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EUROFINS AIR TOXICS, LLC (currently known as Eurofins
Environment Testing Northern California, LLC)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

SEAN MCBURNEY, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

EUROFINS AIR TOXICS, LLC, a limited
liability company; EUROFINS AIR
TOXICS, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 34-2022-00321801

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

ADDITIONAL COUNSEL FOR PLAINTIFF

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JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into between Sean McBurney (“Plaintiff”) on behalf of himself and the putative class members, and Eurofins Environment Testing Northern California, LLC (formerly known as Eurofins Air Toxics, LLC) (“Defendant”)(hereinafter collectively referred to as the “Parties”).

It is hereby stipulated and agreed, by and between the undersigned Parties, subject to approval of the Court, that the settlement of this action shall be effectuated upon and subject to the following terms and conditions:

DEFINITIONS

The following capitalized terms, when used in this Joint Stipulation of Settlement and Release, shall have the following meanings:

1. “Action” means *Sean McBurney v. Eurofins Air Toxics, LLC, et al.*, Sacramento County Superior Court, Case No. 34-2022-00321801 including any and all complaints filed, and related letters to the Labor Workforce Development Agency (“LWDA”), including any amended letters necessary to effectuate the Release.
2. “Aggrieved Employees” means all current and former employees employed by Defendant in California who were paid any wages at any time between June 13, 2021 and April 30, 2023.
3. “Attorneys’ Fees and Costs” means attorneys’ fees sought for Class Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the Action, subject to the Court’s approval. Class Counsel will apply for, and Defendant will not oppose, attorneys’ fees not to exceed thirty-five percent (35%) of the Gross Settlement Amount, or Ninety-One Thousand Dollars and 00/100 Cents (\$91,000.00), subject to the Court’s approval. The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses incurred in association with Class Counsel’s litigation and settlement of the Action, up to Thirty Thousand Dollars (\$30,000.00), subject to the Court’s approval.
4. “Class Counsel” means Diversity Law Group, Law Offices of Choi & Associates, Hyun

1 Legal, P.C. and Polaris Law Group.

2 5. "Class List" means a complete list of all Class Members that Defendant will diligently and
3 in good faith compile from its records and provide to the Settlement Administrator on a
4 confidential basis within thirty (30) calendar days after Preliminary Approval of this
5 Settlement. The Class List will be formatted in Microsoft Office Excel and will include
6 each Class Member's full name; most recent mailing address and telephone number; Social
7 Security number; the respective number of wage statements that each Class Member was
8 issued based on the number of checks during the Class Period and the respective number of
9 wage statements that each Class Member was issued (based on the number of checks from
10 June 13, 2021 through April 30, 2023); and any other relevant information needed to
11 calculate settlement payments.

12 6. "Class Member(s)" or "Settlement Class" means all current and former employees employed
13 by Defendant in California who were paid any wages during the Class Period.

14 7. "Class Period" or "PAGA Period" means the period from June 13, 2021 through April 30,
15 2023.

16 8. "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff in
17 recognition of his effort and work in prosecuting the Action on behalf of Class Members,
18 and for his general release of claims.

19 9. "Court" means the Superior Court of the State of California for the County of Sacramento.

20 10. "Date of Preliminary Approval" means the date the Court enters an Order preliminarily
21 approving this Settlement Agreement, and the exhibits thereto, and setting a hearing for
22 Final Approval of the Settlement and approval of attorney's fees and costs.

23 11. "Defendant" means Defendant Eurofins Environment Testing Northern California, LLC
24 (formerly known as Eurofins Air Toxics, LLC).

25 12. "Effective Date" means the date on which the Superior Court's Order granting final
26 approval of this Settlement Agreement ("Final Approval Order") and entering Judgment
27 becomes final. The Court's Order "becomes final" upon the last of the following to occur:

28 12(a) If there are no appeals, motions, objections, or petitions to review or

1 intervene taken with respect to this Settlement Agreement, or if any
2 appeal, motion, objection, petition to review or intervene is filed and
3 subsequently withdrawn, the 65th day after Notice of the Court order
4 granting the Final Approval Order and entering Judgment or expiration
5 of the time to appeal, whichever is later; or

6
7 12(b) If an appeal, motion, objection, review, writ, or petition to review or
8 intervene is sought from the Final Approval Order, the date after the
9 Final Approval Order and Judgment is affirmed or the appeal, review, or
10 writ is dismissed or denied, and the Final Approval Order and Judgment
11 is no longer subject to further review or modification.

12 13. "Gross Settlement Amount" shall be the total amount that Defendant agrees to pay under
13 this Settlement Agreement. The Gross Settlement Amount has a maximum possible value
14 of Two Hundred Sixty Thousand Dollars and No Cents (\$260,000.00) to resolve all
15 Released Claims, any attorneys' fees and costs, Settlement Administration Costs, interest,
16 penalties, payment to the Labor Workforce Development Agency (the "LWDA") as
17 required by the Private Attorneys General Act (the "PAGA"), and Class Representative
18 Enhancement Payment to the named Plaintiff. There will be no reversion of the Gross
19 Settlement Amount to Defendant.

