

1 ERIN M. CONNELL (SBN 223355)  
econnell@orrick.com  
2 ALEXANDRA STATHOPOULOS (SBN 286681)  
astathopoulos@orrick.com  
3 KAYLA DELGADO GRUNDY (SBN 300513)  
kgrundy@orrick.com  
4 ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
5 405 Howard Street  
San Francisco, CA 94105-2669  
6 Telephone: +1 415 773 5700

7 SCOTT MORRISON (SBN 320167)  
scott.morrison@orrick.com  
8 ORRICK, HERRINGTON & SUTCLIFFE LLP  
2050 Main Street, Suite 1100  
9 Irvine, CA 92614-8255  
Telephone: +1 949 567 6700

10 Attorneys for Defendant  
11 Delta Dental of California

12 DOUGLAS HAN (SBN 232858)  
SHUNT TATAVOS-GHARAJEH (SBN 272164)  
13 CHRISTOPHER K. PETERSEN (SBN 260631)  
LIZETTE RODRIGUEZ (SBN 335182)  
14 JUSTICE LAW CORPORATION  
751 N. Fair Oaks Avenue, Suite 101  
15 Pasadena, California 91103  
Telephone: +818 230 7502  
16 Facsimile: +818 230 7259

17 Attorneys for Plaintiffs

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 CITY AND COUNTY OF SAN FRANCISCO  
20

21 MARIANNE RAMIREZ and WENDY  
22 CAMPBELL, individually, and on behalf of  
other members of the general public similarly  
23 situated,

24 Plaintiffs,

25 v.

26 DELTA DENTAL OF CALIFORNIA, a  
California Corporation; and DOES 1 through  
27 100, inclusive,

28 Defendants.

Case No. CGC-21-589648

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

1  
2                   **CLASS AND PAGA ACTION SETTLEMENT AGREEMENT**

3           This Joint Stipulation of Class and PAGA Action Settlement and Release (“Settlement  
4 Agreement,” “Settlement,” or “Agreement”) is made and entered into between Marianne Ramirez  
5 and Wendy Campbell (collectively, “Plaintiffs”), individually and as representatives of the Class  
6 Members and Aggrieved Employees, and Defendant Delta Dental of California (“Defendant”)  
7 and is subject to the terms and conditions herein and the approval of the Court. Plaintiffs and  
8 Defendant are referenced collectively herein as “the Parties.”

9   **I.       CONDITIONAL NATURE OF SETTLEMENT**

10           This Agreement is made for the sole purpose of settling the above-captioned action on a  
11 class and representative basis. This Settlement is made in compromise of disputed claims as set  
12 forth in the case entitled *Ramirez, et al. v. Delta Dental of California*, Case No. CGC-21-589648,  
13 pending in the Superior Court of California, County of San Francisco. This action will be referred  
14 to herein as “the Action.” The Settling Parties (as defined in Section 2 of this Agreement) enter  
15 into this Agreement on a conditional basis.

16           Furthermore, in the event that the Court does not enter the Final Approval Order, or a  
17 Judgment is not entered in the Action, or the conditions precedent are not met for any reason, this  
18 Settlement shall be deemed void *ab initio*, it shall be of no force or effect whatsoever, it shall not  
19 be referred to or utilized for any purpose whatsoever, and the negotiations, terms, and entry of the  
20 Agreement shall remain subject to the provision of California Evidence Code §§ 1119 and 1152  
21 and any other analogous rules of evidence that might apply.

22           Defendant denies all claims as to liability, damages, penalties, interest, fees, restitution,  
23 injunctive relief, and all other forms of relief as well as the representative allegations asserted in  
24 the Action. Defendant has agreed to resolve the Action through this Settlement, but to the extent  
25 this Settlement is deemed void, Defendant does not waive, but rather expressly reserves, all rights  
26 to challenge all such claims and allegations in the Action upon all procedural and factual grounds,  
27 including without limitation the ability to challenge class or representative action treatment on  
28 any grounds, as well as asserting any and all other potential defenses or privileges. The Plaintiffs

1 and Plaintiffs' Counsel agree that Defendant retains and reserves these rights. Specifically, the  
2 Plaintiffs and Plaintiffs' Counsel agree not to argue or present any argument that, in the event this  
3 Settlement is not approved in full, Defendant could not file a later motion or opposition that  
4 contests the certifiability or manageability of the claims of this Action if it proceeds on a class or  
5 representative basis or assert any and all other potential defenses and privileges if this Action  
6 were to proceed. The Plaintiffs and Plaintiffs' Counsel hereby waive such arguments and agree  
7 they will not take a position contrary to this provision. The Parties intend this Agreement to fully,  
8 finally, and forever resolve, discharge, and settled the Released Claims upon and subject to the  
9 terms and conditions hereof.

## 10 **II. DEFINITIONS**

- 11 1. "Action" means the case entitled *Ramirez, et al. v. Delta Dental of California*, Case  
12 No. CGC-21-589648, pending in the Superior Court of California, County of San  
13 Francisco.
- 14 2. "Agreement" means this agreement entered into by the Parties to effectuate the terms  
15 of the Settlement.
- 16 3. "Aggrieved Employees" means all current and former hourly-paid or non-exempt  
17 Professional and Clerical employees employed by Delta Dental of California within  
18 the State of California at any time during the PAGA Period.
- 19 4. "Attorneys' Fees and Litigation Expenses" means the fees awarded to Class Counsel  
20 in connection with this Action, as approved by the Court, and actual litigation  
21 expenses for work performed by Class Counsel that are approved for reimbursement  
22 by the Court as set forth in Section 7.3 of this Agreement.
- 23 5. "Class" means all current and former hourly-paid or non-exempt Professional and  
24 Clerical employees who are or were employed by Delta Dental of California during  
25 the Class Period, which includes the following job titles: Office Service Generalist,  
26 Secretary, Account Manager, Account Services Coordinator, Accounting Specialist,  
27 Accounts Payable Analyst, Accounts Payable Specialist, Accounts Receivable  
28 Specialist, Administrative Assistant, Administrative Coordinator Delta Federal

1 Services, Appeal Representative, Appeals Specialist, Associate Customer Advocate,  
2 Associate Operations Analyst, Associate Quality Analyst, Associate Service Desk  
3 Analyst, Audit Review Clerk, Bank Reconciliation Analyst, Benefits Specialist,  
4 Billing & Reconciliation Specialist Senior, Billing Analyst, Billing Clerk, Billing  
5 Configuration Specialist, Billing Specialist, Billing Specialist Senior, Business  
6 Analyst I, Claims Examiner I (NU), Claims Processing Coordinator, Claims  
7 Processing Specialist, Claims/Customer Service Auditor, Collection and Group  
8 Services Analyst, Communications Clerk, Computation Clerk, Computer Operator II,  
9 Computer Operator III, Contracts Analyst, Coordinator Collections & Group Services,  
10 Coordinator Marketing, Coordinator Professional Services, Correspondence Clerk,  
11 Correspondence Specialist, Customer Relations Analyst, Customer Relations  
12 Specialist, Customer Service Associate, Customer Service Clerk, Customer Service  
13 Representative, Customer Service Representative I, Customer Service Representative  
14 II, Customer Service Representative II – D2C, Customer Support Clerk, Data Entry  
15 Operator, Data Entry Operator/Imaging Tech, Dental Auditor, Deskside Support I,  
16 Deskside Support II, Desktop Administrator I, Desktop Administrator II, ,Desktop  
17 Engineer II, EDI Analyst, Edit Clerk, eEnrollment Analyst, eEnrollment Specialist,  
18 Electronic Data Specialist, Eligibility & Enrollment Clerk, Eligibility Administration  
19 Representative, Eligibility Clerk, Eligibility Updater, Enrollment Specialist, Escalation  
20 Coordinator, Executive Assistant I, Expeditor, Facilities Assistant, File Clerk,  
21 Graphics Clerk, Group Claims Analyst, Group File Analyst – Client Services, Group  
22 Records Specialist, Human Resources Assistant, Human Resources Specialist,  
23 Imaging Technician, Insert Mail Machine Operator, Intern, Legal Administrator, Legal  
24 Specialist, LMS Administrator, Mail Clerk, Mail Clerk II, Mail Clerk III, Mail  
25 Machine Operator, Management Expeditor, Messenger, Open Enrollment Assistant,  
26 Open Enrollment Benefits Enroller, Operations Analyst, Operations Analyst II,  
27 Operations Assistant, OPEX Machine Operator, Ortho Expeditor, Paralegal, Patient  
28 Coordinator, Payroll Administrator, Payroll Analyst, People Connect Agent, Printing

