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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF BUTTE

AGUSTINA RENTERIA GRACIANO, as an
individual and on behalf of all others similarly
situated

Plaintiff,

v.

HIGNELL, INCORPORATED, a California
Corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO.: 22CV01196

[Assigned for all purposes to the Hon.
Stephen E. Benson in Dept. 6]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

ACTION FILED: June 6, 2022

This Class and PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between Plaintiff Agustina Renteria Graciano (“Plaintiff”), on one hand, and Defendant Hignell, Incorporated (“Defendant”), on the other hand. The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS

1.1. “**Action**” means the Plaintiff Agustina Renteria Graciano’s lawsuit alleging wage and hour violations against Defendant, captioned *Agustina Renteria Graciano v Hignell, Incorporated*, Case No. 22CV01196, initiated on June 6, 2022, and pending in Superior Court of the State of California, County of Butte.

1.2. “**Aggrieved Employees**” means all current and former non-exempt employees employed by or formerly employed by Defendant at any time during the PAGA Period in the State of California.

1.3. “**Administrator**” means Phoenix Class Action Administration Solutions (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.4. “**Administration Expenses Payment**” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.5. “**Class**” or “**Settlement Class**” means all current and former non-exempt employees employed by or formerly employed by Defendant in the State of California at any time during the Class Period.

1.6. “**Class Counsel**” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C.

1.7. “**Class Counsel Fees Payment**” and “**Class Counsel Litigation Expenses Payment**” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. “**Class Data**” means Class Member identifying information in Defendant’s custody,

possession, or control, including the Class Member's (1) name; (2) last known address(es); (3) last known telephone number(s); (4) Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

1.9. **"Class Member"** or **"Settlement Class Member"** means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.

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

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

1.12. **"Class Period"** means the period from June 6, 2018 through March 25, 2024.

1.13. **"Class Representative"** means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative, namely Agustina Renteria Graciano.

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

1.15. **"Court"** means the Superior Court of California, County of Butte.

1.16. **"Defendant"** means named Defendant Hignell, Incorporated.

1.17. **"Defense Counsel"** means Lisa V. Ryan, Esq, Barbara A. Cotter, Esq of Cook Brown LLP.

1.18. **"Effective Date"** means the date when all of the following events have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, sixty one (61) days after the Court enters

Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. **“Final Approval”** means the Court’s order granting final approval of the Settlement.

1.20. **“Final Approval Hearing”** means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. **“Final Judgment”** means the Judgment entered by the Court based upon the Final Approval.

1.22. **“Gross Settlement Amount”** means \$950,000.00 (Nine Hundred Fifty Thousand Dollars and Zero Cents), which is the total amount Defendant agree to pay under the Settlement, unless increased pursuant to Paragraph 8.1 below, and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, Administrator’s Expenses and the PAGA Payment and the LWDA Payments.

1.23. **“Individual Class Payment”** means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. **“Individual PAGA Payment”** means a payment made to an Aggrieved Employee for his or her share of the PAGA Payment, which may be in addition to his or her Individual Settlement Share if he or she is also a Participating Class Member.

1.25. **“Judgment”** means the judgment entered by the Court based upon Final Approval.

1.26. **“LWDA Payment”** means the payment to the State of California Labor and Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the total amount allocated toward penalties under the PAGA, all of which is to be paid from the Gross Settlement Amount. The Parties have agreed that Thirty Thousand Dollars and Zero Cents (\$30,000.00)

shall be allocated toward PAGA penalties, of which 25% (\$7,500) allocated to the Individual PAGA Payments, Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00) will be paid to the LWDA (*i.e.*, the LWDA Payment) and Seven Thousand Five Hundred Dollars and Zero cents (\$7,500.00) will be paid to Aggrieved Employees on a *pro rata* basis based on the Workweeks worked for Defendant as a non-exempt, hourly-paid employee in California in the PAGA Period (*i.e.* the PAGA Payment).