20 14. "Individual Settlement Payment" means each Participating Class Member's respective
21 share of the Net Settlement Amount.

22 15. "Net Settlement Amount" means the portion of the Gross Settlement Amount eligible to
23 distribution to Participating Class Members after deducting Attorneys' Fees and Costs, the
24 Class Representative Enhancement Payment, the PAGA portion of the settlement payable to
25 the State of California and the Aggrieved Employees, and Settlement Administration Costs.
26 The Net Settlement Amount will be distributed to each Participating Class Members.

27 16. "Notice of Objection" means a Class Member's valid and timely written objection to the
28 Settlement Agreement. For the Notice of Objection to be valid, it must include: (i) the

1 objector's full name, signature, address, and telephone number, (ii) a written statement of
2 all grounds for the objection accompanied by any legal support for such objection; and (iii)
3 copies of any papers, briefs, or other documents upon which the objection is based.

4 17. "Notice" means the Notice of Class Action Settlement, substantially in the form attached
5 as Exhibit A.

6 18. "PAGA Aggrieved Employee Payment" shall mean each Aggrieved Employee's share of
7 25% of the PAGA Amount.

8 19. "Parties" means Plaintiff and Defendant collectively.

9 20. "Participating Class Members" means all Class Members who do not submit timely and
10 valid Requests for Exclusion.

11 21. "Participating Individuals" means all Participating Class Members and all Aggrieved
12 Employees.

13 22. "Plaintiff" or "Class Representative" means Plaintiff Sean McBurney.

14 23. "Preliminary Approval" means the Court order granting preliminary approval of the
15 Settlement Agreement.

16 24. "Released Claims" means all claims under or premised on Labor Code § 226, including all
17 claims pled in the First Amended Complaint for (1) failure to furnish accurate itemized wage
18 statements or provide fully and accurately itemized wage statements pursuant to Labor Code § 226;
19 and (2) civil penalties premised on Labor Code § 226 pursuant to the Private Attorney Generals
20 Act ("PAGA") ("Released Claims"). Released Claims shall include, but are not limited to, any
21 claims alleged or that could have been alleged in the Action, any claims for any pay stub, wage
22 statement, or record keeping violation and any and all associated penalties including, but not
23 limited to, for civil or statutory penalties under Labor Code section 2698 *et seq.*, Labor Code
24 sections 226, 226.3, IWC Wage Order 4-2001 and any other applicable wage orders, and any and
25 all claims or potential claims for attorneys' fees, costs, and interest for any violation alleged, or that
26 could have been alleged, in the Action.

27 25. "Releasees" means Eurofins Environment Testing Northern California, LLC, Eurofins Air
28 Toxics, LLC, Eurofins Air Toxics, Inc., Eurofins Air Toxics Holdings, Inc., and all entities

1 affiliated with them, and all present and former officers, directors, employees, agents, insurers,
2 assigns, representatives, owners, partners, subsidiaries, parent companies, joint venturers,
3 shareholders, clients, joint employers, predecessors, managers, members, servants, successors-in-
4 interest, assigns, attorneys, all persons or entities acting in concert with or affiliated with any of
5 them, and any person or entity that could be liable for the Released Claims (collectively
6 "Releasees").

7 26. "Request for Exclusion" or "Opt-Out Request" are used herein interchangeably, and shall
8 mean a Class Member's written request to be excluded from the Settlement. The Request
9 for Exclusion must: (i) set forth the name, address, telephone number and last four digits
10 of the Social Security Number of the Class Member requesting exclusion; (ii) be signed by
11 the Class Member; (iii) be returned to the Settlement Administrator; (iv) clearly state that
12 the Class Member does not wish to be included in the Settlement; and (v) be faxed or
13 postmarked on or before the Response Deadline.

14 27. "Response Deadline" means the deadline by which Class Members must postmark or fax
15 to the Settlement Administrator Requests for Exclusion, or postmark Notices of Objection
16 to the Settlement Administrator. The Response Deadline will be forty-five (45) calendar
17 days from the initial mailing of the Notice by the Settlement Administrator, unless the 45th
18 day falls on a Sunday or State holiday, in which case the Response Deadline will be
19 extended to the next day on which the U.S. Postal Service is open.

20 28. "Settlement Administration Costs" means the costs payable from the Gross Settlement
21 Amount to the Settlement Administrator for administering this Settlement, including, but
22 not limited to, printing, distributing, and tracking documents for this Settlement, tax
23 reporting, distributing the Gross Settlement Amount, and providing necessary reports and
24 declarations, as requested by the Parties. The Settlement Administration Costs will be paid
25 from the Gross Settlement Amount, including, if necessary, any such costs in excess of the
26 amount represented by the Settlement Administrator as being the maximum costs
27 necessary to administer the Settlement. The Settlement Administration Costs is estimated
28 to be Eight Thousand Dollars (\$8,000).

