendant or with respect to the truth of any allegation asserted by any person.
25 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
26 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
27 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
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deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

16. In the event the Settlement does not become effective in accordance with the terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Agreement, and expressly reserve their respective rights regarding the prosecution and defense of this Action, including all available defenses and affirmative defenses, and arguments that any claim in the Action could not be certified as a class action and/or managed as a representative action . In such an event, the Court's orders regarding the Settlement, including this Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Agreement with respect to the effect of the Agreement if it is not approved.

17. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Class Members and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

IT IS SO ORDERED.

Dated: _____

HON. SUSAN L. GREENBERG
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

PRELIMINARY APPROVAL ORDER

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

VITALANT, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 22-CIV-03291

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: _____
Hearing Time: _____

Judge: Susan L. Greenberg
Dept: 3

Date Filed: August 22, 2022
Trial Date: Not yet set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs ChaMarie Spears and Kathleen Leonard (collectively
2 “Plaintiffs”) for an order finally approving the Class Action and PAGA Settlement Agreement
3 (“Agreement”) with Defendant Vitalant (“Defendant”), attorneys’ fees and costs, service
4 payments, and the expenses of the Administrator duly came on for hearing on _____
5 before the Honorable Susan L. Greenberg.

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the Superior Court for the State of California, in and for the County of San Mateo, and over all
13 Parties to this litigation, including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiffs and a review of the
15 applicable law, the Court finds that the Total Settlement Amount of Two Million Dollars
16 (\$2,000,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 17 4. The Court further finds that the Settlement was the result of arm’s length
18 negotiations conducted after Class Counsel had adequately investigated the claims and became
19 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
20 Settlement, and the assistance of an experienced mediator in the settlement process, among other
21 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

22 **Preliminary Approval of the Settlement**

- 23 5. On _____, the Court granted preliminary approval of the Settlement. At
24 this same time, the Court approved conditional certification of the Class for settlement purposes
25 only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Court-approved Class
3 Notice was mailed by first class mail to members of the Class at their last-known addresses on or
4 about _____. Mailing of the Class Notice to their last-known addresses was the best
5 notice practicable under the circumstances and was reasonably calculated to communicate actual
6 notice of the litigation and the proposed settlement to the Class. The Class Notice given to the
7 Class Members fully and accurately informed the Class Members of all material elements of the
8 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
9 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
10 fully with the laws of the State of California, the United States Constitution, due process and other
11 applicable law. The Class Notice fairly and adequately described the Settlement and provided
12 Class Members adequate instructions and a variety of means to obtain additional information.

13 7. The Response Deadline for opting out or submitting written objections to the
14 Settlement was _____, which for re-mailings was extended by fourteen (14) days. There
15 was an adequate interval between notice and the deadline to permit Class Members to choose what
16 to do and to act on their decision. A full and fair opportunity has been afforded to the Class
17 Members to participate in this hearing, and all Class Members and other persons wishing to be
18 heard have had a full and fair opportunity to be heard. Class Members also have had a full and
19 fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
20 Court determines that all Class Members who did not timely and properly submit a request for
21 exclusion are bound by the Settlement and this Final Approval Order and Judgment.

22 **Fairness of the Settlement**

23 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
24 48 Cal.App.4th 1794, 1801 (1996).

25 a. The settlement was reached through arm's-length bargaining between the
26 Parties during an all-day mediation before David Rotman, an experienced mediator of wage and
27 hour class actions. There has been no collusion between the Parties in reaching the Settlement.

1 b. Plaintiffs and their counsel's investigation and discovery have been
2 sufficient to allow the Court and counsel to act intelligently.

3 c. Counsel for all Parties are experienced in similar employment class action
4 litigation. Plaintiffs' counsel recommended approval of the Agreement.

5 d. The percentage of objectors and requests for exclusion is small. ____
6 objections were received. _____ requests for exclusion were received.

7 e. The participation rate was high. _____ Class Members will be mailed a
8 settlement payment, representing _____ % of the overall Class.

9 9. The consideration to be given to the Class Members under the terms of the
10 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
11 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
12 Members' claims, given the uncertainties and significant risks of the litigation and the delays
13 which would ensue from continued prosecution of the action.