1.27. “**Net Settlement Amount**” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses Payment, the LWDA Payment and the PAGA Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.28. “**Non-Participating Class Member**” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.29. “**PAGA**” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.30. “**PAGA Notice**” means plaintiff’s June 6, 2022 letter to defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.31. “**PAGA Payment**” is the 25% portion of the Thirty Thousand Dollars and Zero Cents (\$30,000.00) that is allocated toward PAGA penalties which amount to Eleven Thousand Eight Hundred Seventy-Five Dollars and Zero cents (\$11,875.00) that will be paid to Aggrieved Employees on a *pro rata* basis based on the Workweeks worked as non-exempt, hourly-paid employees in California in the PAGA Period, which would be in addition to their Individual Settlement Payment if they are Participating Class Members, as well.

1.32. “**PAGA Period**” means the period from June 6, 2021 through the end of the Class Period.

1.33. “**Participating Class Member**” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.34. “**Plaintiff**” mean Agustina Renteria Graciano.

1 1.35. “**Preliminary Approval**” means the Court’s Order Granting Preliminary Approval of the
2 Settlement.

3 1.36. “**Preliminary Approval Order**” means the proposed Order granting Preliminary
4 Approval and Approval of the PAGA.

5 1.37. “**Released Class Claims**” means the claims being released as described in Paragraph 5.2
6 below.

7 1.38. “**Released Parties**” means: Defendant and each of its former and present directors,
8 officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns,
9 subsidiaries, and affiliates.

10 1.39. “**Request for Exclusion**” means a Class Member’s submission of a written request to be
11 excluded from the Class Settlement signed by the Class Member.

12 1.40. “**Response Deadline**” means forty-five (45) days after the Administrator mails Notice to
13 Class Members and Aggrieved Employees shall be the last date on which Class Members may:
14 (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
15 Settlement. Class Members to whom Notice Packets are resent after having been returned
16 undeliverable to the Administrator shall have an additional 15 days beyond the Response
17 Deadline has expired.

18 1.41. “**Settlement**” means the disposition of the Action effected by this Agreement and the
19 Judgment.

20 1.42. “**Workweek**” means any week during which a Class Member worked for at least one day
21 during the Class Period in California, based on hire dates, re-hire dates (as applicable), and
22 termination dates (as applicable).

23 2. RECITALS

24 2.1. On June 6, 2022, Plaintiff Agustina Renteria Graciano commenced this Action by filing
25 a Complaint alleging causes of action against Defendant including (1) failure to pay overtime
26 wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to
27 provide rest periods; (5) failure to pay wages due upon termination; (6) wage statement

violations; (7) waiting time penalties; (8) violation of labor code § 2802; (9) violation of labor code § 227.3; and (10) unfair competition and other such provisions of California law, and reasonable attorneys' fees and costs violations of the Labor Code. (the "Class Action").

2.2. On June 6, 2022, Plaintiff served on Defendants a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations ("PAGA Notice").

2.3. On August 25, 2022, after sixty-five (65) days had passed without any communication or action by the LWDA with respect to the Labor Code violations alleged in the PAGA Notice, Plaintiff filed a separate representative action under PAGA against Defendant in the Superior Court of California, County of Butte, Case No. 22CV01940, for the Labor Code violations set out in the PAGA Notice ("PAGA Action"). As part of this Agreement, the Parties agree to stipulate to Plaintiff's filing of a Second Amended Complaint in the Class Action, adding all allegations brought in the PAGA Action, and to request for dismissal without prejudice of the PAGA Action, thereby effectively consolidating the two actions for purposes of Settlement (hereinafter, the "Action"). The Second Amended Complaint is the operative complaint in the Action ("Operative Complaint")

2.4. Thereafter, the Parties agreed to exchange informal discovery and attend mediation with Deborah Crandall Saxe, Esq scheduled for December 20, 2022.