Assistant, Printing Operator, Problem Correction System Coordinator, Procurement Specialist, Professional Relations Network Liaison, Proposal Development Specialist, Provider Administration Specialist, Provider Concierge Specialist, Publications Specialist, QA/QM Coordinator, Quality Assurance Analyst, Regulatory Complaint Coordinator, Reporting Specialist, Review Assistant, Review Assistant Senior, S/URS Liaison, Sales Assistant, Scanning Clerk, Secretary Executive, Security Engineer I, Senior Grievance & Appeals Coordinator, Service Desk Analyst I, Service Desk Analyst II, Sort Clerk, Sort Entry Clerk, Statistical Clerk, Student Intern, Study Model Clerk, Support Center Analyst I, Systems Analyst I, Tape Librarian II, TASC Analyst II, Team Lead Customer Service, Technical Writer, Telephone Inquiry Specialist, Telephone Representative, Telephone Representative – Bilingual, Telephone Service Center Clerk, Training Assistant, Word Processing Operator, and Workforce Management Coordinator.

6. “Class Counsel” means:

DOUGLAS HAN (SBN 232858)  
SHUNT TATAVOS-GHARAJEH (SBN 272164)  
CHRISTOPHER PETERSEN (SBN 260631)  
LIZETTE RODRIGUEZ (SBN 335182)  
JUSTICE LAW CORPORATION  
751 N. Fair Oaks Avenue, Suite 101  
Pasadena, California 91103  
Telephone: +818 230 7502  
Facsimile: +818 230 7259

7. “Class Notice” means the Court-approved Class Notice, included here as Exhibit A, which notifies Class Members of the lawsuit and of their estimated share of the Settlement and the number of Eligible Workweeks he/she worked during the Class Period.

8. “Class Period” means from August 10, 2016, through February 8, 2023.

9. “Class Released Claims” means all claims, demands, rights, liabilities, penalties, fees, and causes of action that were, or reasonably could have been, asserted based on the facts alleged in the Action including, for the avoidance of doubt, claims based on the

- 1 following allegations: failure to pay all wages owed, including minimum, straight, and  
2 overtime wages due to working off the clock or rounding of time entries; failure to  
3 properly calculate the regular rate of pay; failure to provide compliant meal periods or  
4 rest breaks or to pay meal period or rest break premiums; failure to provide accurate  
5 and/or compliant wage statements; failure to reimburse all reasonable and necessary  
6 business expenses; failure to timely pay wages during employment or upon separation;  
7 or violation of Cal. Bus. & Prof. Code section 17200 et seq. by engaging in the  
8 foregoing conduct. Settlement Class Members do not release any other claims,  
9 including claims for vested benefits, wrongful termination, violation of the Fair  
10 Employment and Housing Act, unemployment insurance, disability, social security,  
11 workers' compensation, or claims based on facts occurring outside the Class Period.
- 12 10. "Court" means the Superior Court of the State of California, County of San Francisco.
- 13 11. "Cy Pres Recipient" means Legal Aid At Work, whom the Parties have selected to  
14 receive any funds remaining in the QSF after Settlement Class Members and  
15 Aggrieved Employees have had 180 days to cash or otherwise negotiate their  
16 Settlement Checks and failed to do so, and after those funds have been redistributed to  
17 participating Class Members who cashed their checks.
- 18 12. "Defendant" means Delta Dental of California.
- 19 13. "Defendant's Counsel" means:

20 ERIN M. CONNELL (SBN 223355)  
21 econnell@orrick.com  
22 ALEXANDRA STATHOPOULOS (SBN 286681)  
23 astathopoulos@orrick.com  
24 KAYLA DELGADO GRUNDY (SBN 300513)  
25 kgrundy@orrick.com  
26 ORRICK, HERRINGTON & SUTCLIFFE LLP  
27 The Orrick Building  
28 405 Howard Street  
San Francisco, CA 94105-2669  
Telephone: +1 415 773 5700

SCOTT MORRISON (SBN 320167)  
scott.morrison@orrick.com  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
2050 Main Street, Suite 1100  
Irvine, CA 92614-8255

Telephone: +1 949 567 6700

14. “Eligible Workweek” means any workweek in which work was performed by a Settlement Class Member during the Class Period or PAGA Period.
15. “Employee Settlement Data” means records for each Class Member including: (1) name, (2) social security number, (3) last known residential address, (4) last known telephone number, and (5) number of Eligible Workweeks worked during the Class Period; and records for each Aggrieved Employee including: (1) name, (2) social security number, (3) last known residential address, (4) last known telephone number, and (5) number of Eligible Workweeks worked during the PAGA Period.
16. “Enhancement Award” means a payment to named Plaintiffs out of the Gross Settlement Amount of up to Ten Thousand Dollars (\$10,000) each, or a lesser amount if ordered by the Court, which will be paid to Plaintiffs for serving as representatives in this case and in exchange for a general release of claims and California Civil Code section 1542 waiver. Plaintiffs will also be eligible for Individual Class Settlement Payments and PAGA Settlement Payments. The Enhancement award is not conditioned upon the Class Representatives supporting the settlement. The Enhancement Award is for their service to the class in bringing the lawsuit.
17. “Effective Date” means the date that the Court’s Judgment in the Action becomes final. For purposes of this Settlement Agreement, the Judgment “becomes final” upon the last to occur of the following: (i) the day immediately after the last day by which a Notice of Appeal of Judgment may be timely filed with the California Court of Appeal (i.e., the sixty-first calendar day following entry of Judgment), and no such appeal being filed; (ii) if an appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the last date for filing a request for further review of the Court of Appeal’s decision passes and no further review is requested; (iii) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal’s decision is requested, the day after the request for review is denied with prejudice and/or no

1 further review of the order can be requested; or (iv) if review is accepted, the day the  
2 Supreme Court of the State of California affirms the Settlement.

3 18. "Final Approval" means an Order granting final approval of the Settlement of this  
4 Action.

5 19. "Gross Settlement Amount" or "GSA" shall mean the total of Eight Million Five  
6 Hundred Thousand Dollars (\$8,500,000). The Gross Settlement Amount will be used  
7 to pay Settlement Administration Costs, Class Counsel's attorneys' fees and costs,  
8 Plaintiffs' Enhancement Payments, the Individual Class Settlement Payments, the  
9 PAGA Settlement Payments, and the PAGA Penalties to be paid to the Labor  
10 Workforce Development Agency ("LWDA"). Defendant's corporate payroll tax  
11 obligation shall be paid separately from the GSA.

12 20. "Individual Class Settlement Payments" means the *pro rata* amount payable from the  
13 Net Settlement Amount to each of the Settlement Class Members based on each  
14 Settlement Class Member's number of Eligible Workweeks during the Class Period.  
15 Individual Class Settlement Payments will be paid to Settlement Class Members in the  
16 form of a check and the Settlement Administrator will make all required withholdings.  
17 Individual Settlement Payments will be treated as follows: 50% as wages, reportable  
18 on IRS Form W-2 and subject to withholdings; 50% as interest and penalties  
19 reportable on IRS Form 1099.

20 21. "Individual PAGA Payments" means the *pro rata* amount payable from the 25%  
21 portion of PAGA Penalties that will be paid to Aggrieved Employees based on each  
22 Aggrieved Employee's number of Eligible Workweeks during the PAGA Period.  
23 Individual PAGA Payments will be paid to Aggrieved Employees in the form of a  
24 check, and Aggrieved Employees will be issued an IRS Form 1099 for their Individual  
25 PAGA Payments. Individual PAGA Payments will be treated 100% as penalties.