14 10. The Agreement is approved as fair, adequate and reasonable and in the best
15 interests of the Class Members.

16 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

17 11. An award of \$ _____ for attorneys' fees, representing one-third of the
18 Total Settlement Amount, and \$ _____ for litigation costs and expenses, is reasonable,
19 in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and
20 the results achieved by Class Counsel. The requested award has been supported by Class
21 Counsel's lodestar and billing statement.

22 **Class Representative Service Payments**

23 12. The Agreement provides for a Class Representative Service Payment of not more
24 than \$12,500 each to the Plaintiffs, subject to the Court's approval. The Court finds that Class
25 Representative Service Payments in the amount of \$ _____ each to the Plaintiffs are
26 reasonable in light of the risks and burdens undertaken by the Plaintiffs in this litigation, the result
27
28

1 achieved, and for their time and effort in bringing and prosecuting this matter on behalf of the
2 Class.

3 **Administration Expenses Payment**

4 13. The Administrator shall calculate and administer the payment to be made to the
5 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the
6 Class Representative Service Payments to the Plaintiffs, issue all required tax reporting forms,
7 calculate withholdings and perform the other remaining duties set forth in the Agreement. The
8 Administrator has documented \$_____ in fees and expenses, and this amount is reasonable in
9 light of the work performed by the Administrator.

10 **PAGA Payment**

11 14. The Agreement provides for a PAGA Payment in the amount of \$50,000 out of
12 the Total Settlement Amount, which shall be allocated \$37,500 to the Labor & Workforce
13 Development Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties
14 paid under this Agreement pursuant to the PAGA and \$12,500 to be distributed to the PAGA
15 Members and allocated by (a) dividing the amount of the PAGA Members' 25% share of PAGA
16 Payment (\$12,500) by the total number of PAGA Pay Periods worked by all PAGA Members
17 during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Pay
18 Periods. "PAGA Members" are all individuals who were employed by Defendant in California
19 and classified as a non-exempt employee at any time during the PAGA Period (June 29, 2021
20 through July 28, 2023). Pursuant to Labor Code section 2699, subdivision (1)(2), the LWDA was
21 provided notice of the Agreement and these settlement terms and has not indicated any objection
22 thereto. The Court finds the PAGA Payment to be reasonable.

23 **II.**

24 **ORDERS**

25 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

26 15. The Class is certified for the purposes of settlement only. The Class consists of
27 both the California Class and the FCRA Class, which are defined as follows:

1 The **California Class** is defined as: “all individuals who were employed by
2 Defendant in California and classified as non-exempt at any time during the
3 California Class Period.” The “California Class Period” is from August 11, 2018
through July 28, 2023.

4 The **FCRA Class** is defined as: “all individuals who applied to work for Defendant
5 who were classified as either exempt or non-exempt in the United States during the
6 FCRA Class Period for whom background checks were run using the same federal
FCRA form as that contained on page 2 of the forms provided to Plaintiff Spears.”
The “FCRA Class Period” is from August 11, 2020 through December 9, 2022.

7 16. All persons who meet the foregoing definition are members of the Class, except for
8 those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT
9 REFERENCE TO IDENTIFY ANY OPT OUTS].

10 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
11 best interest of the Class.

12 18. Class Counsel are awarded attorneys’ fees in the amount of \$_____ and
13 costs in the amount of \$_____. Class Counsel shall not seek or obtain any other
14 compensation or reimbursement from Defendant, Plaintiffs or members of the Class.

15 19. The payment of Class Representative Service Payments in the amount of \$_____
16 each to the Plaintiffs is approved.

17 20. The payment of \$_____ to the Administrator for its fees and expenses is
18 approved.

19 21. The PAGA Payment of \$50,000 is approved and is to be distributed in accordance
20 with the Agreement.

21 22. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall
22 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
23 entry.

24 23. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this
25 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
26 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment
27 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
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1 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement
2 is, may be construed as, or may be used as an admission by or against Defendant of any fault,
3 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
4 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
5 evidence of, an admission or concession with regard to the denials or defenses by Defendant.
6 Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding
7 this Final Approval Order and Judgment, the Agreement, or any other papers and records on file in
8 the Action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel,
9 release, or other theory of claim or issue preclusion or similar defense as to the Released Class
10 Claims and/or Released PAGA Claims.