2.5. Prior to mediation, Plaintiff obtained, through informal discovery: (1) Class data points, including average rates of pay, total hours worked during the Class Period (i.e., June 6, 2018 through December 20, 2022), the number of pay periods worked during the Class Period, the number of terminated/separated Class Members in the waiting time penalty period, the number of aggrieved employees (current and former), number of hours worked, and number of pay periods in the wage statement/PAGA Period (June 6, 2021 through December 20, 2022); (2) all policy documents related to the claims in this case; (3) Plaintiff's personnel file; (4) Time and wage records for 20% of the putative Class Members and Aggrieved Employees. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford*

1 *Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168
2 Cal.App.4th 116, 129-130 (*Dunk/Kullar*).

3 2.6. On December 20, 2022, the parties participated in an all-day mediation presided over by
4 Deborah Crandall Saxe, Esq. which was initially unsuccessful. However, due to subsequent and
5 continued informal negotiations between the Parties, the Parties reached this Agreement to settle
6 the Action.

7 2.7. The Court has not granted class certification.

8 2.8. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
9 other pending matter or action asserting claims that will be extinguished or affected by the
10 Settlement.

11 **3. MONETARY TERMS**

12 3.1. Gross Settlement Amount. Defendant promises to pay \$950,000.00 as the Gross
13 Settlement Amount, unless escalated pursuant to Paragraph 8.1 of this Agreement, and to
14 separately pay employer payroll taxes owed on the Wage Portions of the Individual Class
15 Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll
16 taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will
17 disburse the entire Gross Settlement Amount without asking or requiring Participating Class
18 Members to submit any claim as a condition of payment. None of the Gross Settlement Amount
19 will revert to Defendant.

20 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
21 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
22 in the Final Approval:

23 3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than
24 \$7,500.00 in addition to any Individual Class Payment and any Individual PAGA
25 Payment Plaintiff is entitled to receive as a Participating Class Member. Defendants will
26 not oppose Plaintiff's request for a Class Representative Service Payment that does not
27 exceed this amount. As part of the motion for Class Counsel Fees Payment and Class
28

Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which, unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to be \$332,500.00 and a Class Counsel Litigation Expenses Payment of not more than \$30,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendant for such work unless, Defendant materially breaches this Agreement, including any term regarding funding, and further efforts are necessary from

Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$9,500.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$9,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 10% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"), unless, as approved by the Court, the total of Defendant's share of payroll taxes on such amount exceeds \$6,000.00, as calculated by the Settlement Administrator, in which case the allocation of individual class payments toward the Wage Portion shall be reduced such that the total of Defendant's share of payroll taxes is less than or equal to \$6,000.00. The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 90% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"), unless, as approved by the Court, the Wage Portion must be adjusted as described above, and in such case, the Non-Wage Portion will be adjusted accordingly so that the Wage Portion and Non-Wage Portion percentages equal 100% of the Participating Class Member's Individual Class Payment. The Non-Wage Portions are not subject to wage withholdings and

will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employee: PAGA Penalties in the amount of Thirty Thousand Dollars and Zero Cents (\$30,000.00) to be paid from the Gross Settlement Amount, with 75% (\$22,500) allocated to the LWDA PAGA Payment and 25% (\$7,500) allocated to the Individual PAGA Payments.

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

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 356 Class Members who collectively worked a total of 35,000 Workweeks and 268 Aggrieved Employees who collectively worked a total of 5,120 Pay

Periods.

4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will

1 send checks for Individual Settlement Payments to all Participating Class Members
2 (including those for whom Class Notice was returned undelivered). The Administrator
3 will send checks for Individual PAGA Payments to all Aggrieved Employees including
4 Non-Participating Class Members who qualify as Aggrieved Employees (including
5 those for whom Class Notice was returned undelivered). The Administrator may send
6 Participating Class Members a single check combining the Individual Class Payment
7 and the Individual PAGA Payment. Before mailing any checks, the Settlement
8 Administrator must update the recipients' mailing addresses using the National Change
9 of Address Database.