26 22. "Judgment" means a judgment entered by the Court following entry of the Final  
27 Approval order.

28 23. "LWDA" means the California Labor Workforce Development Agency.

- 1 24. “LWDA Payment” means the 75% portion of the PAGA Penalties that will be paid to  
2 the LWDA pursuant to California Labor Code § 2699(i).
- 3 25. “Net Settlement Amount” or “NSA” means the amount remaining after Class  
4 Counsel’s attorneys’ fees and costs, Plaintiffs’ Enhancement Payments, the PAGA  
5 Penalties, and Settlement Administration Costs, have been deducted from the GSA,  
6 from which the Individual Class Settlement Payments will be paid.
- 7 26. “PAGA” means the California Labor Code Private Attorneys General Act, California  
8 Labor Code §§ 2698, *et seq.*
- 9 27. “PAGA Notice” means the notice that Plaintiffs provided to the Department of  
10 Industrial Relations, dated June 28, 2022, that informed the PAGA Administrator of  
11 the alleged violations of the Labor Code that are at issue in this Action (LWDA-CM-  
12 891853-22).
- 13 28. “PAGA Penalties” means the \$850,000 of the GSA that the Parties have allocated to  
14 settlement of Plaintiffs’ PAGA claim, 75% of which will be paid to the LWDA (the  
15 “LWDA Payment”) and 25% of which will be distributed to Aggrieved Employees as  
16 Individual PAGA Payments.
- 17 29. “PAGA Period” means the time period of November 9, 2019, through February 8,  
18 2023.
- 19 30. “PAGA Released Claims” means all claims, demands, rights, liabilities, penalties,  
20 fees, and causes of action under PAGA during the PAGA Period based on the factual  
21 allegations and legal assertions made in the operative complaint or PAGA Notice,  
22 including, for the avoidance of doubt, claims based on any alleged failure to pay all  
23 wages owed, including minimum, straight, and overtime wages due to working off the  
24 clock or rounding of time entries; failure to properly calculate the regular rate of pay;  
25 failure to provide compliant meal periods or rest breaks or to pay meal period and rest  
26 break premiums; failure to provide accurate and/or compliant wage statements; failure  
27 to reimburse all reasonable and necessary business expenses; or failure to timely pay  
28 wages during employment or upon separation.

- 1 31. "QSF" means the Qualified Settlement Fund established by the Settlement  
2 Administrator for the benefit of the Settlement Class Members and Aggrieved  
3 Employees and from which the Individual Class Settlement Payments and Individual  
4 PAGA Payments and, if applicable, payroll taxes shall be paid.
- 5 32. "Reasonable Address Verification Measure" means utilization of the National Change  
6 of Address Database maintained by the United States Postal Service prior to the initial  
7 mailing of the Settlement Checks and skip-tracing of bad addresses upon the return of  
8 undelivered Settlement Checks.
- 9 33. "Released Parties" means Defendant and its past or present officers, directors,  
10 shareholders, employees, agents, principals, heirs, representatives, accountants,  
11 auditors, attorneys, consultants, insurers, and their respective successors and  
12 predecessors in interest, assigns, subsidiaries, affiliates, and parents in their individual  
13 and corporate capacities.
- 14 34. "Response Deadline" means 45 days after the mailing of the Class Notice during  
15 which time Class Members may opt out of the non-PAGA portion of the Settlement,  
16 object to the non-PAGA portion of the Settlement, or dispute the number of Eligible  
17 Workweeks that they worked during the Class Period.
- 18 35. "Settlement Administrator" means CPT Group, who the Parties have selected to  
19 administer this Settlement.
- 20 36. "Settlement Administration Costs" means the reasonable costs and fees incurred by  
21 the Settlement Administrator, as approved by the Court, to administer the Settlement  
22 in accordance with this Agreement, which will be paid from the GSA and is expected  
23 not to exceed Twenty-Nine Thousand Dollars (\$29,000).
- 24 37. "Settlement Check" means a check mailed by the Settlement Administrator to a  
25 Settlement Class Member or Aggrieved Employee with that individual's Individual  
26 Class Settlement Payment and/or Individual PAGA Payment.
- 27 38. "Settlement Class Member" means a Class Member who did not timely opt out of the  
28 non-PAGA portion of the Settlement by submitting an opt-out request to the

1 Settlement Administrator by the opt-out deadline.

2 39. “Updated Address” means a mailing address that was updated via a Reasonable  
3 Address Verification Measure, or an updated mailing address provided by the United  
4 States Postal Service, a Class Member, or any other valid source.

5 **III. PROCEDURAL BACKGROUND**

6 On February 4, 2021, Plaintiff Marianne Ramirez filed a class action lawsuit in San  
7 Francisco County Superior Court, Case No. CGC-21-589648, on behalf of herself and all other  
8 Class Members. In the Complaint, Plaintiff alleged various wage and hour violations under  
9 California law, including claims for: (1) unpaid overtime wages; (2) unpaid meal period  
10 premiums; (3) unpaid rest period premiums; (4) unpaid minimum wages; (5) waiting time  
11 penalties; (6) non-compliant wage statements; (7) unreimbursed business expenses; and (8) unfair  
12 business practices.

13 On May 10, 2022, the Parties attempted to resolve the matter in mediation with Jeff  
14 Krivis, *Esq.* but were unsuccessful.

15 On October 4, 2022, Plaintiffs Marianne Ramirez and Wendy Campbell filed a First  
16 Amended Complaint, adding Wendy Campbell as a named Plaintiff and adding a claim for civil  
17 penalties under PAGA based on the underlying Labor Code violations alleged in the initial  
18 Complaint and in the PAGA Notice.

19 The Parties agreed to attend mediation with Jeff Ross, *Esq.*, and participated in formal and  
20 informal discovery in advance of mediation. The Parties exchanged relevant documents and data,  
21 including documents regarding policies and/or practices that are at issue in this lawsuit, records  
22 kept by Defendant regarding Plaintiffs’ employment with Defendant, exemplar wage statement  
23 samples, and detailed time and earnings data for approximately 20% of the putative class.

24 The Parties have engaged in arm’s length negotiations, including a mediation session on  
25 February 8, 2023, facilitated by Jeff Ross, *Esq.*, who has extensive experience in labor and  
26 employment litigation, which generated a Memorandum of Understanding that summarizes the  
27 key terms of the Settlement detailed in this Agreement. The Parties and their counsel are  
28 sufficiently familiar with the facts of this Action and the applicable laws to make an informed

1 judgment as to the fairness of the Settlement, the respective strengths and weaknesses of the  
2 claims brought by the group that Plaintiff sought to represent, and the risks of proceeding in  
3 litigation. The Parties are represented by competent counsel and have had the opportunity to  
4 consult with counsel prior to the signing of this Agreement.

5 On August 1, 2023, Class Counsel filed a Motion for Preliminary Approval of this  
6 Settlement, and on August 30, 2023, the Court issued a tentative ruling denying it, identifying the  
7 following issues: (1) whether Lawyers for Justice may serve as adequate counsel in the context of  
8 this case; (2) the scope of the release language being overbroad as compared to the claims at  
9 issue; (3) the Motion and/or operative Complaint lacking sufficient facts to support the breadth of  
10 the class definition; (4) and certain paragraphs that “unduly limit the ability of Plaintiffs and their  
11 counsel to independently and candidly represent and communicate with class members to best  
12 represent them in this case and throughout the process of settlement administration.”

13 The Parties have thus attempted to address each of those concerns by: (1) disassociating  
14 Lawyers for Justice from this Action; (2) narrowly tailoring the scope of the release to the claims  
15 alleged or that reasonably could have been alleged based on the facts alleged in the Action and  
16 expressly carving out certain unrelated claims; (3) stipulating to the filing of a Second Amended  
17 Complaint (attached here as **Exhibit B**), which alleges more specific facts and theories of liability  
18 to support the scope of the class definition; and (4) striking former Paragraph 11.2 and 11.4 from  
19 the Agreement.