11 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
12 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
13 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
14 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
15 to individual Class Members.

16 25. If the Agreement does not become final and effective in accordance with the terms
17 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
18 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
19 revert to their respective positions as of before entering into the Agreement, and expressly reserve
20 their respective rights regarding the prosecution and defense of this Action, including all available
21 defenses and affirmative defenses, and arguments that any claim in the Action could not be
22 certified as a class action and/or managed as a representative action.

23 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

24 26. Except as set forth in the Agreement and this Final Approval Order and Judgment,
25 Plaintiffs, and all members of the Class, shall take nothing in the Action.

26 27. The Court shall retain jurisdiction to construe, interpret, implement and enforce the
27 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to
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1 supervise and adjudicate any dispute arising from or in connection with the distribution of
2 settlement benefits.

3 28. All Parties shall bear their own attorneys' fees and costs, except as otherwise
4 provided in the Agreement and in this Final Approval Order and Judgment.

5 29. Effective on the date when Defendant fully funds the Total Settlement Amount,
6 Plaintiffs, Participating Class Members, PAGA Members and the LWDA will release claims
7 against all Released Parties as follows:

8 (a) All Participating Class Members, on behalf of themselves and their
9 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
10 and assigns, release Released Parties from the Released Class Claims. "Released Class Claims"
11 means the following: for the California Class Members, all wage and hour Class claims that were
12 alleged, or reasonably could have been alleged, based on the wage and hour factual or legal
13 theories alleged in the Operative Complaint, including all of the following: (a) all class claims
14 stated in the Operative Complaint alleging violations of California Labor Code sections 201, 202,
15 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198
16 and 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, double-time
17 wages and incentive compensation, the alleged failure to pay for all time worked, the alleged
18 failure to pay for off the clock work, the alleged failure to pay for drug testing and other required
19 testing and examinations, the alleged failure to pay for temperature checks and symptom
20 questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates,
21 including overtime at the correct rates including, but not limited to, the regular rate of pay, the
22 alleged improper rounding of time entries, the alleged failure to pay reporting time pay and the
23 alleged unlawful deductions from earned wages; (c) all claims for meal period violations,
24 including claims for late, short, interrupted, rounded, and missed meal periods and the failure to
25 pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal
26 periods; (d) all claims for rest break violations, including claims for late, short, interrupted,
27 missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at
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1 the correct regular rates; (e) all claims for unreimbursed expenses, including, but not limited to,
2 expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims
3 for improper or inaccurate itemized wage statements, including any alleged violations of Labor
4 Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Operative
5 Complaint, including the allegation that the wage statements lacked the total number of hours
6 worked and corresponding rates and the proper legal entity of the employer, and including claims
7 for injuries suffered therefrom; (g) all claims for the untimely payment of wages, including
8 regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees
9 under sections 204 and 210 of the Labor Code; (h) all claims for the untimely payment of final
10 wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section;
11 (i) all claims for unpaid sick leave, including claims that paid sick leave was not paid at the correct
12 regular rate of pay; (j) all claims under the Business & Professions Code (including Section 17200
13 *et seq.*) premised on the facts, claims, and causes of action alleged in the Operative Complaint;
14 and (k) for the FCRA Class Members, all FCRA class claims pled or that could have been pled
15 based on the FCRA factual allegations contained in the Operative Complaint which occurred
16 during the FCRA Class Period. Except as expressly set forth in this Agreement, Participating
17 Class Members do not release any other claims, including claims covered by Plaintiff Spears'
18 Separation Agreement addressed herein, claims for vested benefits, wrongful termination,
19 violation of the Fair Employment and Housing Act, unemployment insurance, disability, social
20 security, workers' compensation, and Class claims based on facts occurring outside the Class
21 Period.