1 29. "Settlement Administrator," shall be Phoenix Settlement Administrators. The Parties each
2 represent that they do not have any financial interest in the Settlement Administrator or
3 otherwise have a relationship with the Settlement Administrator that could create a conflict
4 of interest.

5 30. "Wage Statements" means the number wage statements issued to the Class Members
6 during the Class Period. Defendant has represented in connection with mediation that there are
7 approximately 6,000 pay periods in which wage statements were issued during the time period
8 from June 13, 2021 to December 29, 2022 to the Settlement Class. Should the number of pay
9 periods during this time period (i.e., June 13, 2021 to December 29, 2022) exceed 10% of the
10 represented estimate for this time period, Plaintiff will have the option to rescind the settlement
11 agreement.

12 TERMS OF AGREEMENT

13 The Plaintiff, on behalf of himself and the Settlement Class, and Defendant agree as
14 follows:

15 31. The Parties have stipulated to certification of the Class for settlement purposes only and
16 this Agreement requires preliminary and final approval by the Court. Accordingly, this
17 Agreement is contingent upon the approval and certification by the Court. If the Court does
18 not grant either Preliminary or Final Approval of the Settlement, the fact that the Parties
19 were willing to stipulate to class certification for the purposes of this Agreement shall have
20 no bearing on, nor be admissible in connection with, the issues of whether any class should
21 be certified in a non-settlement context. Defendant expressly reserves the right to challenge
22 the propriety of class certification for any purpose if the Settlement does not become final.

23 32. Funding of the Gross Settlement Amount. Within fifteen (15) business days after the
24 Effective Date, Defendant will make a one-time deposit of the Gross Settlement Amount
25 of Two Hundred Sixty Thousand Dollars and No Cents (\$260,000.00) into a Qualified
26 Settlement Fund to be established by the Settlement Administrator. After the Effective
27 Date, Defendant shall pay the Gross Settlement Amount in settlement of all individual,
28 class and PAGA claims in the Action. The Gross Settlement Amount shall constitute the

maximum total Settlement amount paid by Defendant. The Gross Settlement Amount will be used for: (1) payments to the Participating Individuals; (2) class counsel's fees; (3) class counsel's costs; (4) settlement administrator expenses; (5) the incentive/service payment to Plaintiff; and (6) the portion of the PAGA Amount payable to the State of California.

33. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for Attorneys' Fees up to 35% of the Gross Settlement Amount (currently estimated at Ninety One Thousand Dollars and Zero Cents (\$91,000.00)), plus reimbursement of costs and expenses incurred in association with Class Counsel's litigation and settlement of the Action, not to exceed Thirty Thousand Dollars (\$30,000.00), both of which will be paid from the Gross Settlement Amount and are subject to Court approval. If the Court reduces the amount of Class Counsels' fees and costs in the course of the settlement approval process, only the amount approved by the Court shall be paid to Class Counsel. Any Attorneys' Fees and Costs sought but not awarded by the Court will be added to the Net Settlement Amount.
34. Class Representative Enhancement Payment. Plaintiff will request Court approval of a Class Representative Enhancement Payment of Ten Thousand Dollars (\$10,000.00). Defendant agrees not to oppose an application by Plaintiff for an individual payment of \$10,000, as an incentive award and for his general release of claims. Any such payment will be paid out of the Gross Settlement Amount. Only the amount approved by the Court will be paid to Plaintiff. Any amount of the incentive award/payment for Plaintiff's General Release not approved by the Court will be added to the Net Settlement Amount.
35. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount, which is currently estimated to be Eight Thousand Dollars (\$8,000). These costs, which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 forms, distributing Notices, calculating and distributing the Gross Settlement Amount, and providing necessary reports and declarations.