#### 20 **IV. DEFENDANT’S DENIAL OF LIABILITY**

21 Defendant specifically and generally denies any and all liability or wrongdoing of any sort  
22 with respect to any of the claims alleged in the Action and makes no concessions or admissions of  
23 liability of any sort. Defendant maintains that for any purpose other than settlement, the Action is  
24 not appropriate for class or representative treatment and that, had this matter proceeded through  
25 litigation, it would be uncertifiable and unmanageable. Nonetheless, Defendant has concluded  
26 that further litigation would be protracted, distracting, and expensive, and that it is desirable that  
27 the Action be fully and finally settled in the manner and upon the terms and conditions set forth in  
28 this Agreement. Defendant has also taken into account the uncertainty and risks inherent in any

1 litigation. Defendant has therefore determined that it is desirable and beneficial to settle the  
2 Action in the manner and upon the terms and conditions set forth in this Agreement.

3 The Parties agree there is a bona fide dispute as to the claims in the alleged Action, and  
4 neither this Agreement, nor the Settlement-related documents, nor the Settlement itself shall be  
5 construed as an admission of either fact or law on any issue by any Party.

6 **V. PLAINTIFFS' CLAIMS AND BENEFITS OF SETTLEMENT**

7 Plaintiffs and Class Counsel believe that the claims asserted in the Action have merit and  
8 that evidence developed to date supports the claims. However, Plaintiffs and Class Counsel  
9 recognize and acknowledge the significant expense, resources, and time required to prosecute the  
10 Action against Defendant through trial and through appeals. Plaintiffs and Class Counsel have  
11 also taken into account the uncertain outcome and the risks of litigation, the difficulties and  
12 delays inherent in this and similar litigation, the challenges of proving certifiability and  
13 manageability throughout the Action, and the problems of proving liability and rebutting possible  
14 defenses to the claims alleged in the Complaint. Based upon their evaluation, Plaintiffs and Class  
15 Counsel have determined that the settlement set forth in this Agreement is fair, reasonable,  
16 adequate, and in the interests of Plaintiffs, Class Members, and Aggrieved Employees. Both Class  
17 Counsel and the Plaintiffs believe that the settlement set forth in this Agreement confers  
18 substantial benefits upon all Class Members and Aggrieved Employees.

19 **VI. CONDITIONS PRECEDENT TO EFFECTIVENESS OF AGREEMENT**

20 6.1 The Parties enter into this Agreement and the Settlement on a conditional basis.  
21 This Agreement and Settlement will become final and effective only upon the occurrence of all of  
22 the following events:

23 6.1.1 The Court enters a Final Approval Order and Judgment; and

24 6.1.2. The Effective Date occurs, and any challenge to the Settlement, whether by  
25 objection or appeal, is resolved in favor of enforcement of the Settlement.

26 6.2 Unless the Court orders otherwise or agreed in writing by the Parties, this  
27 Agreement shall be deemed null and void *ab initio* upon the failure of any of these conditions to  
28 occur.

1  
2 **VII. SETTLEMENT CONSIDERATION—NO CLAIM FORM REQUIRED;**  
3 **DEDUCTIONS FROM THE GROSS SETTLEMENT AMOUNT; CALCULATION**  
4 **OF PAYMENTS FROM THE NET SETTLEMENT AMOUNT**

5 This shall be an all-in Settlement without a reversion.

6 7.1 **Payment of the Gross Settlement Amount:** Defendant will pay the Gross  
7 Settlement Amount in full and final settlement of the Action. The Gross Settlement Amount will  
8 constitute adequate consideration for this Settlement. Since any uncashed settlement check funds  
9 will be distributed pursuant to the *cy pres* doctrine, this Agreement and the associated Judgment do  
10 not and will not create any unpaid residue or unpaid residual, and no distribution of such shall be  
11 required.

12 7.2 **Escalator Clause:** The Settlement is based on the understanding that there are  
13 approximately 268,709 workweeks in the Class Period. In the event the total number of workweeks  
14 in the Class Period exceeds 268,709 by more than 10%, the GSA will increase by the same  
15 percentage above 10% by which the total workweeks exceeds 268,709 (e.g., if the actual total  
16 number of workweeks as of February 8, 2023, exceeds 268,709 by 12%, the GSA would increase  
17 by 2%).

18 7.3 **Attorneys' Fees and Litigation Expenses:** Class Counsel will submit an  
19 application for: (a) an award of Attorneys' Fees of no more than 1/3 of the Gross Settlement  
20 Amount, or \$2,833,333.33, unless otherwise increased by the Escalator Clause included in Section  
21 7.2 of this Settlement in which case Class Counsel's attorney fee award will be increased by the  
22 same percentage amount; and (b) an award of Class Counsel's actual Litigation Expenses (as  
23 documented on an itemized cost sheet with appropriate support), estimated to be approximately  
24 \$38,000, both of which shall be paid out of the Gross Settlement Amount as approved by the Court.  
25 The Attorneys' Fees and Litigation Expenses set forth in this Section, as approved by the Court,  
26 will constitute complete consideration for all work performed and expenses incurred to date and  
27 for all work to be performed and expenses to be incurred through the completion of the Action,  
28 its settlement, and the effort to secure a Final Approval Order and Judgment by Class Counsel. The  
Attorneys' Fees and Litigation Expenses, as approved by the Court, shall constitute full satisfaction

1 of any claim for fees or costs.

2           7.3.1 In the event that the Court (or any appellate court) awards less than the  
3 amount requested for Attorneys' Fees or Litigation Expenses, only the awarded amounts shall be  
4 paid and shall constitute satisfaction of those obligations and full payment thereunder, and any  
5 remaining or unawarded portion of the requested Attorneys' Fees or Litigation Expenses shall be  
6 made a part of the Net Settlement Amount. To the extent the Court does not approve any or all of  
7 the Attorneys' Fees or Litigation Expenses requested, the Settlement shall remain binding except  
8 as otherwise provided, and this will not be a justification for Plaintiff or Settlement Class Members  
9 to withdraw from the Settlement.

10           7.3.2 Class Counsel agrees to be solely responsible for any claims, liens or other  
11 demands from persons or entities who previously represented Plaintiffs and may seek to be  
12 compensated out of the Gross Settlement Amount for attorneys' fees and/or legal costs arising from  
13 prosecution of the Action against Defendant.

14           7.4     **Settlement Administration Costs:** From the Gross Settlement Amount,  
15 Settlement Administration Costs shall be paid in an amount expected not to exceed Twenty-Nine  
16 Thousand Dollars (\$29,000.00), subject to approval from the Court.

17           7.5     **Enhancement Payments to Plaintiffs:** From the Gross Settlement Amount,  
18 Defendant agrees to pay to each Plaintiff, subject to Court approval, an Enhancement Payment of  
19 up to Ten Thousand Dollars (\$10,000.00). Plaintiffs shall be issued an Internal Revenue Service  
20 Form 1099 for any Enhancement Payment approved by the Court. Plaintiffs hereby acknowledge  
21 that they have obtained no tax advice from Defendant and that neither Defendant nor its attorneys  
22 have made any representation concerning tax consequences, if any, of the Enhancement  
23 Payments. Plaintiffs agree that they are solely responsible for the tax consequences of the  
24 Enhancement Payments.

25           7.5.1 In the event that the Court (or any appellate court) awards less than the  
26 amount requested for the Enhancement Payments, only the awarded amount shall be paid and  
27 shall constitute satisfaction of those obligations and full payment thereunder, and any remaining  
28 or unawarded portion of the requested Enhancement Payments shall be made a part of the Net

1 Settlement Amount.

2 7.5.2 The Enhancement Payment, if approved by the Court, is in addition to the  
3 Plaintiffs' Individual Class Settlement Payments and Individual PAGA Payments.

4 7.6 **PAGA Penalties; LWDA Payment; Net Settlement Amount:** The PAGA  
5 Penalties are the \$850,000 that the Parties have allocated for settlement of Plaintiffs' PAGA  
6 Claim.

7 7.6.1 Pursuant to California Labor Code § 2699(i), 75% of the PAGA Penalties  
8 will be paid to the LWDA as the "LWDA Payment."

9 7.6.2 The remaining 25% of the PAGA Penalties will be the fund from which  
10 Individual PAGA Payments are made.

11 7.6.3 Individual PAGA Payments will be calculated *pro rata* based on the  
12 number of Eligible Workweeks each Aggrieved Employee has during the PAGA Period  
13 according to Defendant's records. Individual PAGA Payments will be paid to Aggrieved  
14 Employees in the form of a Settlement Check.

15 7.7 **Taxes on Individual PAGA Payments:** Individual PAGA Payments will be  
16 treated as non-wage penalties and interest, reportable to the Internal Revenue Service on Form  
17 1099. Defendant shall not be responsible for tax payments on any portion of the Gross Settlement  
18 Amount. The Parties further understand that the Plaintiffs and any Aggrieved Employee who  
19 receives any Individual PAGA Payment pursuant to this Agreement shall be solely responsible  
20 for any and all tax obligations associated with such receipt.

21 7.8 **Calculation of Defendant's Corporate Payroll Obligations:** Defendant's  
22 corporate payroll tax obligation shall be calculated by the Settlement Administrator and paid in  
23 addition to the GSA. Defendant's corporate payroll taxes are estimated to be approximately  
24 \$358,332.

25 7.9 **Payment of Individual Class Settlement Payments:** Individual Class Settlement  
26 Payments will be made from the Net Settlement Amount. Individual Class Settlement Payments  
27 will be calculated *pro rata* based on the number of Eligible Workweeks each Settlement Class  
28 Member has during the Class Period according to Defendant's records. Individual Class

1 Settlement Payments will be paid to Settlement Class Members in the form of a Settlement  
2 Check.

3 7.10 **Taxes on Individual Class Settlement Payments:** Individual Class Settlement  
4 Payments will be treated 50% as wages, reportable to the Internal Revenue Service on Form W-2  
5 and subject to withholdings, and 50% as interest and penalties, reportable to the Internal Revenue  
6 Service on Form 1099. Defendant shall not be responsible for tax payments on any portion of the  
7 Gross Settlement Amount. The Parties further understand that the Plaintiffs and any Settlement  
8 Class Member who receives any Individual Class Settlement Payment pursuant to this Agreement  
9 shall be solely responsible for any and all tax obligations associated with such receipt.

10 **VIII. ADMINISTRATION OF THE SETTLEMENT**

11 8.1 **Motion for Preliminary Approval of Settlement Agreement:** Class Counsel has  
12 agreed to draft and file the Motion for Preliminary Approval and Motion for Final Approval. At  
13 least five (5) Court days before the filing deadline for the Motion for Preliminary Approval,  
14 Plaintiffs will provide drafts of the Memorandum of Points and Authorities and supporting  
15 documents to Defendant so that Defendant has an opportunity to review and provide commentary.  
16 Defendant will provide commentary or any feedback within five (5) calendar days of receiving  
17 the draft of the Motion for Preliminary Approval and supporting documents. If Defendant does  
18 not provide commentary by that time, Defendant will have waived the right to review and  
19 comment.

20 8.2 **Motion for Final Approval of Settlement Agreement:** At least five (5) Court  
21 days before the filing deadline for the Motion for Final Approval, Plaintiffs will provide drafts of  
22 the Memorandum of Points and Authorities and supporting documents to Defendant so that  
23 Defendant has an opportunity to review and provide commentary. Defendant will provide  
24 commentary or any feedback within five (5) calendar days of receiving the draft of the Motion for  
25 Final Approval and supporting documents. If Defendant does not provide commentary by that  
26 time, Defendant will have waived the right to review and comment.

27 8.3 **Settlement Administrator:** The Parties agree to jointly utilize a third-party  
28 Settlement Administrator to distribute the Gross Settlement Amount as outlined in this

1 Agreement. The Parties have selected CPT Group to administer the Settlement, but may jointly  
2 select a different settlement administrator subject to the approval of the Court. Settlement  
3 Administration Costs are expected not to exceed Twenty-Nine Thousand Dollars (\$29,000). If the  
4 actual cost of settlement administration is less than the amount approved by the Court, the  
5 remaining amount shall be added to the Net Settlement Amount and distributed accordingly.  
6 Settlement Administration Costs as approved by the Court shall come out of the Gross Settlement  
7 Amount. The Settlement Administrator's duties shall include the following: distribute payments  
8 for Attorneys' Fees and Litigation Expenses to Class Counsel; distribute Plaintiffs' Enhancement  
9 Payments to Plaintiffs; make payment to the LWDA for its 75% share of the PAGA Penalties;  
10 update addresses for Class Members via the USPS National Change of Address database and  
11 perform a skip tracing process to determine the best, most recent address prior to distribution of  
12 any Settlement Checks; calculate Defendant's corporate payroll tax obligation; determine  
13 Individual Class Settlement Payment amounts for each Settlement Class Member; determine  
14 Individual PAGA Payment amounts for each Aggrieved Employee; mail Settlement Checks; re-  
15 mail undeliverable Settlement Checks; redistribute funds from uncashed settlement checks to  
16 participating Class Members who cashed their checks; pay to the Cy Pres Recipient any funds  
17 remaining in the QSF; and perform related tax, accounting, and administration services.

18       8.4     **Establishment and Funding of the QSF**: The Parties agree that the QSF is  
19 intended to be a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code  
20 and Treasury Regulation § 1.468B-1 (26 C.F.R. § 1.468B-1 *et seq.*) and will be administered by  
21 the Settlement Administrator as such. With respect to the QSF, the Settlement Administrator  
22 shall: (1) open and administer a settlement account in such a manner as to qualify and maintain  
23 the qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the Internal  
24 Revenue Code and Treasury Regulation § 1.468B-1; (2) satisfy all federal, state and local income  
25 and other tax reporting, return, and filing requirements with respect to the QSF; (3) calculate,  
26 withhold, remit and report each Settlement Class Member's share of applicable payroll taxes  
27 (including, without limitation, federal, state, and local income tax withholding, FICA, Medicare,  
28 and any state or local employment taxes); and (4) satisfy out of the QSF all fees, expenses and

1 costs, including the employer's share of applicable federal, state, and local employment taxes on  
2 applicable settlement payments incurred in connection with the opening and administration of the  
3 QSF and the performance of its duties and functions as described in this Agreement. The  
4 aforementioned taxes, fees, expenses, and costs shall be treated as and included in the costs of  
5 administering the QSF and as Settlement Administration Costs. The Parties and the Settlement  
6 Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the  
7 earliest date permitted as set forth in 26 C.F.R. § 1.468B-1(j)(2)(i), and such election statement  
8 shall be attached to the appropriate returns as required by 26 C.F.R. § 1.468B-1(j)(2)(ii). The  
9 Parties agree to cooperate with the Settlement Administrator and one another to the extent  
10 reasonably necessary to carry out the provisions of this section of the Agreement.

11       8.5     **Employee Settlement Data**: For each Class Member, Defendant will provide the  
12 Settlement Administrator with the following data from its records, to the extent available: (1)  
13 name, (2) social security number, (3) last known residential address, (4) last known telephone  
14 number, and (5) number of Eligible Workweeks worked during the Class Period. For each  
15 Aggrieved Employee, Defendant will provide the Settlement Administrator with the following  
16 data from its records, to the extent available: (1) name, (2) social security number, (3) last known  
17 residential address, (4) last known telephone number, and (5) number of Eligible Workweeks  
18 worked during the PAGA Period. Defendant will provide, in Microsoft Excel or Microsoft Word  
19 form, the Employee Settlement Data to the Settlement Administrator within 10 calendar days (or,  
20 if that date falls on a weekend or holiday, the next business day thereafter) after the Court enters  
21 an order granting preliminary approval of the Settlement. The Settlement Administrator shall  
22 utilize Reasonable Address Verification Measures which may include running the mailing  
23 addresses provided through the National Change of Address database and using Updated  
24 Addresses for each Class Member when mailing Class Notices.

25       8.6     **Distribution of Class Notice**: Within ten (10) calendar days of receiving the  
26 Employee Settlement Data, the Settlement Administrator will send Class Members, by first-class  
27 mail, at their last known address, the Court-approved Class Notice, notifying them of the lawsuit  
28 and of their estimated share of the Settlement and the number of Eligible Workweeks they

1 worked during the Class Period. The Settlement Administrator will take reasonable steps to  
2 ensure that the Class Notice packet is received by as many Class Members as possible, including  
3 by use of the National Change of Address Database and skip tracing to review the accuracy of  
4 and (if possible and as needed) updating mailing addresses.

5       8.7     **Opting Out, Objecting, Disputing Workweeks:** Class Members will have forty-  
6 five (45) calendar days from the mailing of the Class Notice to opt out of or object to the non-  
7 PAGA portion of the Settlement, or to dispute their Eligible Workweeks, unless extended by the  
8 Court (the “Response Deadline”). Class Members may dispute their workweeks by timely  
9 submitting information to the Settlement Administrator, and may notify the Settlement  
10 Administrator of any objections to the Settlement. The Settlement Administrator will certify  
11 jointly to Class Counsel and Defense Counsel any opt-outs or objections received. In the event of  
12 a dispute over a Class Member’s Eligible Workweeks, the Settlement Administrator shall make  
13 the final decision as to which dates should be applied based on Defendant’s records and any  
14 evidence submitted by the Class Member. Aggrieved Employees may not opt out of the PAGA  
15 portion of this Settlement. **Under no circumstances should a Class Member file anything with**  
16 **the Court directly.**

17       8.8     **Distribution of Gross Settlement Amount:**

18             8.8.1 No later than five (5) business days after the Effective Date has passed, the  
19 Settlement Administrator shall prepare a final list of all Settlement Class Members and Aggrieved  
20 Employees. For each person on this list, the Settlement Administrator will calculate the amounts  
21 due to each Settlement Class Member and Aggrieved Employee using the methodology set forth in  
22 this Agreement.

23             8.8.2 No later than ten (10) calendar days after the Effective Date has passed (or,  
24 if that date falls on a weekend or holiday, the next business day thereafter), Defendant shall transfer  
25 to the Settlement Administrator the Gross Settlement Amount of \$8,500,000.00. Defendant will  
26 wire the funds requested by the Settlement Administrator into the QSF set up and controlled by the  
27 Settlement Administrator.

28             8.8.3 No later than ten (10) calendar days after receipt of the Gross Settlement

1 Amount from Defendant, the Settlement Administrator will (1) pay from the Gross Settlement  
2 Amount the Settlement Administration Costs, as approved by the Court; (2) pay from the Gross  
3 Settlement Amount to Class Counsel the Attorneys' Fees and Litigation Expenses, as approved by  
4 the Court; (3) pay from the Gross Settlement Amount to Plaintiffs the Enhancement Payments, as  
5 approved by the Court; (4) pay from the Gross Settlement Amount the LWDA Payment; (5) pay  
6 from the Gross Settlement Amount the Individual PAGA Payments; and (6) pay from the Gross  
7 Settlement Amount the Individual Class Settlement Payments, less applicable deductions and  
8 withholdings.

9           8.8.4 Settlement Checks will remain negotiable for one hundred eighty (180)  
10 calendar days from the original date of mailing. Any checks returned as non-deliverable on or  
11 before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the  
12 forwarding address affixed thereto. If no forwarding address is provided, the Settlement  
13 Administrator will promptly utilize Reasonable Address Verification Measures to attempt to  
14 determine the correct address using a skip-trace, or other search using the name, address, or Social  
15 Security number of the Settlement Class Member or Aggrieved Employee involved and will then  
16 perform a single re-mailing using an Updated Address, if available. The Settlement Administrator  
17 shall mail a check-cashing reminder postcard to those recipients who have not negotiated their  
18 Settlement Checks within ninety (90) days of mailing. Funds represented by Settlement Checks  
19 returned as undeliverable and those settlement checks remaining uncashed for more than 180 days  
20 after the original date of mailing shall be redistributed to participating Class Members who cashed  
21 their checks. Funds represented by these redistributed Settlement Checks that remain uncashed for  
22 more than 180 days after the redistribution date shall be paid to Legal Aid At Work. Both Plaintiff  
23 and Defendant, and their respective Counsel represent that they do not have any relationship or  
24 involvement with Legal Aid At Work.

25           8.8.5 After the Settlement Checks have been mailed and any payment to the Cy  
26 Pres Recipient has been made, the Settlement Administrator will provide an accounting in a signed  
27 declaration to the Parties of all amounts paid out in connection with this Settlement.  
28

1 **IX. RELEASED CLAIMS**

2 9.1 **Release by Settlement Class Members:** When the Court's final approval order  
3 and judgment becomes final and upon funding of the Gross Settlement Amount, the Settlement  
4 Class Members shall release the Released Parties from the Class Released Claims.

5 9.2 **Release by Aggrieved Employees:** When the Court's final approval order and  
6 judgment becomes final and upon funding of the Gross Settlement Amount, the Aggrieved  
7 Employees shall release and be barred from acting as a proxy of the State of California to allege  
8 any of the PAGA Released Claims against the Released Parties.

9 9.3 **Agreement As Evidence of Res Judicata:** Any Party to this Settlement  
10 Agreement may use the Settlement Agreement to assert that this Settlement Agreement and the  
11 Judgment to be entered by the Court following Final Approval of this Settlement Agreement bar  
12 any later-filed action asserting any Class Released Claims or PAGA Released Claims against any  
13 of the Released Parties. The provisions of this paragraph apply regardless of whether Plaintiffs,  
14 Settlement Class Members, and/or Aggrieved Employees cash their Settlement Checks.

15 9.4 **General Release by Plaintiffs:** As consideration for the Enhancement Payments,  
16 upon the Effective Date, Plaintiffs, on behalf of themselves and each of their respective heirs,  
17 representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of  
18 the Judgment shall have, fully, finally, and forever released, relinquished, and discharged the  
19 Released Parties from all claims or causes of action of any type whatsoever, whether known or  
20 unknown, arising out of or related to the Action or Plaintiffs' employment with or separation of  
21 employment from Defendant, including but not limited to any and all claims for wrongful  
22 discharge; termination in violation of public policy; discrimination; harassment; retaliation; failure  
23 to provide reasonable accommodation; failure to engage in a good faith interactive process; breach  
24 of contract, both express and implied; breach of covenant of good faith and fair dealing, both  
25 express and implied; promissory estoppel; negligent or intentional infliction of emotional distress;  
26 fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract  
27 or prospective economic advantage; unfair business practices; defamation; libel; slander;  
28 negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; conversion;

1 and disability benefits; any and all claims for violation of any federal, state, or municipal statute,  
2 including, but not limited to, Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991;  
3 Section 1981 of U.S.C. Title 42; the Rehabilitation Act of 1973; the Americans with Disabilities  
4 Act of 1990; the Equal Pay Act; the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 216 et seq.,  
5 except as prohibited by law; the Fair Credit Reporting Act; the Employee Retirement Income  
6 Security Act of 1974 (regarding unvested benefits); the Worker Adjustment and Retraining  
7 Notification Act; the Family and Medical Leave Act, except as prohibited by law; the Sarbanes-  
8 Oxley Act of 2002; the National Labor Relations Act; the Uniform Services Employment and  
9 Reemployment Rights Act; the Genetic Information Nondiscrimination Act; the Immigration  
10 Reform and Control Act; the California Family Rights Act; the California Labor Code; the  
11 California Industrial Welfare Commission Wage Orders; the California Business & Professions  
12 Code; and the California Fair Employment and Housing Act; any and all claims for violation of the  
13 federal, or any state, constitution; any and all claims arising out of any other laws and regulations  
14 relating to employment or employment discrimination, harassment or retaliation; any and all claims  
15 for monetary recovery and personal or individual relief, except as prohibited by law; and any  
16 premiums, penalties, interest, punitive damages, costs, attorneys’ fees, injunctive relief, declaratory  
17 relief, or accounting based on the claims (the “Plaintiffs Released Claims”). Nothing in this  
18 Agreement shall be construed to prohibit Plaintiffs from (i) filing a charge or complaint with the  
19 Equal Employment Opportunity Commission or any other federal, state or local administrative or  
20 regulatory agency, or (ii) participating in any investigation or proceedings conducted by the Equal  
21 Employment Opportunity Commission or any other federal, state or local administrative or  
22 regulatory agency. However, Plaintiffs expressly waive the right to any relief of any kind in the  
23 event that the Equal Employment Opportunity Commission or any other federal, state or local  
24 administrative or regulatory agency pursues any claim on Plaintiffs’ behalf that Plaintiffs have  
25 released in this Agreement. Furthermore, this general release of claims excludes, and Plaintiffs do  
26 not waive, release or discharge any unwaivable rights Plaintiffs may have under the California  
27 Labor Code, claims under state workers’ compensation or unemployment laws or indemnification  
28 rights Plaintiffs have against Released Parties and/or any claims by Plaintiffs that cannot be released

1 by a private settlement agreement.