10 4.4.2. The Administrator must conduct a Class Member Address Search for all other
11 Class Members whose checks are returned undelivered without USPS forwarding
12 address. Within 7 days of receiving a returned check the Administrator must re-mail
13 checks to the USPS forwarding address provided or to an address ascertained through
14 the Class Member Address Search. The Administrator need not take further steps to
15 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
16 The Administrator shall promptly send a replacement check to any Class Member whose
17 original check was lost or misplaced, requested by the Class Member prior to the void
18 date.

19 4.4.3. For any Class Member whose Individual Class Payment check or Individual
20 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
21 shall transmit the funds represented by such checks to Legal Aid at Work for use in
22 Butte County (the "Cy Pres Recipient").

23 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
24 not obligate Defendant to confer any additional benefits or make any additional
25 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
26 specified in this Agreement.
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5. RELEASE OF CLAIMS

Effective upon entry of Judgment, the Order granting Final Approval of this Settlement, and on the date when Defendant fully fund the entire Gross Settlement Amount and fund employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally release and discharge Released Parties from all claims, transactions or occurrences including, but not limited to: (a) all claims that were or reasonably could have been alleged based on the facts contained in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now know or believe to be true but agree, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2. Release by Participating Class Members: For the duration of the Class Period, all

Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from all claims that were alleged or reasonably could have been alleged based on the facts stated in the Operative Complaint including: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to pay wages due upon termination; (6) wage statement violations; (7) waiting time penalties; (8) violation of labor code § 2802; (9) violation of labor code § 227.3; and (10) unfair competition.

5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.4. Release of PAGA Claims: For the duration of the PAGA Period and the extent permitted by law, the LWDA and the State of California, by and through Plaintiff as an agent and proxy of the LWDA, release the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice as they relate to the Aggrieved Employees.

6. MOTION FOR PRELIMINARY APPROVAL

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendant's Declaration in Support of Preliminary Approval. Within 14 days of full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Plaintiff's Responsibilities. Plaintiff will prepare and endeavor to deliver to Defense

Counsel prior to filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and

1 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
2 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
3 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
4 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
5 Court's concerns.

6 **7. SETTLEMENT ADMINISTRATION**

7 7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the
8 Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by
9 this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
10 for payment of Administration Expenses. The Parties and their Counsel represent that they have
11 no interest or relationship, financial or otherwise, with the Administrator other than a professional
12 relationship arising out of prior experiences administering settlements.

13 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
14 Identification Number for purposes of calculating payroll tax withholdings and providing reports
15 to state and federal tax authorities.

16 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
17 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section
18 468B-1.

19 7.4. Notice to Class Members

20 7.4.1. No later than three (3) business days after receipt of the Class Data, the
21 Administrator shall notify Class Counsel that the list has been received and state the
22 number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the
23 Class Data. At the same time, the Administrator will also inform Class Counsel and
24 Defense Counsel if the number of Workweeks during the Class Period has exceeded
25 38,500 Workweeks.

26 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
27 days after receiving the Class Data, the Administrator will send to all Class Members
28

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

8 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice
9 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
10 using any forwarding address provided by the USPS. If the USPS does not provide a
11 forwarding address, the Administrator shall conduct a Class Member Address Search,
12 and re-mail the Class Notice to the most current address obtained. The Administrator
13 has no obligation to make further attempts to locate or send Class Notice to Class
14 Members whose Class Notice is returned by the USPS a second time.

15 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
16 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
17 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
18 notice is re-mailed. The Administrator will inform the Class Member of the extended
19 deadline with the re-mailed Class Notice.

20 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
21 discovers any persons who believe they should have been included in the Class Data
22 and should have received Class Notice, the Parties will expeditiously meet and confer,
23 and in good faith, in an effort to agree on whether to include them as Class Members.
24 If the Parties agree, such persons will be Class Members entitled to the same rights as
25 other Class Members, and the Administrator will send, via email or overnight delivery,
26 a Class Notice requiring them to exercise options under this Agreement not later than
27 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which
28

ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

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

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

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

1 have the right to object to the class action components of the Settlement. Because future
2 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
3 Participating Class Members who are Aggrieved Employees are deemed to release the
4 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
5 PAGA Payment.