- 1 36. PAGA Amount. The amount of \$15,000 shall be allocated to civil penalties recoverable under
2 the Private Attorneys General Act, Cal. Lab. Code § 2698, et seq., with 75% to be paid to the State
3 of California from the Gross Settlement Amount, and 25% to be distributed to the aggrieved
4 employees as their PAGA Aggrieved Employees Payment. Any additional allocation required by
5 the court or the Labor Workforce Development Agency will be deducted from the Gross
6 Settlement Amount.
- 7 37. Net Settlement Amount. The “Net Settlement Amount” is the Gross Settlement Amount
8 *minus*: (1) Plaintiff’s counsel’s fees and costs; (2) the incentive awards/payment for
9 general release to Plaintiff; (3) the PAGA portion of the settlement payable to the State of
10 California and to the Aggrieved Employees; and (4) the cost of administration of settlement.
- 11 38. Individual Settlement Payment Calculations. Individual Settlement Payments will be
12 calculated and apportioned from the Net Settlement Amount based on the number of Wage
13 Statements each Participating Class Member was issued during the Class Period. Specific
14 calculations of Individual Settlement Payments will be made as follows:
- 15 38(a) The Settlement Administrator will calculate an estimated “Individual
16 Settlement Payment” based on the total number of Wage Statements
17 issued to each Class Member during the Class Period and the aggregate
18 total number of Wage Statements issued to all Class Members during
19 the Class Period.
- 20 38(b) To determine each Class Member’s estimated “Individual Settlement
21 Payment,” the Settlement Administrator will use the following formula:
22 Each Participating Class Members shall be entitled to receive a pro rata
23 portion of the Net Settlement Fund (their “Individual Settlement
24 Share”), calculated based upon the number of Wage Statements issued
25 thereby during the Class Period, divided by the total number of Wage
26 Statements issued to all Participating Class Members during said period.
27 The Settlement Administrator will calculate the number of Wage
28 Statements issued to Participating Class Members, the amount to be

1 paid per Wage Statements, and the Individual Settlement Share to be
2 paid to each Participating Class Member.

3 38(c) The Individual Settlement Payment will be reduced by any required
4 deductions for each Participating Class Members as specifically set
5 forth herein.

6 38(d) The entire Net Settlement Amount will be disbursed to all Class
7 Members who do not submit timely and valid Requests for Exclusion,
8 i.e. to all Participating Class Members. If there are any valid and timely
9 Requests for Exclusion, the Settlement Administrator shall
10 proportionately increase the Individual Settlement Payment for each
11 Participating Class Member according to the number of Wage
12 Statements issued to all Participating Class Members, so that the amount
13 actually distributed to the Participating Class Members equals 100% of
14 the Net Settlement Amount.

15 39. Labor and Workforce Development Agency Payment. Subject to Court approval, the
16 Parties agree that the amount of \$15,000 from the Gross Settlement Amount will be paid in
17 settlement of all individual and representative claims brought in the Action by or on behalf
18 of Plaintiff and Aggrieved Employees under the Labor Code Private Attorneys General
19 Act of 2004 (Cal. Lab. Code §§ 2698, et seq., "PAGA"). Pursuant to PAGA, Seventy-Five
20 Percent (75%), or Eleven Thousand Two Hundred and Fifty Dollars (\$11,250), of this sum
21 will be paid to the Labor and Workforce Development Agency ("LWDA") and Twenty-
22 Five Percent (25%), or Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00), will
23 be allocated to Aggrieved Employees as provided in Paragraph 40. Payment to the LWDA
24 shall be made by the Settlement Administrator within thirty (30) days after the Effective
25 Date or as soon as reasonably practicable. Plaintiff agrees to provide timely notice to the
26 LWDA of the settlement as necessary to effectuate this Agreement.

27 40. PAGA Aggrieved Employees Payments. PAGA Aggrieved Employees Payments will be
28 calculated and apportioned from 25% of the PAGA Amount (\$3,750.00) based on the

number of Wage Statements each Class Member was issued during the PAGA Period.

Specific calculations of PAGA Aggrieved Employees Payments will be made as follows:

40(a) The Settlement Administrator will calculate the total number of Wage Statements issued to each Aggrieved Employee during the PAGA Period and the aggregate total number of Wage Statements issued to all Aggrieved Employees during the PAGA Period.

40(b) To determine each Aggrieved Employees' estimated "PAGA Aggrieved Employees Payment" the Settlement Administrator will use the following formula: Each Aggrieved Employee shall be entitled to receive a pro rata portion of the 25% of the PAGA Amount (\$3,750), calculated based upon the number of Wage Statements issued thereby during the PAGA Period, divided by the total number of Wage Statements issued to all Aggrieved Employees during said period. The Settlement Administrator will calculate the number of Wage Statements issued to Aggrieved Employees, the amount to be paid per Wage Statements, and the PAGA Aggrieved Employees Payments to be paid to each Class Member.

40(c) The entire 25% of the PAGA Amount (\$3,750.00) will be disbursed to all Aggrieved Employees regardless of whether they submit timely and valid Requests for Exclusion.

41. Timing of Payments. The Settlement Administrator shall mail the Individual Settlement Payments and PAGA Aggrieved Employees Payments to Participating Individuals within ten (10) days after the Defendant's deadline to deposit the Gross Settlement Amount into the Settlement Administrator's designated account or as soon as reasonably practicable thereafter. The Settlement Administrator shall then provide written certification of mailing to Class Counsel and Defendants' Counsel.

42. No Credit Toward Benefit Plans. The Individual Settlement Payments made to each Participating Individual under this Settlement, as well as any other payments made

pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

43. Administration Process. The Parties agree to cooperate in the administration of the settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement.

44. Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval, Defendant will provide the Class List, on a confidential basis, to the Settlement Administrator.

45. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail a Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

46. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Notices returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved, and will then perform a single re-mailing.

47. Notices. All Class Members will be mailed a Notice. Each Notice will provide: (i) information regarding the nature of the Action; (ii) a summary of the Settlement's principal

terms; (iii) the Settlement Class definition; (iv) the total number of Wage Statements each respective Class Member was issued by Defendant during the Class Period; (v) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (vi) the dates which comprise the Class Period; (vii) instructions on how to submit Requests for Exclusion or Notices of Objection; (viii) the deadlines by which the Class Member must postmark or fax Request for Exclusions, or postmark Notices of Objection to the Settlement; and (ix) the claims to be released. The Parties will jointly prepare a Notice to be submitted to the Court for approval prior to mailing.

48. Disputes Concerning Wage Statement Calculations. In calculating each individual Class Member's share of the Net Settlement Amount, Defendant's records regarding Wage Statements issued to each Class Member during the Class Period shall be presumed correct. Class Members who challenge Defendant's records must submit a challenge in writing to the Settlement Administrator and will bear the burden of proof, i.e., a Class Member who fails to provide written documentation supporting a different number of Wage Statements will have his or her challenge denied. All such challenges must be received by the Response Deadline. Defendant and the Settlement Administrator will coordinate to investigate the challenge and determine whether any correction to the number of Wage Statements should be made. In no case will a challenge to the number of Wage Statements result in a payment by Defendant in excess of the Gross Settlement Amount. The Settlement Administrator will resolve the challenge and make a final and binding determination without hearing or right of appeal.

49. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until the later of (i) Response

Deadline or (ii) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

50. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement Administrator prior to the Response Deadline. In the case of Requests for Exclusion that are mailed to the Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.

51. Release. Upon the Effective Date Plaintiff on behalf of Aggrieved Employees and the LWDA, and all Participating Individuals (on behalf of themselves and their respective former and present representatives, agents, attorneys, executors, heirs, administrators, successors, and assigns), shall and hereby do release and discharge all Releasees, finally, forever and with prejudice, from any and all Released Claims as follows:

51(a) Released Class Claims. Participating Class Members shall release the Releasees from Released Claims during the Class Period.

50(b) Released PAGA Claims. Plaintiff fully releases the claims and rights to recover civil penalties under PAGA for Released Claims, costs, expenses, attorneys' fees, or interest against the Releasees on behalf of Aggrieved Employees and LWDA during the Class Period. The Parties agree that there shall be no right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the release of PAGA claims. The Parties intend and agree that the Final Approval Order and the Judgment entered as a result of this Settlement shall have res judicata and preclusive effect to the fullest extent allowed by law.

52. Release by Plaintiff. Plaintiff will release the Releasees of any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Releasees, of whatever kind

1 and nature, character, and description whether sounding in tort, contract, federal, state and/or local
2 law, statute, ordinance, regulation, common law, or other source of law or contract, whether known
3 or unknown, and whether anticipated or unanticipated, including all unknown claims covered by
4 California Civil Code section 1542 that could be or are asserted based upon any theory or facts
5 whatsoever, arising at any time up to and including the date of the execution of the settlement
6 agreement. This includes, but is not limited to, all claims pled in the First Amended Complaint,
7 claims for unpaid wages, waiting time penalties, pay stub violations and all other claims for
8 recovery including, but not limited to, damages, statutory penalties, civil penalties, under Labor
9 Code section 2698 *et seq.*, Labor Code sections 201-204, 210, 216, 221-223, 226, 226.3, 226.7,
10 245-248.5, 256, 266.8, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
11 1199, 2802, 2810.5, IWC Wage Order 4-2001 and any other applicable wage orders, Business and
12 Professions Code section 17200 *et seq.*, and any and all claims or potential claims for attorneys'
13 fees and costs. To the extent the foregoing release is a release to which Section 1542 of the
14 California Civil Code or similar provisions of other applicable law may apply, Plaintiff
15 expressly waives any and all rights and benefits conferred upon him by the provisions of
16 Section 1542 of the California Civil Code or similar provisions of applicable law which are
17 as follows:

18 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR
19 DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME
20 OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
21 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
22 DEBTOR.

23 Plaintiff may hereafter discover facts in addition to or different from those he now knows
24 or believes to be true with respect to the subject matter of the General Release, but Plaintiff
25 upon the Effective Date, shall be deemed to have, and by operation of the Final Order shall
26 have, fully, finally, and forever settled and released any and all of the claims released
27 pursuant to the General Release whether known or unknown, suspected or unsuspected,
28 contingent or non-contingent, which now exist, or heretofore have existed upon any theory

of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

53. Objection Procedures. To object to the Settlement Agreement, a Class Member should postmark a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent any Class Members with respect to any such objections to this Settlement, nor any future putative Class Members who have timely excluded themselves from the settlement herein.

54. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report that certifies the number of Class Members who have submitted valid Requests for Exclusion, objections to the Settlement, and whether any Class Member has submitted a challenge to any information contained in their Notice. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

55. Distribution Timing of Individual Settlement Payments. Within twenty (20) calendar days of receiving the Gross Settlement Amount from Defendant, the Settlement Administrator will issue payments to: (i) Participating Individuals; (ii) Plaintiff; (iii) Class Counsel; and (iv) itself for Court-approved services performed in connection with the Settlement.

56. Un-cashed Settlement Checks. Settlement checks will remain valid for a period of 180 calendar days after they issue. Any check not cashed within 180 calendar days will be distributed to the California State Controller Unclaimed Property Fund and held in the name of the Settlement Class Member.

57. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify the total

1 amount that was paid to all class members and ensure that distribution of the un-cashed
2 funds be tendered to the California State Controller Unclaimed Property Fund.

3 58. Treatment of Individual Settlement Payments. Each putative class member's settlement award
4 will be apportioned as follows: 100% penalties and interest. The penalties and interest shall be
5 reported by IRS 1099 forms.

6 59. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
7 will be responsible for issuing to Plaintiff, Participating Individuals, and Class Counsel any
8 1099 forms as may be required by law for all amounts paid pursuant to this Settlement.

9 60. Tax Liability. Defendant, Defendant's counsel and Class Counsel make no representation
10 as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff
11 and Participating Individuals are not relying on any statement, representation, or
12 calculation by Defendant or by the Settlement Administrator in this regard.

13 61. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
14 THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS
15 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
16 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
17 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
18 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER
19 ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH
20 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
21 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
22 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED);
23 (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS,
24 HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE
25 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS
26 NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
27 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR
28 ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON

1 ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER
2 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
3 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR
4 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
5 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
6 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION
7 IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY
8 OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION,
9 INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

10 62. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that
11 they have not directly or indirectly assigned, transferred, encumbered, or purported to
12 assign, transfer, or encumber to any person or entity any portion of any liability, claim,
13 demand, action, cause of action or right herein released and discharged.

14 63. Nullification of Settlement Agreement. In the event that: (i) the Court does not finally
15 approve the Settlement as provided herein; or (ii) the Settlement does not become final for any
16 other reason, then this Settlement Agreement, and any documents generated to bring it into effect,
17 will be null and void. Any order or judgment entered by the Court in furtherance of this Settlement
18 Agreement will likewise be treated as void from the beginning. Any funds paid into the Settlement
19 Fund shall be returned to the Defendant. Complaint. The Parties stipulate and agree that for
20 settlement purposes only to the filing of an amended complaint if necessary to otherwise
21 effectuate the Release in this Settlement Agreement promptly after execution of this
22 Settlement Agreement. The Parties further stipulate and agree that Plaintiff shall file an
23 amended PAGA letter ("Amended PAGA Letter") to the LWDA consistent with this
24 Agreement to effectuate this Agreement and/or the Releases in Paragraphs 51 and 52.

25 64. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request the
26 Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order
27 for: (i) conditional certification of the Settlement Class for settlement purposes only, (ii)
28 preliminary approval of the proposed Settlement Agreement, (iii) setting a date for a Final

1 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the
2 Notice to be sent to all Class Members as specified herein. In conjunction with the Preliminary
3 Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth the terms of
4 this Settlement, and will include the proposed Notice, which will include the proposed Notice of
5 Class Action Settlement document, attached as Exhibit A. Class Counsel will be responsible for
6 drafting all documents necessary to obtain preliminary approval, subject to the approval of
7 Defendant's counsel. Class Counsel shall provide Defendants' counsel a copy of a draft motion for
8 Preliminary Approval of Settlement Agreement at least five (5) business days in advance of filing it
9 with the Court.

10
11 65. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
12 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement,
13 and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be
14 conducted to determine the Final Approval of the Settlement Agreement along with the
15 amounts properly payable for: (i) Individual Settlement Payments; (ii) the Class
16 Representative Enhancement Payment; (iii) Attorneys' Fees and Costs; (iv) all Settlement
17 Administration Costs; and (v) allocation of PAGA penalties (PAGA Aggrieved Employee
18 Payments and . Class Counsel will be responsible for drafting all documents necessary to
19 obtain final approval. Class Counsel will also be responsible for drafting the application
20 for Attorneys' Fees and Costs to be heard at the final approval hearing, subject to approval
21 by Defendant's counsel. Class Counsel shall provide Defendants' counsel a copy of a draft
22 motion for Final Approval of Settlement Agreement at least five (5) business days in advance of
23 filing it with the Court.