2 9.3 With regard to the Plaintiffs' Released Claims, Plaintiffs expressly waive all rights  
3 under California Civil Code section 1542, which states:

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

8 Plaintiffs may hereafter discover facts in addition to or different from those which they  
9 now know or believe to be true with respect to the subject matter of the Plaintiffs Released  
10 Claims, but they shall be deemed to have, and by operation of the Judgment shall have, fully,  
11 finally, and forever settled and released any and all Plaintiffs Released Claims, known or  
12 unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or  
13 hidden, which then exist, or heretofore have existed upon any theory of law or equity now  
14 existing, including, but not limited to, conduct which is negligent, intentional, with or without  
15 malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or  
16 existence of such different or additional facts.

16 **X. RIGHT TO REVOKE**

17 10.1 **Right to Revoke**: Defendant has the right in its sole and exclusive discretion to  
18 terminate this Agreement and withdraw from the Settlement at any time prior to date the Court  
19 enters the Final Approval Order on this Settlement if: (a) the Settlement is construed in such a  
20 fashion that Defendant is required to pay more than the Gross Settlement Amount, except as  
21 pursuant to the Escalator Clause in Section 8.2; (b) any court, following the signing of this  
22 Agreement but before the Court enters the Final Approval Order, certifies, whether on a  
23 conditional basis or not, a class, collective, or representative action involving a claim described in  
24 the Action by potential Class Members or Aggrieved Employees covered by this Settlement; or  
25 (c) 7.5% or more of the Class Members opt out of the Settlement. If for any reason the Settlement  
26 does not become final, or if Defendant withdraws from the Settlement for any of the reasons set  
27 forth in this section, this Agreement and any related settlement documents shall be null and void.  
28 In such an event, neither the Agreement, nor the settlement documents, nor the negotiations

1 leading to the Settlement may be used as evidence for any purpose, and Defendant shall retain the  
2 right to challenge all claims and allegations in the Action, to assert all applicable defenses, and to  
3 dispute the propriety of class or representative treatment on all applicable grounds.

4       **10.2 Non-Approval of Settlement Agreement:** Because settlement of the Action requires  
5 Court approval, the Settlement Agreement is conditional and contingent upon approval and entry  
6 of the Final Approval Order and Judgment. If the conditions of the Settlement set forth in this  
7 Agreement are not satisfied, or if Defendant terminates and withdraws from the Agreement, or if  
8 the Court does not enter the Final Approval Order and Judgment, or if appellate review is sought  
9 and on such review the Court's Final Approval Order is materially modified or reversed, then this  
10 Settlement shall be canceled, terminated, and shall have no force or effect. If the Effective Date  
11 does not occur (due to the failure of the Court to grant approval or otherwise), or if this  
12 Settlement is terminated, revoked, or canceled pursuant to its terms, the Parties to this Settlement  
13 shall be deemed to have reverted to their respective status as of the date and time immediately  
14 prior to the execution of this Settlement. A reduction by the Court or on appeal as to the amount  
15 of Attorneys' Fees and Litigation Expenses, and/or to the amount of Plaintiff's Enhancement  
16 Payments does not provide a basis for terminating this Settlement.

## 17       **XI. COOPERATION**

18       11.1 The Parties shall cooperate fully with one another in seeking the Court's approval  
19 of this Agreement and to use their respective best efforts to consummate the Settlement and cause  
20 the Final Approval Order and Judgment to be entered and to become final. The Parties therefore  
21 agree to cooperate in good faith to promptly prepare, execute and finalize all Settlement-related  
22 documents, seek all necessary Court approvals, and do all other things necessary to consummate  
23 the Settlement.

24       11.2 Plaintiffs, Class Counsel, Settlement Class Members, the LWDA, and Aggrieved  
25 Employees hereby waive appeals of an order granting approval of this Settlement or entering  
26 Judgment in the Action as to Defendant so long as such order is consistent with the material terms  
27 of this Agreement.  
28

1 **XII. MISCELLANEOUS PROVISIONS**

2 12.1 All of the Parties have been represented by counsel throughout all negotiations that  
3 preceded the execution of this Agreement, and this Agreement is made with the consent and  
4 advice of counsel.

5 12.2 This Agreement may not be modified or amended, except in a writing that is  
6 signed by the respective counsel of record for the Parties and approved by the Court.

7 12.3 This Agreement and Exhibit A (Class Notice) attached hereto constitute the entire  
8 agreement between the Parties concerning the subject matter hereof, and supersede and replace all  
9 prior negotiations, understandings, memoranda of understanding and proposed agreements,  
10 written and oral, relating thereto. No extrinsic oral or written representations or terms shall  
11 modify, vary, or contradict the terms of the Agreement unless made in writing, signed by duly  
12 authorized representatives of all Parties, and approved in writing by a final order of the Court. No  
13 waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise,  
14 in any one or more instance shall be deemed to be or construed as a further or continuing waiver  
15 of any such term, provision or condition.

16 12.4 This Agreement shall be subject to, governed by, construed, enforced, and  
17 administered in accordance with the laws of the State of California, without giving effect to the  
18 principles of conflict of laws, both in its procedural and substantive aspects, and shall be subject  
19 to the continuing jurisdiction of the Court. This Agreement shall be construed as a whole  
20 according to its fair meaning and intent, and not strictly for or against any party, regardless of  
21 who drafted (or was principally responsible for drafting) this Agreement or any specific term or  
22 condition thereof. In any construction to be made of the Agreement, the Agreement shall not be  
23 construed against any party and the canon of contract interpretation set forth in California Civil  
24 Code section 1654 shall not be applied.

25 12.5 The Settlement shall be binding upon and inure to the benefit of the settling  
26 Parties' respective successors, assigns, heirs, spouses, marital communities, executors,  
27 administrators and legal representatives.

28 12.6 Consistent with Section 664.6 of the California Code of Civil Procedure and Rule

1 3.769(h) of the California Rules of Court, the Parties agree the Court shall retain jurisdiction with  
2 respect to the interpretation, implementation and enforcement of the terms of the Agreement, and  
3 all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and  
4 enforcing the terms of the Agreement. Before raising an issue before the Court with respect to  
5 interpretation of the Agreement, the Parties agree to attempt to resolve the issue first by  
6 consulting with mediator Jeff Ross.

7 12.7 This Agreement may be executed in one or more counterparts, each of which shall  
8 be deemed an original and together shall constitute one and the same instrument. When each of  
9 the Parties has signed at least one such counterpart, this Agreement shall become binding as to all  
10 of the Parties as of the day and year last executed. Fax and/or electronically scanned signatures  
11 shall be deemed as effective as originals.

12 12.8 The Parties hereto represent, covenant, and warrant that they have not directly or  
13 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any  
14 person or entity any portion of any liability, claim, demand, action, cause of action or rights  
15 herein released and discharged except as set forth herein.

16 12.9 Each individual signing this Agreement warrants that he or she has the authority  
17 and is expressly authorized to enter into this Agreement on behalf of the party(ies) for which that  
18 individual signs.

19 12.10 Any notices or other documents that must or may be transmitted to Class Counsel  
20 and/or Defendant's Counsel, pursuant to any section of this Agreement, shall be transmitted to the  
21 addresses set forth in the definitions of Class Counsel and Defendant's Counsel, respectively, set  
22 forth above.

23 12.11 The Parties and all counsel acknowledge and agree that for the purposes of any  
24 claims, actions, and/or proceedings arising out of this Agreement, notice provided to Class  
25 Counsel shall be deemed to be notice to the Plaintiffs.

26 12.12 The Parties believe this Settlement Agreement is a fair, adequate, and reasonable  
27 settlement of the Actions, acknowledging that the Court "may award a lesser amount than the  
28 maximum civil penalty amount specified by "PAGA" if, based on the facts and circumstances of

1 the particular case, to do otherwise would result in an award that is unjust, arbitrary and  
2 oppressive, or confiscatory.” Lab. Code § 2699(e)(2). The Parties have arrived at this Settlement  
3 Agreement after arm’s-length negotiations by experienced counsel. The Parties further  
4 acknowledge that they are each represented by competent counsel and that they have had an  
5 opportunity to consult with their counsel regarding the fairness and reasonableness of this  
6 Settlement Agreement.

7 IN WITNESS THEREOF, the Parties each acknowledge that they have read the  
8 foregoing Settlement Agreement, accept and agrees to the provisions contained in this Settlement  
9 Agreement, and hereby execute it voluntarily and with full understanding of its consequences.

10 11/29/2023  
11 Dated: November \_\_, 2023



12 Marianne Ramirez, Plaintiff

13 11/28/2023  
14 Dated: November \_\_, 2023



15 Wendy Campbell, Plaintiff

16  
17  
18  
19 Dated: November \_\_, 2023

Delta Dental of California

20  
21 By: \_\_\_\_\_

22 Mike Castro  
23 Chief Executive Officer  
24 Delta Dental of California

25  
26 **APPROVED AS TO FORM AND CONTENT:**  
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Dated: November 30, 2023

By: 

Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Christopher K. Petersen, Esq.  
Lizette Rodriguez, Esq.  
Justice Law Corporation  
*Attorneys for Plaintiffs*

Dated: November \_\_, 2023

By: \_\_\_\_\_

Erin Connell, Esq.  
Alexandra Stathopoulos, Esq.  
Kayla Grundy, Esq.  
Scott Morrison, Esq.  
**Orrick, Herrington & Sutcliffe, LLP**  
*Attorneys for Defendant*

1 the particular case, to do otherwise would result in an award that is unjust, arbitrary and  
2 oppressive, or confiscatory.” Lab. Code § 2699(e)(2). The Parties have arrived at this Settlement  
3 Agreement after arm’s-length negotiations by experienced counsel. The Parties further  
4 acknowledge that they are each represented by competent counsel and that they have had an  
5 opportunity to consult with their counsel regarding the fairness and reasonableness of this  
6 Settlement Agreement.

7 IN WITNESS THEREOF, the Parties each acknowledge that they have read the  
8 foregoing Settlement Agreement, accept and agrees to the provisions contained in this Settlement  
9 Agreement, and hereby execute it voluntarily and with full understanding of its consequences.

10  
11 Dated: December \_\_, 2023

\_\_\_\_\_  
12 Marianne Ramirez, Plaintiff

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14 Dated: December \_\_, 2023

\_\_\_\_\_  
15 Wendy Campbell, Plaintiff

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18  
19 Dated: December <sup>12/10/2023</sup> \_\_, 2023

Delta Dental of California

20  
21 By: Mike Castro

22 Mike Castro  
23 Chief Executive Officer  
24 Delta Dental of California

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

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Dated: December \_\_, 2023

By: \_\_\_\_\_

Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Christopher K. Petersen, Esq.  
Lizette Rodriguez, Esq.  
Justice Law Corporation  
*Attorneys for Plaintiffs*

12/8/2023  
Dated: December \_\_, 2023



By: \_\_\_\_\_

Erin Connell, Esq.  
Alexandra Stathopoulos, Esq.  
Kayla Grundy, Esq.  
Scott Morrison, Esq.  
**Orrick, Herrington & Sutcliffe, LLP**  
*Attorneys for Defendant*

**Certificate Of Completion**

Envelope Id: A5011301C609417389EAB5475DDE94D7

Status: Completed

Subject: Complete with DocuSign: Ramirez\_Delta Dental - FINAL Third Amended Settlement Agreement.pdf

Source Envelope:

Document Pages: 29

Signatures: 2

Envelope Originator:

Certificate Pages: 5

Initials: 0

Scott Morrison

AutoNav: Enabled

405 Howard ST

Envelope Stamping: Enabled

San Francisco, CA 94105

Time Zone: (UTC-08:00) Pacific Time (US &amp; Canada)

scott.morrison@orrick.com

IP Address: 136.226.64.181

**Record Tracking**

Status: Original

Holder: Scott Morrison

Location: DocuSign

12/8/2023 2:22:30 PM

scott.morrison@orrick.com

**Signer Events****Signature****Timestamp**

Erin Connell

econnell@orrick.com

Security Level: Email, Account Authentication  
(None)

Sent: 12/8/2023 2:26:04 PM

Viewed: 12/8/2023 2:41:51 PM

Signed: 12/8/2023 2:41:58 PM

Signature Adoption: Pre-selected Style

Using IP Address: 165.225.242.166

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Mike Castro

mcastro@delta.org

CEO

Security Level: Email, Account Authentication  
(None)

Sent: 12/8/2023 2:26:04 PM

Viewed: 12/10/2023 8:30:03 AM

Signed: 12/10/2023 8:30:27 AM

Signature Adoption: Pre-selected Style

Using IP Address: 12.219.101.67

Signed using mobile

**Electronic Record and Signature Disclosure:**

Accepted: 12/10/2023 8:30:03 AM

ID: e95d9f17-0c81-432b-be1f-b69dd5c10d89

**In Person Signer Events****Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Ara Alikian

aalikian@delta.org

Security Level: Email, Account Authentication  
(None)

Sent: 12/8/2023 2:26:05 PM

**Electronic Record and Signature Disclosure:**

Accepted: 2/28/2023 11:52:00 AM

ID: 60b85f80-869f-4e6f-ad3c-d8a93915fa8e

| Carbon Copy Events                                                                                                               | Status            | Timestamp                  |
|----------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------|
| Michael Hankinson<br>mhankinson@delta.org<br>Security Level: Email, Account Authentication (None)                                | <div>COPIED</div> | Sent: 12/8/2023 2:26:05 PM |
| <b>Electronic Record and Signature Disclosure:</b><br>Accepted: 4/25/2023 4:27:06 AM<br>ID: 22073b0d-aab5-42b2-980a-8b44b95140f9 |                   |                            |

| Witness Events | Signature | Timestamp |
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| Notary Events | Signature | Timestamp |
|---------------|-----------|-----------|
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| Envelope Summary Events | Status           | Timestamps            |
|-------------------------|------------------|-----------------------|
| Envelope Sent           | Hashed/Encrypted | 12/8/2023 2:26:05 PM  |
| Certified Delivered     | Security Checked | 12/10/2023 8:30:03 AM |
| Signing Complete        | Security Checked | 12/10/2023 8:30:27 AM |
| Completed               | Security Checked | 12/10/2023 8:30:27 AM |

| Payment Events | Status | Timestamps |
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| Electronic Record and Signature Disclosure |
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**PROOF OF SERVICE  
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On December 21, 2023, I served the foregoing document described as

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

|                                                 |                                                                                                                                                                                   |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| for the following case:<br>LWDA/Court Case No.: | <b>Ramirez, et al. v. Delta Dental of California</b><br><b>LWDA Case No.: CM- 891853-22</b><br><b>Court Case No.: CGC-21-589648</b><br><b>San Francisco County Superior Court</b> |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

on interested parties in this action by electronically submitting as follows:

State of California  
Labor & Workforce Development Agency  
800 Capitol Mall, MIC-55  
Sacramento, California 95814

**[X] BY ELECTRONIC SUBMISSION**

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

| [X] | STATE |
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 21, 2023, at Pasadena, California.

Maint Andauer

Mariah Anderson