22 (b) All PAGA Members and the LWDA are deemed to release, on behalf of
23 themselves and their respective former and present representatives, agents, attorneys, heirs,
24 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
25 The "Released PAGA Claims" are all claims for PAGA civil penalties that were alleged, or
26 reasonably could have been alleged, based on the facts or legal theories alleged in the Operative
27 Complaint and the PAGA Notice, which occurred during the PAGA Period, including the
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1 following: (a) all claims for civil penalties stated in the Operative Complaint alleging violations of
2 sections 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512,
3 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
4 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure
5 to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including
6 Industrial Wage Order 7(A)(3); (b) all claims for civil penalties for violations of unpaid wages,
7 including unpaid minimum, overtime, double-time wages and incentive compensation, the alleged
8 failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged
9 failure to pay for drug testing and other required testing and examinations, the alleged failure to
10 pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay
11 for all hours worked at correct rates, including overtime at the correct rates including, but not
12 limited to, the regular rate of pay, the alleged improper rounding of time entries, and the alleged
13 unlawful deductions from earned wages; (c) all claims for civil penalties for meal period
14 violations, including late, short, interrupted, rounded, and missed meal periods and the failure to
15 pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal
16 periods; (d) all claims for civil penalties for rest period violations, including late, short,
17 interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay
18 premiums at all or at the correct regular rates; (e) all claims for civil penalties for unreimbursed
19 expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage,
20 and home office expenses; (f) all claims for civil penalties for inaccurate itemized wage
21 statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the
22 facts and legal theories contained in the PAGA Notice, including the allegation that the wage
23 statements lacked the total number of hours worked and corresponding rates and the proper legal
24 entity of the employer; (g) all claims for civil penalties for the untimely payment of wages,
25 including regular, overtime, premium wages, paid sick leave, and reporting time pay to current
26 employees under sections 204 and 210 of the Labor Code; (h) all claims for civil penalties for the
27 untimely payment of final wages and associated waiting time penalties under sections 201 to 203
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1 of the Labor Code Section; (i) all claims for civil penalties for unpaid sick leave, including claims
2 that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties
3 for failing to provide suitable seating; (k) all claims for civil penalties for alleged violations of
4 Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began
5 and ended each shift and meal period; and (l) all claims for civil penalties for the alleged failure to
6 pay employees for reporting time pay. The Released PAGA Claims do not include other PAGA
7 claims, underlying wage and hour claims, claims for wrongful termination, discrimination, claims
8 covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits,
9 wrongful termination, violations of the Fair Employment and Housing Act, unemployment
10 insurance, disability, social security, and worker's compensation, and PAGA claims outside of the
11 PAGA Period.

12 (c) Plaintiffs and their respective former and present spouses/domestic partners,
13 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
14 and discharge Released Parties from all claims, transactions, or occurrences that occurred through
15 the Effective Date, including, but not limited to: all known and unknown claims against the
16 Released Parties, including any Released Class Claims and Released PAGA Claims as well as all
17 other wage and hour claims, claims under California Business & Professions Code section 17200,
18 claims under the Labor Code, including, but not limited to, claims under the Private Attorneys
19 General Act ("PAGA"), claims under the Fair Labor Standards Act ("FLSA"), and all claims for
20 indemnity or reimbursement of business expenses, overtime compensation, minimum wages,
21 penalties, liquidated damages, and interest, and all other claims under state, federal, and local
22 laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and
23 Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the
24 Employee Retirement Income Security Act of 1974, and all of their implementing regulations and
25 interpretive guidelines, as well as the common law, including laws related to discrimination,
26 harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated,
27 arising from or relating to each Plaintiff's relationship, or termination of relationship, with any
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1 Released Party through the date of Final Approval for any type of relief, as fully set forth in the
2 Agreement.

3 30. For any Class Member or PAGA Member whose Individual Class Payment check
4 or Individual PAGA Payment check is uncashed and cancelled after the void date, the
5 Administrator shall transmit the funds represented by such checks to the California Controller's
6 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
7 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

8 31. The Court hereby enters judgment in the entire Action as of the filing date of this
9 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the
10 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction
11 over the interpretation, implementation, and enforcement of the Settlement and all orders entered
12 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

13 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

14
15 Dated: _____

16
17 HON. SUSAN L. GREENBERG
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA