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COGIR MANAGEMENT USA INC. and WELLTOWER COGIR TENANT, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

XENIA CESILIA DE ALBA, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

COGIR MANAGEMENT USA INC.;
WELLTOWER COGIR TENANT, LLC;
and DOES 1 through 20, inclusive,

Defendants

Case No. STK-CV-UOE-2022-0007961

JOINT STIPULATION OF SETTLEMENT

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval
2 of the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named and Representative Plaintiff Xenia
7 Cesilia De Alba (“Named Plaintiff”) and the Class Members and PAGA Group Employees
8 (hereinafter referred to jointly as "Class Members"), on the one hand, and Defendants Cogir
9 Management USA Inc. and Welltower Cogir Tenant, LLC (“Defendants”), on the other hand.
10 Named Plaintiff and Defendants collectively are referred to in this Agreement as “the Parties.”

11 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
12 concluded by agreement of Defendants to pay the settlement amount of Three Million Dollars
13 (\$3,000,000.00) as provided in Section 3.07(a) below (“Gross Settlement Amount”) pursuant to
14 the terms and conditions of this Agreement and for the consideration set forth herein, including
15 but not limited to, a release of all claims by Named Plaintiff and the Class Members as set forth
16 herein.

17 **ARTICLE I** 18 **DEFINITIONS**

19 Unless otherwise defined herein, the following terms used in this Agreement shall have
20 the meanings ascribed to them as set forth below:

- 21 a. “Actions” means the Federal Action and the State Action defined further below.
- 22 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
23 Exhibit(s).
- 24 c. “Class” means all current and former non-exempt employees who are or were
25 employed by Defendants in California at any time during the Class Period.
- 26 d. “Class Counsel” means the attorneys for the Class and the Class Members, who
27 are:
28 AEGIS LAW FIRM, PC
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Samuel A. Wong
Jessica L. Campbell
Kristy R. Connolly
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e. "Class List" means a list based on Defendants' business records that identifies each Class Member's name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, dates of employment, Qualifying Workweeks, and Qualifying Pay Periods.

f. "Class Member(s)" means all members of the Class.

g. "Class Period" means April 15, 2021, through February 14, 2024.

h. "Court" means the Superior Court of California, County of San Joaquin.

i. "Cy Pres" means the Manteca Children's Foundation - <https://mcf4kids.org/>, the non-profit organization that the Parties have agreed will receive any remaining, unclaimed funds.

j. "Date of Finality" means the later of the following: (1) the date the Final Order is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or other judicial review is taken from the Court's overruling of objections to the settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes final.

k. "Defendants" means Defendants Cogir Management USA Inc. and Welltower Cogir Tenant, LLC.

l. "Defense Counsel" means counsel for Defendants:

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3 m. “Disposition” means the method by which the Court approves the terms of the
4 Settlement and retains jurisdiction over its enforcement, implementation, construction,
5 administration, and interpretation.

6 n. “Federal Action” means the action described as follows: *Xenia Cesilia De Alba v.*
7 *Cogir Management USA Inc., et. al* Case No. 2:22-cv-01568-TLN-AC, commenced on June 30,
8 2022, in the Superior Court of the State of California for the County of San Joaquin and which
9 was removed to the United States District Court, Eastern District of California on September 7,
10 2022.

11 o. “Final Order Approving Settlement of Class Action” or “Final Order” means the
12 final formal court order signed by the Court following the Final Fairness and Approval Hearing
13 in accordance with the terms herein, approving this Agreement.

14 p. “Gross Settlement Amount” means Three Million Dollars and Zero Cents
15 (\$3,000,000.00) to be paid by Defendants as provided by this Agreement to settle the Actions. All
16 payments to Participating Class Members, Settlement Administration Costs, attorney’s fees and
17 costs, the PAGA Settlement Amount, and the Incentive Award shall be paid out of the Gross
18 Settlement Amount. The employer’s share of payroll taxes arising from the payments made under
19 this settlement shall be paid by Defendants separate from and in addition to the Gross Settlement
20 Amount. The Gross Settlement Amount is subject to a pro rata increase pursuant to Section
21 3.05(e) below at Defendants option. No part of the Gross Settlement Amount shall revert to
22 Defendants.

23 q. “Incentive Award” means a monetary amount of up to Twenty Thousand Dollars
24 (\$20,000.00) for the Named Plaintiff, subject to Court approval, in recognition of her effort and
25 work in prosecuting the Action on behalf of Class Members, and for her general release of
26 claims.
27
28

1 r. “Individual Settlement Payment(s)” means each Participating Class Member’s
2 respective share of the Net Settlement Amount. Individual Settlement Payments will be
3 determined by the calculations provided in this Agreement.

4 s. “Individual PAGA Settlement Payments” means each PAGA Group Member’s
5 respective share of the PAGA Settlement Amount. Individual PAGA Settlement Payments will
6 be determined by the calculations provided in this Agreement.

7 t. “LWDA” means The State of California Labor and Workforce Development
8 Agency.

9 u. “LWDA Payment” means 75% of the \$100,000 allocated to the settlement of
10 PAGA claims which, subject to Court approval, will be paid to the LWDA pursuant to Section
11 3.07(e) of this Agreement, as provided for below.

12 v. “Motion for Final Approval” means Plaintiff’s submission of a written motion,
13 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
14 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing,
15 and to enter a Final Order in this Action.

16 w. “Motion for Preliminary Approval” means Plaintiff’s submission of a written
17 motion, including any evidence as may be required for the Court to grant preliminary approval of
18 the Settlement as required by Rule 3.769 of the California Rules of Court.

19 x. “Named Plaintiff” means Xenia Cesilia De Alba.

20 y. “Net Settlement Amount” means the Gross Settlement Amount less Court-
21 approved Settlement Administration Costs, Class Counsel’s attorney’s fees and costs, the
22 Incentive Award, and the total PAGA Settlement Amount pursuant to Sections 3.07(a)-(f) below.

23 z. “Non-Participating Class Member(s)” means any Class Member(s) who submit to
24 the Settlement Administrator a valid and timely written request to be excluded from the Class
25 pursuant to Section 3.05(b) below. Any Non-Participating Class Member who is also a PAGA
26 Group Member will still receive their Individual PAGA Settlement Amount and will still be
27 bound by the Released PAGA Claims set forth in Section 5.03 even if they opt out of this
28 Settlement. PAGA Group Members cannot opt out of the PAGA portion of the settlement.

1 aa. “Notice Packet” means the Notice of Proposed Class Action Settlement in a form
2 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

3 bb. “PAGA” means the California Private Attorneys General Act of 2004, which is
4 codified in California Labor Code §§ 2698 *et seq.*

5 cc. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount
6 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties
7 have agreed that the PAGA Settlement Amount is One Hundred Thousand Dollars and Zero
8 Cents (\$100,000), subject to Court approval. Of the PAGA Settlement Amount, 75% will be
9 considered the LWDA Payment, and the remaining 25% will be distributed to PAGA Group
10 Members.

11 dd. “PAGA Group Members” means all Class Members employed by Defendants
12 during the PAGA Period.

13 ee. “PAGA Period” means September 9, 2021, through February 14, 2024.

14 ff. “Participating Class Member(s)” is defined as a Class Member who does not
15 timely exclude himself or herself from the Settlement and will therefore receive his or her share
16 of the Net Settlement Amount automatically without the need to return a claim form. Each
17 Participating Class Member will be paid his/her Individual Settlement Payment.

18 gg. “Preliminary Approval Date” means the date the Court preliminarily approves the
19 Settlement embodied in this Agreement.

20 hh. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of
21 Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
22 Administrator for the benefit of Participating Class Members.

23 ii. “Qualifying Workweeks” means the number of weeks that Class Members worked
24 for Defendants as non-exempt employees during the Class Period.

25 jj. “Qualifying Pay Periods” means the number of pay periods that Class Members
26 worked for Defendants as non-exempt employees during the PAGA Period.

27 kk. “Released Claims” means all claims, judgments, liens, losses, debts, liabilities,
28 demands, obligations, guarantees, penalties (including but not limited to waiting time penalties

1 and all other penalties available under the California Labor Code), costs, expenses, attorneys'
2 fees, damages, indemnities, actions, causes of action, and obligations of every kind and nature in
3 law, equity, or otherwise, known or unknown, suspected or unsuspected, disclosed or
4 undisclosed, contingent or accrued, that were or could have reasonably been alleged based upon
5 the facts pleaded in the Federal Action, including, but not limited to, off-the-clock claims, claims
6 based upon Wage Order No. 5, related to the following claims, (1) Failure To Pay Minimum
7 Wages (Violation of Labor Code §§ 1194, 1194.2, and 1197; Violation of IWC Wage Order §3-
8 4); (2) Failure To Pay Overtime Wages (Violation of Labor Code §§ 510, 1194, and 1198;
9 Violation of IWC Wage Order §3); (3) Failure To Provide Meal Periods (Violation of Labor
10 Code §§ 226.7 and 512; Violation of IWC Wage Order § 11); (4) Failure To Permit Rest Breaks
11 (Violation of Labor Code §§ 226.7; Violation of IWC Wage Order § 12); (5) Failure to
12 Reimburse Business Expenses (Violation of Labor Code §§ 2800, 2802); (6) Failure To Provide
13 Accurate Itemized Wage Statements (Violation of Labor Code § 226; Violation of IWC Wage
14 Order); (7) Failure to Pay Wages Timely During Employment (Violation of Labor Code §§ 204,
15 210); (8) Failure To Pay All Wages Due Upon Separation Of Employment (Violation of Labor
16 Code §§ 201, 202, and 203); and (9) Violation of California Business and Professions Code
17 §§17200, et seq., arising out of the aforementioned claims during the Class Period.

18 ll. “Released PAGA Claims” means all claims that arose during the PAGA Period for
19 penalties, costs, expenses, attorneys’ fees, causes of action, and obligations of every kind and
20 nature in law or otherwise, known or unknown, suspected or unsuspected, disclosed or
21 undisclosed, contingent or accrued, that were or could have reasonably been alleged based upon
22 the facts and California Labor Code sections pleaded in the State Action and the PAGA June 30,
23 2022 claim Notice that Plaintiff provided to the LWDA prior to commencing the Action asserted
24 through California Labor Code §§ 2698, et seq. (PAGA).

25 mm. “Released Parties” means all Releasees as referenced in Article V, Section 5.01,
26 specifically Defendants and any of its former and present parents, subsidiaries, direct or indirect
27 holding companies, investors, sister and affiliated companies, divisions, and other related entities,
28 as well as their successors, predecessors, shareholders, officers, directors, partners, assigns,

1 agents, employees, principals, heirs, administrators, attorneys, vendors, accountants, auditors,
2 consultants, fiduciaries, insurers, reinsurers, employee benefit plans, and representatives, both
3 individually and in their official capacities, past or present, as well as persons acting by, through,
4 under, or in concert with any of these persons or entities, including, but not limited to, entities
5 holding ownership interests in Defendants.

6 nn. “Response Deadline” means the deadline by which Class Members must postmark
7 or fax to the Settlement Administrator requests for exclusion or written notices of objection. The
8 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet
9 by the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or
10 federal holiday, in which case the Response Deadline will be extended to the next day on which
11 the U.S. Postal Service is open. The Response Deadline will be extended as set forth herein if
12 there is a re-mailing.

13 oo. “Settlement Administration Costs” means all reasonable costs incurred by the
14 Settlement Administrator in administration of the Settlement, including, but not limited to,
15 mailing of notice to the class, calculation of Individual Settlement Payments, calculation of
16 employer taxes, generation of Individual Settlement Payment checks and related tax reporting
17 forms, administration of unclaimed checks, and generation of checks to Class Counsel for
18 attorneys’ fees and costs, to Named Plaintiff for her Incentive Award, and to the LWDA. The
19 Settlement Administration Costs shall be paid from the Gross Settlement Amount.

20 pp. “Settlement Administrator” means Phoenix Settlement Administrators, Inc., which
21 the Parties have agreed will be responsible for the administration of the Individual Settlement
22 Payments to be made by Defendants from the Gross Settlement Amount and related matters
23 under this Agreement.

24 qq. “State Action” means the action described as follows: *Xenia Cesilia De Alba v.*
25 *Cogir Management USA Inc., et. al*, Case No. STK-CV-UOE-2022-0007961, commenced on
26 September 9, 2022, in the Superior Court of the State of California for the County of San
27 Joaquin.

28

1 **ARTICLE II**
2 **CONTINGENT NATURE OF THE AGREEMENT**

3 **Section 2.01: Stipulation of Class Certification for Settlement Purposes**

4 Because the Parties have stipulated to the certification of the Class with respect to all
5 causes of action alleged in the Action for settlement purposes only, this Agreement requires
6 preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement
7 on a conditional basis. This Agreement is contingent upon the approval and certification by the
8 Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for
9 the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in
10 connection with, the issue of certification of the Class with respect to all causes of action alleged
11 in the Action. Defendants does not consent to certification of the Class for any purpose other than
12 to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of
13 this Action is not effectuated, any certification of the Class as to Defendants will be vacated and
14 Named Plaintiff, Defendants, and the Class will be returned to their positions with respect to the
15 Action as if the Agreement had not been entered into. In the event that the Date of Finality does
16 not occur: (a) any Court orders preliminarily or finally approving certification of any class
17 contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited
18 thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement,
19 the fact that Defendants did not oppose the certification of a Class under this Agreement, or that
20 the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter
21 by any person or entity, including in any manner whatsoever, including without limitation any
22 contested proceeding relating to the certification of any class. If the Date of Finality does not
23 occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever,
24 and shall not be referred to or used for any purpose whatsoever. Defendants expressly reserves
25 the right to challenge the propriety of class certification in the Action for any purpose, if the Date
26 of Finality does not occur.

27 The Parties and their respective counsel shall take all steps that may be requested by the
28 Court relating to the approval and implementation of this Agreement and shall otherwise use their

1 respective best efforts to obtain Court approval and implement this Agreement. If the Court does
2 not grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties
3 agree to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
4 resolution, the Parties agree to seek the assistance of mediator Jeff Ross to resolve the dispute.

5 **ARTICLE III**
6 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

7 The procedure for obtaining Court approval of and implementing this Agreement shall be
8 as follows:

9 **Section 3.01: Stay of Federal Action**

10 The Parties agree to submit a stipulation to the court in the Federal Action to stay the
11 Federal Action while settlement approval is sought in the State Action. At the earliest practicable
12 time, the Parties shall stipulate to Named Plaintiff's filing of a First Amended Complaint in the
13 State Action solely for purposes of effectuating the Settlement. The amended pleading shall
14 include the claims alleged in the Federal Action. Should the Settlement not be approved by the
15 Court, the Federal Action claims in the amended pleading shall be null and void, and such claims
16 added in the First Amended Complaint shall be dismissed without prejudice. The Parties agree
17 that Defendants need not file a responsive pleading to the First Amended Complaint.

18 **Section 3.02: Motion for Conditional Class Certification and Preliminary Approval**

19 Named Plaintiff will bring a motion before the Court for an order conditionally certifying
20 the Class to include all claims pled in the State Action based on the preliminary approval of this
21 Agreement. The date that the Court grants preliminary approval of this Agreement will be the
22 "Preliminary Approval Date."

23 **Section 3.03: The Settlement Administrator**

24 The Parties have chosen Phoenix Settlement Administrators, Inc. to administer this
25 Settlement and to act as the Settlement Administrator, including but not limited to distributing
26 and responding to inquiries about the Notice Packet; determining the validity of exclusions/opt-
27 outs; calculating the Net Settlement Amount, calculating the employer side taxes, the Individual
28 Settlement Payments, and the Individual PAGA Settlement Payments; issuing the Individual

1 Settlement Payment and Individual PAGA Settlement Payments checks and distributing them to
2 Class Members; establishing and maintaining the QSF, and issuing the payment to Class Counsel
3 for attorneys' fees and costs, the Incentive Award check to Named Plaintiff, and the employer
4 payroll taxes to the appropriate taxing authorities. The Settlement Administrator shall expressly
5 agree to all of the terms and conditions of this Agreement.

6 All costs of administering the Settlement, including but not limited to all costs and fees
7 associated with preparing, issuing and mailing any and all notices to Class Members, all costs and
8 fees associated with computing, processing, reviewing, and mailing the Individual Settlement
9 Payments and Individual PAGA Settlement Payments, all costs and fees associated with
10 preparing any tax returns and any other filings required by any governmental taxing authority or
11 agency, all costs and fees associated with preparing any other checks, notices, reports, or filings
12 to be prepared in the course of administering disbursements from the Net Settlement Amount, and
13 any other costs and fees incurred and/or charged by the Settlement Administrator in connection
14 with the execution of its duties under this Agreement ("Settlement Administration Costs"), shall
15 be paid to the Settlement Administrator from the Gross Settlement Amount.

16 **Section 3.04: Notice to Class Members**

17 No later than ten (10) business days after the Preliminary Approval Date, Defendants will
18 provide the Settlement Administrator with a "Class List" in electronic format based on its
19 business records, identifying the names of the Class Members, their last known home addresses,
20 Social Security numbers or, as applicable, other taxpayer identification number, and their dates of
21 employment

22 Within ten (10) business days of receiving a Class List from Defendants, the Settlement
23 Administrator will send Class Members, by first-class mail, at their last known address, the Court
24 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of
25 the Settlement Class. The Notice Packet will include a calculation of the Class Member's
26 approximate share of the Net Settlement Amount. Class Members will have sixty (60) days from
27 the date of mailing in which to postmark objections or requests for exclusion. Prior to the initial
28 mailing, the Settlement Administrator will check all Class Member addresses against the National

1 Change of Address database and shall update any addresses before mailing. The Settlement
2 Administrator will skip trace and re-mail all returned, undelivered mail within five (5) days of
3 receiving notice that a Notice Packet was undeliverable. If a Class Member's notice is re-mailed,
4 the Class Member shall have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar
5 days from the date of the initial mailing, whichever is later, in which to postmark objections or
6 requests for exclusion. Class Members shall not be required to submit claim forms in order to
7 receive a proportional share of the Net Settlement Amount.

8 If the Notice Packet is returned with a forwarding address, the Settlement Administrator
9 shall re-mail the Notice Packet to the forwarding address. With respect to those Class Members
10 whose Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
11 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
12 or mass search on LexisNexis or comparable databases based on set criteria and, if another
13 address is identified, shall mail the Notice Packet to the newly identified address. It is the intent
14 of the parties that reasonable means be used to locate Class Members and that the Settlement
15 Administrator be given discretion to take steps in order to facilitate notice of the Settlement and
16 delivery of the Individual Settlement Payments to all Participating Class Members and Individual
17 PAGA Settlement Payments to all PAGA Group Members.

18 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own
19 records and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part
20 of a weekly status report provided to the Parties.

21 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar
22 days after the Notice Packet was initially mailed, the Settlement Administrator will not mail the
23 Class Member's Individual Settlement Payment and/or Individual PAGA Settlement Payments.
24 The Settlement Administrator will hold the Class Member's Individual Settlement Payment
25 and/or Individual PAGA Settlement Payments during the check cashing period on behalf of the
26 Class Member. If at the conclusion of the check cashing period the Class Member's Notice
27 Packet and Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed,
28

1 the Settlement Administrator will distribute the funds from unclaimed/uncashed checks in
2 accordance with the procedures set forth in Section 3.07(g) below.

3 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
4 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
5 attesting to completion of the notice process, including any attempts to obtain valid mailing
6 addresses for and re-sending of any returned Notice Packets, as well as the number of valid
7 requests for exclusion and objections that the Settlement Administrator received.

8 **Section 3.05: Responses to Notice**

9 **a. Class Member Disputes**

10 If any Class Member or PAGA Group Member disagrees with Defendants' records as to
11 his or her Qualifying Workweeks and/or Qualifying Pay Periods as reflected in the Notice Packet,
12 the Class Member shall set forth in writing the Qualifying Workweeks and/or Qualifying Pay
13 Periods and submit such writing to the Settlement Administrator by the Response Deadline, along
14 with any supporting documentation. The Notice will also provide a method for the Class Member
15 or PAGA Group Member to challenge the employment data on which his or her Individual
16 Settlement Payment and Individual PAGA Settlement Payment are based. The Settlement
17 Administrator shall contact the Parties regarding the dispute and the Parties and the Settlement
18 Administrator will work in good faith to resolve it. The Settlement Administrator's determination
19 of the Qualifying Workweeks and/or Qualifying Pay Periods shall be final and not appealable or
20 otherwise susceptible to challenge.

21 **b. Requests for Exclusion from Class**

22 In order for any Class Member to validly exclude himself or herself from the Class and
23 this Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the
24 Class Member or his or her authorized representative, and must be sent to the Settlement
25 Administrator, postmarked no later than the Response Deadline (or fifteen (15) days after the
26 Settlement Administrator re-mails the Notice to the Class Member, whichever is later). The
27 Notice Packet shall contain instructions on how to validly exclude himself or herself from the
28 Class and this Settlement (*i.e.*, opt out), including the language to be used in a request for

1 exclusion. The date of the initial mailing of the Notice Packet, and the date the signed request for
2 exclusion was postmarked, shall be conclusively determined according to the records of the
3 Settlement Administrator. Any Class Member who timely and validly requests exclusion from the
4 Class and this Settlement will not be entitled to any Individual Settlement Payment, will not be
5 bound by the terms and conditions of this Agreement, and will not have any right to object,
6 appeal, or comment thereon. Any Class Member who is also a PAGA Group Member will still
7 receive their Individual PAGA Settlement Amount and will still be bound by the Released PAGA
8 Claims set forth in Section 5.03 even if they opt out of this Settlement. PAGA Group Members
9 cannot opt out of the PAGA portion of the settlement.

10 Any Class Member who fails to timely submit a request for exclusion shall automatically
11 be deemed a Class Member whose rights and claims with respect to the issues raised in the Action
12 are determined by the Court's Final Order Approving Settlement of Class Action, and by the
13 other rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the
14 Action and/or released in this Agreement will be extinguished.

15 **c. Objections to Settlement**

16 For any Class Member to object to this Agreement, or any term of it, the person making
17 the objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to
18 the Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen
19 (15) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever
20 is later), a written statement of the grounds of objection, signed by the objecting Class Member or
21 his or her attorney, along with all supporting papers. The date of the initial mailing of the Notice
22 Packet, and the date the signed objection was postmarked, shall be conclusively determined
23 according to the records of the Settlement Administrator. The Settlement Administrator shall send
24 any objections it receives to Defense Counsel and Class Counsel within three (3) business days of
25 receipt. Class Members may also appear at the final approval hearing to object. The Court retains
26 final authority with respect to the consideration and admissibility of any Class Member
27 objections.

1 **d. Encouragement of Class Members**

2 The Parties to this Agreement and the counsel representing such Parties shall not, directly
3 or indirectly, through any person, encourage or solicit any Class Member to exclude him or
4 herself from this Settlement (opt out), or to object to it. However, Class Counsel may respond to
5 inquiries from Class Members.

6 **e. Right of Defendants to Alter Class Period Ending Date**

7 Defendants have estimated the number of Qualifying Workweeks is 96,891. If the number
8 of Qualifying Workweeks increases by more than 10% (i.e., more than 106,580 Qualifying
9 Workweeks) as of the end of the Class Period – up to and including February 14, 2024, then
10 Defendants will have the option of adjusting the class period to reflect the date when the
11 Qualifying Workweeks reaches 106,580 or agree to pay a pro rata adjustment to the Gross
12 Settlement Amount in the amount of \$30.96 per additional Qualifying Workweek. In no event
13 will Plaintiff be entitled to make the option to increase the gross settlement amount based upon an
14 increase in workweeks.

15 **Section 3.06: Final Fairness and Approval Hearing**

16 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
17 Fairness and Approval Hearing shall be held before the Court in order to (1) review this
18 Agreement and determine whether the Court should give it final approval, and (2) consider any
19 objections made and all responses by the Parties to such objections. At the Final Fairness and
20 Approval Hearing, the Parties shall ask the Court to grant final approval to this Agreement and
21 shall submit to the Court a Proposed Final Order Approving Settlement of Class Action.

22 **Section 3.07: Settlement Payment Procedures**

23 **a. Settlement Amount**

24 In exchange for the Released Claims set forth in this Agreement, Defendants agrees to pay
25 the Gross Settlement Amount in the amount of Three Million Dollars and Zero Cents
26 (\$3,000,000.00), subject to a possible pro rata increase under the condition set forth in Section
27 3.05(e) at Defendants' options. The Gross Settlement Amount includes all Individual Settlement
28 Amounts to Participating Class Members, Individual PAGA Settlement Payments to PAGA

1 Group Members, all Settlement Administration Costs, Class Counsel's attorney's fees and costs,
2 the LWDA Payment, and the Incentive Payment.

3 Within fifteen (15) calendar days after the Court signs the Final Order, Defendants shall
4 transfer the Gross Settlement Amount plus Defendants' share of employer-side payroll taxes, as
5 set forth herein, into a QSF established by the Settlement Administrator either directly or by
6 sending the funds to the Settlement Administer to be deposited and distributed. The Settlement
7 Administrator will use these funds to fund payment of the Individual Settlement Payments to
8 Participating Class Members, the Individual PAGA Settlement Payments to PAGA Group
9 Members, Class Counsel's attorneys' fees and costs, the Incentive Award, the LWDA Payment,
10 and the Settlement Administration Costs.

11 Within ten (10) calendar days after receiving Defendants' payment, funding the Gross
12 Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement
13 Payments to Participating Class Members, Individual PAGA Settlement Payments to PAGA
14 Group Members, Class Counsel's attorneys' fees and costs, the LWDA Payment, the Incentive
15 Award, and employer and employee tax withholdings applicable to the Net Settlement Amount
16 allocated to wages. Prior to this distribution, the Settlement Administrator will perform a search
17 based on the National Change of Address Database to update and correct for any known or
18 identifiable address changes.

19 **b. Payment of Attorneys' Fees and Costs**

20 Class Counsel shall apply for an award of attorneys' fees of up to one-third of the Gross
21 Settlement Amount, which, based on the current Gross Settlement Amount, is One Million
22 Dollars and Zero Cents (\$1,000,000.00). Class Counsel shall submit an application for an award
23 of costs not to exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00). Such application for
24 attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing.
25 Defendants shall not object to or oppose any such application in these amounts. Class Counsel
26 shall serve Defendants with copies of all documents submitted in support of their application for
27 an award of attorneys' fees and costs.

Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys' fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs, and expenses related to the investigation, prosecution, and settlement of the Action incurred through the Date of Finality. The Court's adjustment, if any, to the requested amount of fees and/or costs, will not invalidate this Agreement. To the extent that the Court approves less than the amount of attorney's fees and/or costs that Class Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

c. Payment of Settlement Administration Costs

The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Nineteen Thousand Five Hundred Dollars (\$19,500.00).

d. Payment of Incentive Award to Named Plaintiff

Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Twenty Thousand Dollars and Zero Cents (\$20,000.00), the request for which Defendants will not object to or oppose. The Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s) other than Named Plaintiff. The Court's adjustment, if any, to the requested Incentive Award amount, will not invalidate this Agreement. To the extent that the Court approves less than the amount of incentive award, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

Because it is the intent of the Parties that the Incentive Award represent payment to Named Plaintiff for her service to the Class, and not wages, the Settlement Administrator will not withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099, which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing authorities as required by law.

e. Payment to the Labor and Workforce Development Agency

1 In consideration of claims made under PAGA, Class Counsel will request that the Court
2 approve allocation of One Hundred Thousand Dollars (\$100,000) of the Gross Settlement
3 Amount to these claims. Seventy-five percent (75%) of this payment will be paid to the California
4 Labor and Workforce Development Agency (“LWDA Payment”), and twenty-five percent (25%)
5 will be paid to the PAGA Group Members as their Individual PAGA Settlement Payment.
6 Defendants will not oppose this request. The entire PAGA Settlement Amount will be paid out of
7 the Gross Settlement Amount. The Court’s adjustment, if any, of the amount allocated to the
8 PAGA claim in the Actions, will not invalidate this Agreement.

9 **f. Payment of Individual Settlement Payments and Individual PAGA**
10 **Settlement Payments**

11 The Parties agree that the Net Settlement Amount shall be used to fund Individual
12 Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between
13 all Participating Class Members in proportion to the number of individual Qualifying Workweeks
14 for each Class Member. To calculate the minimum amount each Class Member will receive based
15 on their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the
16 total number of Qualifying Workweeks by all Class Members during the Class Period and then
17 allocated on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer.
18 Each Class Member’s approximate Individual Settlement Payment amount will be included in his
19 or her Notice Packet. After final approval by the Court, the Net Settlement Amount will be
20 dispersed to Participating Class Members (those who did not exclude themselves) on a pro rata
21 basis based on the individual Qualifying Workweeks worked during the Class Period by each
22 Participating Class Member.