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

18 7.7. Objections to Settlement

19 7.7.1. Only Participating Class Members may object to the class action components of
20 the Settlement and/or this Agreement, including contesting the fairness of the
21 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
22 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

23 7.7.2. Participating Class Members may send written objections to the Administrator, by
24 mail. In the alternative, Participating Class Members may appear in Court (or hire an
25 attorney to appear in Court) to present verbal objections at the Final Approval Hearing.
26 A Participating Class Member who elects to send a written objection to the
27 Administrator must do so not later than 45 days after the Administrator's mailing of the

1 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
2 mailed).

3 7.7.3. Non-Participating Class Members have no right to object to any of the class action
4 components of the Settlement.

5 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
6 performed or observed by the Administrator contained in this Agreement or otherwise.

7 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
8 and use an internet website to post information of interest to Class Members, including
9 the date, time and location for the Final Approval Hearing and copies of the Settlement
10 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
11 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
12 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
13 the Final Approval and the Judgment. The Administrator will also maintain and monitor
14 an email address and a toll-free telephone number to receive Class Member calls and
15 emails.

16 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
17 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
18 Not later than 5 days after the expiration of the deadline for submitting Requests for
19 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
20 containing (a) the names and other identifying information of Class Members who have
21 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
22 other identifying information of Class Members who have submitted invalid Requests
23 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
24 (whether valid or invalid).

25 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
26 reports to Class Counsel and Defense Counsel that, among other things, tally the number
27 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
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Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

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

7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in

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

3 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

4 Based on its records, Defendant estimates that, as of the date of this Settlement
5 Agreement, (1) there are 356 Class Members and 35,000 Total Workweeks during the Class
6 Period and (2) there are 268 Aggrieved Employees and 5,120 Pay Periods during the PAGA
7 Period.

8 8.1. Increase in Workweeks. Defendant represents that there are no more than 35,000
9 Workweeks worked by Class Members during the Class Period. If, as of the close of the Class
10 Period, the actual number of Workweeks worked increases by more than 10%, or 38,500
11 Workweeks, then the Gross Settlement Amount shall be increased by the Workweeks in excess
12 of 35,000 multiplied by the Workweek Value or the Class Period will be cut off when 35,000
13 38,500 workweeks is reached. This election will be at the Defendants' Option. The Workweek
14 Value shall be calculated by dividing the Gross Settlement Amount by 35,000 Workweeks.
15 The Parties agree that the Workweek Value amounts to \$27.14 per Workweek (\$950,000 /
16 35,000 Workweeks). Thus, for example, should there be 39,000 Workweeks during the Class
17 Period, then the Gross Settlement Amount shall be increased by \$108,571.43 [(39,000
18 Workweeks – 35,000 Workweeks) x \$27.14] Defendant shall notify Class Counsel of their
19 election within five (5) days of when the Settlement Administrator informs the Class Counsel
20 and Defense Counsel that the number of Workweeks during the Class Period has exceeded
21 38,500 Workweeks. Otherwise, Defendants' election to cut off the Class Period at 35,000
22 workweeks is forfeited and the Gross Settlement Amount will be automatically increased..

23 **9. MOTION FOR FINAL APPROVAL**

24 Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for
25 final approval of the Settlement that includes a request for approval of the PAGA settlement
26 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
27 Judgment (collectively "Motion for Final Approval"). Plaintiff shall endeavor to provide drafts
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of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

9.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

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

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

9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver

of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

10. AMENDED JUDGMENT

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

11. ADDITIONAL PROVISIONS

11.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all

1 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
2 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
3 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
4 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
5 Settlement and this Agreement).

6 11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and
7 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
8 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
9 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
10 or indirectly, specifically or generally, to any person, corporation, association, government
11 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
12 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
13 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
14 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
15 government agency. Each Party agrees to immediately notify each other Party of any judicial or
16 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,
17 Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any
18 conversation or other communication, before the filing of the Motion for Preliminary Approval,
19 any with third party regarding this Agreement or the matters giving rise to this Agreement except
20 to respond only that "the matter was resolved," or words to that effect. This paragraph does not
21 restrict Class Counsel's communications with Class Members in accordance with Class
22 Counsel's ethical obligations owed to Class Members.