24 66. Right to Revoke. Defendant may, in its discretion, withdraw from the settlement if more than ten
25 percent (10%) of the putative class members opt out of the settlement. In this event, the settlement
26 shall be considered void *ab initio* and shall be of no force or effect whatsoever and shall not be
27 referred to or utilized for any purpose whatsoever. However, if revoked by Defendant, all
28 settlement administration costs shall be entirely paid by Defendant. The Parties agree not to

1 encourage putative class members to opt out of the settlement. Further, Class Counsel represents
2 that they have not encouraged other employees to opt out or to pursue individual claims against
3 Defendant.

4 67. Court Approval. If the Court fails to approve the settlement for any reason, the settlement shall be
5 considered void *ab initio* and shall be of no force or effect whatsoever and shall not be referred to
6 or utilized for any purpose whatsoever

7 68. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the Court
8 or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
9 Judgment to the Court for its approval which enters judgement in the Action in accordance
10 with the terms of the Settlement. After entry of the Judgment, the Court will have
11 continuing jurisdiction solely for purposes of addressing: (i) the interpretation and
12 enforcement of the terms of the Settlement, (ii) Settlement administration matters, and (iii)
13 such post-Judgment matters pursuant to Code of Civil Procedure §384 and as may be
14 appropriate under court rules or as set forth in this Settlement Agreement.

15 69. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the
16 terms set forth in any attached Exhibits, which are incorporated by this reference as though
17 fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the
18 Settlement.

19 70. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
20 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
21 agreements may be deemed binding on the Parties. The Parties expressly recognize
22 California Civil Code Section 1625 and California Code of Civil Procedure Section
23 1856(a), which provide that a written agreement is to be construed according to its terms
24 and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no
25 such extrinsic oral or written representations or terms will modify, vary or contradict the
26 terms of this Settlement Agreement.

27 71. Amendment or Modification. No amendment, change, or modification to this Settlement
28 Agreement will be valid unless in writing and signed, either by the Parties or their counsel.

- 1 72. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate this
3 Settlement Agreement and to take all appropriate action required or permitted to be taken
4 by such Parties pursuant to this Settlement Agreement to effectuate its terms and to
5 execute any other documents required to effectuate the terms of this Settlement
6 Agreement. The Parties and their counsel will cooperate with each other and use their best
7 efforts to effect the implementation of the Settlement. If the Parties are unable to reach
8 agreement on the form or content of any document needed to implement the Settlement, or
9 on any supplemental provisions that may become necessary to effectuate the terms of this
10 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.
- 11 73. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and
12 inure to the benefit of, the successors or assigns of the Parties hereto, as previously
13 defined.
- 14 74. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will
15 be governed by and interpreted according to the laws of the State of California.
- 16 75. Execution and Counterparts. This Settlement Agreement is subject only to the execution
17 of all Parties. However, the Settlement Agreement may be executed in one or more
18 counterparts and by DocuSign. All executed counterparts and each of them, including
19 facsimile, DocuSigned, and scanned copies of the signature page, will be deemed to be one
20 and the same instrument provided that counsel for the Parties will exchange among
21 themselves original signed counterparts.
- 22 76. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
23 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have
24 arrived at this Settlement after arm's-length negotiations using an experienced class action
25 mediator familiar with this specific type of litigation and in the context of adversarial
26 litigation, taking into account all relevant factors, present and potential. The Parties further
27 acknowledge that they are each represented by competent counsel and that they have had
28 an opportunity to consult with their counsel regarding the fairness and reasonableness of

1 this Settlement.

2 77. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement
3 invalid, the Court will first attempt to construe the provision as valid to the fullest extent
4 possible consistent with applicable precedents so as to define all provisions of this
5 Settlement Agreement valid and enforceable.

6 78. Waiver of Certain Appeals. Upon Final Court Approval, the Parties agree to waive
7 appeals and to stipulate to class certification for purposes of this Settlement only; except,
8 however, that Plaintiff or Class Counsel may appeal any reduction to the Attorneys' Fees
9 and Costs below the amount they request from the Court, and either party may appeal any
10 court order that materially alters the Settlement Agreement's terms.

11 79. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
12 class action certification for purposes of the Settlement only. This includes the designation
13 of the class members as representative parties or aggrieved parties under the PAGA. If, for
14 any reason, the Settlement is not approved, the stipulation to certification will be void.
15 The Parties further agree that certification for purposes of the Settlement is not an
16 admission that class action certification is proper under the standards applied to contested
17 certification motions and that this Settlement Agreement will not be admissible in this or
18 any other proceeding as evidence that either (i) a class action should be certified or (ii)
19 Defendant is liable to Plaintiff or any Class Member, other than according to the
20 Settlement's terms.