23 The PAGA Settlement Amount to be distributed to PAGA Group Members shall be
24 divided between all PAGA Group Members in proportion to the number of individual Qualifying
25 Pay Periods that each PAGA Group Member worked during the PAGA Period. To calculate the
26 minimum amount each PAGA Group Member will receive based on their individual pay periods,
27 25% of the PAGA Settlement Amount (or \$25,000) will be divided by the total number of
28 Qualifying Pay Periods and then allocated on a pro rata basis. Pay periods will be rounded up to

1 the next whole integer. Each PAGA Group Member's approximate Individual PAGA Settlement
2 Payment will be included in his or her Notice Packet. After final approval by the Court, the
3 PAGA Settlement Amount will be dispersed to all PAGA Group Members on a pro rata basis
4 based on the individual Qualifying Pay Periods worked during the PAGA Period by each PAGA
5 Group Member.

6 Each Individual Settlement Payment will represent wages and penalties allocated using
7 the following formula: 20% allocated to wages; 80% allocated to interest and penalties. Payments
8 for the PAGA Settlement Amount will be allocated as 100% penalties. The amounts paid as
9 wages shall be subject to all tax withholdings customarily made from an employee's wages and
10 all other authorized and required withholdings and shall be reported by W-2 forms. The
11 Settlement Administrator will calculate employer-side taxes and this amount will be paid separate
12 from and in addition to the Gross Settlement Amount. The amounts paid as penalties and interest
13 shall be subject to all authorized and required withholdings other than the tax withholdings
14 customarily made from employees' wages and shall be reported by IRS 1099 forms.

15 No later than ten (10) business days after receiving the Gross Settlement Amount from
16 Defendants, the Settlement Administrator shall prepare and mail the checks for the Individual
17 Settlement Payments to Participating Class Members and Individual PAGA Settlement Payments
18 to PAGA Group Members. Individual Settlement Payments paid from the Net Settlement Amount
19 allocated to wages will be reduced by applicable employer and employee tax withholdings, and
20 the Settlement Administrator will issue a Form W-2 for the wage portion of the Individual
21 Settlement Payments. The Settlement Administrator will issue a Form 1099 to the extent required
22 by law for the interest and penalty portions of the Individual Settlement Payments and Individual
23 PAGA Settlement Payments. Class Members shall have 180 days from the date their Individual
24 Settlement Payment checks and Individual PAGA Settlement Payment checks are dated to cash
25 their Settlement checks. Any checks that are not cashed upon the expiration of that 180-day time
26 period will be void, and the uncashed funds shall be in accordance with section 384 of the
27 California Code of Civil Procedure, as amended, to the Manteca Children's Foundation -
28 <https://mcf4kids.org/>, the non-profit organization that the Parties have agreed will receive any

1 remaining, unclaimed funds (the “Cy Pres Recipient”), subject to Court approval. The Parties,
2 Class Counsel, and Defense Counsel represent that they have no interest or relationship, financial
3 or otherwise, with the intended Cy Pres Recipient.

4 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
5 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
6 or a mass search on LexisNexis or a comparable databases based on set criteria and, if another
7 address is identified, the Settlement Administrator shall mail the check to the newly identified
8 address. If the Settlement Administrator is unable to obtain a valid mailing address through this
9 process, the Settlement Administrator will tender the funds from the undeliverable checks to the
10 State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds
11 are designated.

12 **g. Default on Payment and Cure.**

13 Defendants’ failure to fund the Gross Settlement Amount within sixty (60) calendar days
14 after the date that the Court grants final approval of the Settlement shall be considered a default.
15 In the event Defendants fails to timely fund the Gross Settlement Amount, the Settlement
16 Administrator will provide notice to Class Counsel and Defendants counsel within three (3)
17 business days of the missed payment. Thereafter, Defendants will have seven (7) days to cure the
18 default and tender payment to the Settlement Administrator although the Parties may, by
19 agreement, extend that seven (7) grace period for an additional seven (7) days upon Defendants'
20 showing of good cause for the needed additional time. In the event Defendants fails to cure the
21 default within the times set forth herein, Named Plaintiff may elect to enter judgment against
22 Defendants, on an *ex parte* basis.

23 **h. No Credit Toward Benefit Plans.**

24 The Individual Settlement Payments made to Participating Class Members under this
25 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized
26 to calculate any additional benefits under any benefit plans to which any Class Members currently
27 participate or participated during the Class Period, including, but not limited to: profit-sharing
28 plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO

1 plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement will not
2 affect any rights, contributions, or amounts, nor does this Agreement add to any contributions or
3 amounts to any Class Members benefit plans.

4 **ARTICLE IV**

5 **LIMITATIONS ON USE OF THIS SETTLEMENT**

6 **Section 4.01: No Admission**

7 Defendants dispute the allegations in the Actions and disputes that, but for this Settlement,
8 a Class should not have been certified in the Actions. This Agreement is entered into solely for
9 the purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be
10 construed as an admission of liability or wrongdoing by Defendants.

11 **Section 4.02: Non-Evidentiary Use**

12 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms,
13 nor the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as,
14 or deemed to be evidence for any purpose adverse to Defendants or any other of the Released
15 Parties, including but not limited to, evidence of a presumption, concession, indication, or
16 admission by any of the Released Parties of any liability, fault, wrongdoing, omission,
17 concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the
18 Released Parties in any further proceeding in the Actions, except for the purposes of effectuating
19 the Settlement pursuant to this Agreement or for Defendants to establish that a Class Member has
20 resolved any of his or her claims released through this Agreement.