23 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
24 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
25 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
26 ability to communicate with Class Members in accordance with Class Counsel's ethical
27 obligations owed to Class Members.

1 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
2 together with its attached exhibits shall constitute the entire agreement between the Parties
3 relating to the Settlement, superseding any and all oral representations, warranties, covenants or
4 inducements made to or by any Party.

5 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
6 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
7 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
8 its terms and to execute any other documents reasonably required to effectuate the terms of this
9 Agreement including any amendments to this Agreement.

10 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
11 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
12 Settlement Agreement, submitting supplemental evidence, and supplementing points and
13 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
14 or content of any document necessary to implement the Settlement or on any modification of the
15 Agreement that may become necessary to implement the Settlement, the Parties will seek the
16 assistance of a mediator and/or the Court for resolution.

17 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
18 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer or
19 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
20 action or right released and discharged by the Party in this Settlement.

21 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
22 providing any advice regarding taxes or taxability nor shall anything in this Settlement be relied
23 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
24 Part 10, as amended) or otherwise.

25 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
26 modified, changed, or waived only by an express written instrument signed or agreed to by all
27 Parties or their representatives, and approved by the Court. Plaintiff and Defendant expressly
28

1 agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any
2 part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any
3 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on
4 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of
5 the use of signatures previously provided by the Parties.

6 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
7 the benefit of, the successors of each of the Parties.

8 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
9 governed by and interpreted according to the internal laws of the State of California, without
10 regard to conflict of law principles.

11 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
12 this Agreement. This Agreement will not be construed against any Party on the basis that the
13 Party was the drafter or participated in the drafting.

14 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
15 during Action and in this Agreement relating to the confidentiality of information shall survive
16 the execution of this Agreement.

17 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
18 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant
19 in connection with the mediation, other settlement negotiations or in connection with the
20 Settlement, may be used only with respect to this Settlement and no other purpose, and may not
21 be used in any way that violates any existing contractual agreement, statute, or rule of court.

22 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
23 inserted for convenience of reference only and does not constitute a part of this Agreement.

24 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
25 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
26 weekend or federal legal holiday, such date or deadline shall be on the first business day
27 thereafter.

11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign, AdobeSign, or similar), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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

11.19. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:



AGUSTINA RENTERIA GRACIANO (Mar 13, 2025 17:23 PDT)

For Plaintiff, AGUSTINA RENTERIA
GRACIANO

For Defendant, HIGNELL, INCORPORATED



David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiff
AGUSTINA RENTERIA GRACIANO

Lisa V. Ryan, Esq.
Barbara A. Cotter, Esq.
Counsel for Defendant, HIGNELL,
INCORPORATED

1 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
2 by facsimile, electronically (i.e., DocuSign, AdobeSign, or similar), or email which for purposes
3 of this Agreement shall be accepted as an original. All executed counterparts and each of them
4 will be deemed to be one and the same instrument if counsel for the Parties will exchange between
5 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
6 prove the existence and contents of this Agreement.

7 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
8 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
9 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
10 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
11 process.

12 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
13 shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity,
14 illegality or unenforceability shall in no way effect any other provision if Defendant's Counsel
15 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
16 to proceed as if such invalid, illegal or unenforceable provision had never been included in this
17 Agreement.

18
19 **IT IS SO AGREED:**

20
21 _____
22 For Plaintiff, AGUSTINA RENTERIA
23 GRACIANO

February 27, 2025

For Defendant, HIGNELL, INCORPORATED

24
25 _____
26 David D. Bibiyan
27 Vedang J. Patel
28 Counsel for Plaintiff
AGUSTINA RENTERIA GRACIANO

Lisa V. Ryan, Esq.
Barbara A. Cotter, Esq.
Counsel for Defendant, HIGNELL,
INCORPORATED