21 80. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
22 that has arisen between them and to avoid the burden, expense and risk of continued
23 litigation. In entering into this Settlement, Defendant does not admit, and specifically
24 denies, that it violated any federal, state, or local law; violated any regulations or
25 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or
26 legal requirements; breached any contract; violated or breached any duty; engaged in any
27 misrepresentation or deception; or engaged in any other unlawful conduct with respect to
28 its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor

any of the negotiations connected with it, will be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

81. Confidentiality Prior to Preliminary Approval. Plaintiff warrants that prior to Preliminary Approval he will not disclose, disseminate and/or publicize, cause or permit to be disclosed, disseminated or publicized, any of the terms of this Agreement, specifically or generally, to any person, corporation, association, governmental agency, or other entity except: (1) to his attorneys, accountants, or spouses, all of whom will also be instructed to keep this settlement agreement confidential; (2) to the extent necessary to report income to appropriate taxing authorities; (3) in response to an order of a court of competent jurisdiction or a subpoena issued under the authority thereof; or (4) in response to an inquiry or subpoena issued by a state or federal governmental agency. It is understood and agreed that notice of receipt by Plaintiff of any such judicial or agency order, inquiry or subpoena shall immediately be communicated by the recipient to counsel for Defendant telephonically, and then confirmed immediately thereafter in writing, so that Defendant will have an opportunity to intervene to assert what rights it may have to non-disclosure prior to responses to said order, inquiry or subpoena. Plaintiff specifically warrants that he will not directly or indirectly initiate any conversation or other communication with any person regarding this settlement agreement, or the matters giving rise to this settlement agreement prior to Preliminary Approval, unless such communication is required to obtain Preliminary Approval from the Court. If asked about this settlement agreement or the matters giving rise to this the settlement agreement, Plaintiff shall respond by stating only that "the matter was resolved," or words to that effect.

82. Publicity. Plaintiff and his counsel agree not to issue a press release or otherwise communicate with the media about the terms of the settlement. Plaintiff and his counsel may not advertise any of the terms of the settlement prior to preliminary approval. Plaintiff and his counsel further agree

1 that if contacted regarding this case prior to preliminary approval or by the media, they will state
2 only that the lawsuit exists and has been resolved. This provision shall not prohibit Plaintiff's
3 counsel from communicating with class members after preliminary approval is granted.

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

8 84. Enforcement Actions. In the event that one or more of the Parties institutes any legal
9 action or other proceeding against any other Party or Parties to enforce the provisions of
10 this Settlement or to declare rights and/or obligations under this Settlement, the successful
11 Party or Parties will be entitled to recover from the unsuccessful Party or Parties
12 reasonable attorneys' fees and costs, including expert witness fees incurred in connection
13 with any enforcement actions.

14 85. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
15 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not
16 be construed more strictly against one party than another merely by virtue of the fact that it
17 may have been prepared by counsel for one of the Parties, it being recognized that, because
18 of the arms-length negotiations between the Parties, all Parties have contributed to the
19 preparation of this Settlement Agreement.

20 86. Representation By Counsel. The Parties acknowledge that they have been represented by
21 counsel throughout all negotiations that preceded the execution of this Settlement
22 Agreement, and that this Settlement Agreement has been executed with the consent and
23 advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are
24 no liens on the Settlement Agreement.

25 87. All Terms Subject to Final Court Approval. All amounts and procedures described in this
26 Settlement Agreement herein will be subject to final Court approval.

27 88. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
28 faith and execute all documents to the extent reasonably necessary to effectuate the terms

1 of this Settlement Agreement.

2 89. Binding Agreement. The Parties warrant that they understand and have full authority to
3 enter into this Settlement Agreement, and further intend that this Settlement Agreement
4 will be fully enforceable and binding on all parties, and agree that it will be admissible and
5 subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation
6 confidentiality provisions that otherwise might apply under federal or state law.

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8 [SIGNATURES APPEAR ON FOLLOWING PAGE]

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1 Dated: June 2, 2023

DocuSigned by:

By 

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SEAN MCBURNEY

4 Dated: June 8th, 2023

5 By Robert S. Mitzel

6 EUROFINS ENVIRONMENT TESTING
7 NORTHERN CALIFORNIA, LLC

10 **APPROVED AS TO FORM:**

11 Dated: June 8, 2023

12 CONSTANGY, BROOKS, SMITH & PROPHETE
13 LLP

14 By 
15

16 Barbara I. Antonucci

17 Sarah K. Hamilton

18 Attorneys for Defendants

19 Dated: June 5, 2023

LAW OFFICES OF CHOI & ASSOCIATES

21 By 

22 Edward W. Choi

23 Attorneys for Plaintiff SEAN MCBURNEY

25 Dated: June 5, 2023

DIVERSITY LAW GROUP

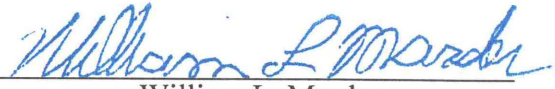
27 By 

28 Larry W. Lee

Attorneys for Plaintiff SEAN MCBURNEY

DATED: June 2, 2023

POLARIS LAW GROUP

By: 
William L. Marder
Attorneys for SEAN MCBURNEY

DATED: June 2, 2023

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