21 **Section 4.03: Nullification**

22 The Parties have agreed to the certification of the Class encompassing all claims alleged
23 in the Actions for the sole purpose of effectuating this Agreement. If (a) the Court should for any
24 reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to
25 approve this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or
26 (d) the Final Order is reversed, or declared or rendered void, or (e) the Court should for any
27 reason fail to dispose of the Actions in its entirety, then (i) this Agreement shall be considered
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1 null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall
2 be of any force or effect; (iii) all Parties to this Agreement shall stand in the same position,
3 without prejudice, as if the Agreement had been neither entered into nor filed with the Court; and
4 (iv) the Parties will report to the Court in the Federal Action that the Actions did not settle and
5 request that the Court lift the stay imposed in the Federal Action and, by operation of this
6 Agreement, the First Amended Complaint in the State Action is void; (v) the fact that the Parties
7 were willing to stipulate to class certification of all causes of action pled in the Action as part of
8 the Settlement will have no bearing on, and will not be admissible in connection with, the issue of
9 whether the Class should be certified by the Court in a non-settlement context in this Action or
10 any other action, and in any of those events, Defendants expressly reserves the right to oppose
11 certification of the Class.

12 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and
13 the Gross Settlement Amount shall not be distributed pending the completion of the appeal.

14 **Section 4.04: Cancellation of Settlement Agreement**

15 Within fifteen (15) calendar days of the Response Deadline, as defined in the Court's
16 order granting preliminary approval of the Agreement, Defendants have the option, in their sole
17 discretion, to void the Agreement in its entirety if ten percent (10%) or more of all individuals
18 eligible to be Participating Class Members submit timely and valid Requests for Exclusion or are
19 otherwise deemed by the Court not to be bound by the Agreement.

20 **ARTICLE V**

21 **RELEASES**

22 **Section 5.01: Released Claims by Class Members**

23 Upon the date Defendants fund the Gross Settlement Amount, Named Plaintiff and
24 Participating Class Members who do not opt out of the Settlement, release the Released Parties
25 from all "Released Claims" as defined in ARTICLE I, subsection jj. For purposes of this Release,
26 Released Parties includes all identified individuals and entities identified in ARTICLE I,
27 subsection ll.
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1 **Section 5.02: General Release by Named Plaintiff of Unknown Claims**

2 Upon the date Defendants fund the Gross Settlement Amount, Named Plaintiff waives,
3 releases, acquits, and forever discharges the Released Parties as defined in ARTICLE I,
4 subsection II, from any and all claims, actions, charges, complaints, grievances, and causes of
5 action, of any nature arising from Named Plaintiff's employment with Defendant, whether known
6 or unknown, which exist or may exist as of the Parties' execution of this Agreement. Section
7 1542 of the California Civil Code provides as follows:

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

13 Named Plaintiff's general release provided herein is made with an express waiver and
14 relinquishment of any claim, right, or benefit under California Civil Code § 1542.

15 This General Release shall not in any way impact, affect, modify, and/or release any of
16 the claims and/or causes of action asserted in Plaintiff's separate lawsuit, entitled *Xenia De Alba*
17 *v. Cogir Management USA, Inc.*, Case No. STK-CV-UOE-2022-11818, which is pending in the
18 San Joaquin Superior Court.
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1 **Section 5.03: Released Claims by PAGA Group Members**

2 Upon the date Defendants fund the Gross Settlement Amount, Plaintiff, the State of
3 California, and PAGA Group Members release the Released Parties, as defined in ARTICLE I,
4 subsection ll from all Released PAGA claims, as defined in ARTICLE I, subsection jj, which
5 were exhausted in Plaintiff's June 30, 2022 notice sent to the LWDA and alleged in the Actions,
6 which arose during the PAGA Period, regardless of whether PAGA Group Members opt out of
7 the Class Settlement.

8 **ARTICLE VI**
9 **MISCELLANEOUS PROVISIONS**

10 **Section 6.01: Amendments or Modification**

11 The terms and provisions of this Agreement may be amended or modified only by an
12 express written agreement that is signed by all the Parties (or their successors-in-interest) and
13 their counsel and approved by the Court.

14 **Section 6.02: Assignment**

15 None of the rights, commitments, or obligations recognized under this Agreement may be
16 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express
17 written consent of each other Party and their respective counsel. The representations, warranties,
18 covenants, and agreements contained in this Agreement are for the sole benefit of the Parties
19 under this Agreement and shall not be construed to confer any right or to avail any remedy to any
20 other person.

21 **Section 6.03: Governing Law**

22 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
23 shall be determined, in accordance with the laws of the State of California, without regard to
24 conflicts of laws.

25 **Section 6.04: Entire Agreement**

26 This Agreement, including the Exhibits referred to herein, which form an integral part
27 hereof, contains the entire understanding of the Parties with respect to the subject matter
28 contained herein. In case of any conflict between text contained in Articles I through VI of this

1 Agreement and text contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I
2 through VI) shall be controlling, unless the Exhibits are changed by or in response to a Court
3 order. There are no restrictions, promises, representations, warranties, covenants, or undertakings
4 governing the subject matter of this Agreement other than those expressly set forth or referred to
5 herein. This Agreement supersedes all prior agreements and understandings among the Parties
6 with respect to the settlement of the Action, including correspondence between Class Counsel and
7 Defense Counsel and drafts of prior agreements or proposals.

8 **Section 6.05: Waiver of Compliance**

9 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
10 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly
11 waived in writing, to the extent permitted under applicable law, by the Party or Parties and their
12 respective counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A
13 waiver or failure to insist upon strict compliance with any representation, warranty, covenant,
14 agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any
15 subsequent or other failure.

16 **Section 6.06: Counterparts and Fax/PDF Signatures**

17 This Agreement, and any amendments hereto, may be executed in any number of
18 counterparts and any Party and/or their respective counsel may execute any such counterpart,
19 each of which when executed and delivered shall be deemed to be an original. All counterparts
20 taken together shall constitute one instrument. A fax or PDF signature on this Agreement shall be
21 as valid as an original signature.

22 **Section 6.07: Meet and Confer Regarding Disputes**

23 Should any dispute arise among the Parties or their respective counsel regarding the
24 implementation or interpretation of this Agreement, a representative of Class Counsel and a
25 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes
26 prior to submitting such disputes to the Court.

1 **Section 6.08: Agreement Binding on Successors**

2 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
3 of each of the Parties.

4 **Section 6.09: Cooperation in Drafting**

5 The Parties have cooperated in the negotiation and preparation of this Agreement. This
6 Agreement will not be construed against any Party on the basis that the Party, or the Party's
7 counsel, was the drafter or participated in the drafting of this Agreement.

8 **Section 6.10: Fair and Reasonable Settlement**

9 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement
10 of the Action and have arrived at this Agreement through arm's-length negotiation and in the
11 context of adversarial litigation, taking into account all relevant factors, current and potential. The
12 Parties further believe that the Settlement is and is consistent with public policy, and fully
13 complies with applicable law.

14 **Section 6.11: Headings**

15 The descriptive heading of any section or paragraph of this Agreement is inserted for
16 convenience of reference only and does not constitute a part of this Agreement and shall not be
17 considered in interpreting this Agreement.

18 **Section 6.12: Notice**

19 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
20 communications under this Agreement must be in writing and addressed as follows:

21 *To Named Plaintiff and the Class:*

22 Kashif Haque
23 Samuel A. Wong
24 Jessica L. Campbell
25 Kristy R. Connolly
26 AEGIS LAW FIRM, PC
27 9811 Irvine Center Drive, Suite 100
28 Irvine, California 92618
29 Telephone: (949) 379-6250
30 Facsimile: (949) 379-6251
31 kconnolly@aegislawfirm.com

32 And

To Defendants:

Diane Marie O'Malley
Matthew Seipel
Danielle C. Cepeda
HANSON BRIDGETT LLP
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366

Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction

To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Actions or the liability of the Parties resulting from the allegations of the Actions. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over this State Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Section 6.14: Mutual Full Cooperation

The Parties agree fully to cooperate with each other to accomplish the terms of this Agreement, including but not limited to the execution of such documents, and the taking of such other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its terms. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

1 **Section 6.15: Authorization to Act**

2 Class Counsel warrants and represents that they are authorized by Named Plaintiff, and
3 Defense Counsel warrants that they are authorized by Defendants, to take all appropriate action
4 required to effectuate the terms of this Agreement, except for signing documents, including but
5 not limited to this Agreement, that are required to be signed by the Parties themselves.
6 Defendants represents and warrants that the individual executing this Agreement on its behalf has
7 the full right, power, and authority to enter into this Agreement and to carry out the transactions
8 contemplated herein.

9 **Section 6.16: No Reliance on Representations**

10 The Parties have made such investigation of the facts and the law pertaining to the matters
11 described herein and to this Agreement as they deem necessary, and have not relied, and do not
12 rely, on any statement, promise, or representation of fact or law, made by any of the other parties,
13 or any of their agents, employees, attorneys, or representatives, with regard to any of their rights
14 or asserted rights, or with regard to the advisability of entering into and executing this Agreement,
15 or with respect to any other matters. No representations, warranties, or inducements, except as
16 expressly set forth herein, have been made to any party concerning this Agreement.

17 **Section 6.17: Circular 230 Disclaimer**

18 Each party to this agreement acknowledges and agrees that no provision of this
19 agreement, and no written communication or disclosure between or among the parties or their
20 attorneys and other advisers, is or was intended to be, nor will any such communication or
21 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
22 United States Treasury Department Circular 230 (31 CFR Part 10, as amended).

23 **Section 6.18: Media Restrictions**

24 The Parties and their counsel agree that they will not issue any press releases or initiate
25 any contact with the media about the fact, amount, or terms of the settlement. Unless required by
26 applicable law, neither the Named Plaintiff nor her counsel shall publicize the terms of this
27 Agreement in any medium, or initiate or issue any press release or have any communications to
28 the press or media concerning the lawsuit, the settlement of the lawsuit, and/or this Agreement,

1 except as posted by the Settlement Administrator as ordered by the Court. The Named Plaintiff's
2 counsel shall not include, and shall affirmatively remove, any reference to any of the foregoing
3 subjects in any advertising, mass mailing, website, or other communication. If counsel for either
4 party receives an inquiry about the settlement from the media, counsel may respond only after the
5 motion for preliminary approval has been filed and only by confirming the terms of the
6 Agreement. Notwithstanding the foregoing, nothing will prevent Class Counsel from
7 communicating with Class Members as necessary to fulfill their obligations as Class Counsel and
8 nothing in this Section shall prohibit Class Counsel from including publicly available information
9 in their declarations describing their qualifications as counsel in other cases.

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11 **[SIGNATURES CONTINUE ON NEXT PAGE.]**
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EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 07/19/2024

XENIA CESILIA DE ALBA

By: *Xenia Cesilia De Alba*
Xenia Cesilia De Alba (Jul 19, 2024 14:36 PDT)
Named Plaintiff

Dated: _____

COGIR MANAGEMENT USA INC.

By: _____
(Signature)

(Printed Name)

(Title)

Dated: _____

WELLTOWER COGIR TENANT, LLC.

By: _____
(Signature)

(Printed Name)

(Title)

APPROVED AS TO FORM ONLY:

Dated: July 19, 2024

AEGIS LAW FIRM, PC

By: *Kristy Connolly*
Kristy R. Connolly

Attorneys for Named Plaintiff Xenia
Cesilia De Alba

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EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____

XENIA CESILIA DE ALBA

By: _____
Named Plaintiff

Dated: _____

COGIR MANAGEMENT USA INC.

By: 
(Signature)
David Eskenazy
(Printed Name)
CEO
(Title)

Dated: 7/15/2024

WELLTOWER COGIR TENANT, LLC.

By: 
(Signature)
Sharon Makowsky
(Printed Name)
Authorized Signatory
(Title)

APPROVED AS TO FORM ONLY:

Dated: _____

AEGIS LAW FIRM, PC

By: _____
Kristy R. Connolly

Attorneys for Named Plaintiff Xenia
Cesilia De Alba

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Dated:

July 15, 2024

HANSON BRIDGETT LLP

By:


Diane Marie O'Malley

Attorneys for Defendants Cogir
Management USA Inc. Welltower Cogir
Tenant LLC