

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

2 This Class Action and PAGA Settlement Agreement and Release (“Agreement”) is
3 entered into by and between Mario Erazo (“Erazo”) and Pedro Hernandez (“Hernandez”)
4 (together, “Plaintiffs”), on the one hand, individually and on behalf of the Class to be certified for
5 settlement purposes only, the PAGA Group, and the State of California, and on the other hand,
6 Restoration Hardware, Inc. (“RH” or “Defendant”), subject to the approval of the Court.
7 Plaintiffs and Defendant collectively are referred to herein as the “Parties.” In consideration of
8 the promises and mutual covenants and agreements herein contained, the Parties hereby covenant
9 and agree as follows:

10 **1. RECITALS**

11 1.1 On June 9, 2022, Mario Erazo and Pedro Hernandez filed a putative class action
12 complaint (the “Complaint”) against Defendant in the Superior Court of the State of California,
13 County of San Bernardino, entitled *Erazo, et al. v. Restoration Hardware, Inc.*, Case
14 No. CIVSB2211655 (the “Action”). Plaintiffs alleged various Labor Code violations based on
15 their theory that they were improperly classified as independent contractors and should have been
16 classified as employees.

17 1.2 Specifically, Plaintiffs’ Complaint alleged claims for: (1) declaratory relief;
18 (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide meal
19 breaks; (5) failure to provide rest breaks; (6) failure to pay all wages upon discharge; (7) failure to
20 maintain adequate records; (8) failure to reimburse for necessary business expenses; (9) unlawful
21 deductions from wages; (10) failure to provide adequate wage statements; (11) unfair
22 competition; and (12) intentional misclassification. On September 16, 2022, Plaintiffs attempted
23 to file a First Amended Complaint to add a claim for civil penalties pursuant to the Labor Code
24 Private Attorneys General Act of 2004 (Lab. Code, § 2698, et seq.; “PAGA”), but the Court did
25 not allow the filing because leave of court to file the First Amended Complaint was not granted.

26 1.3 On August 15, 2022, Defendant filed its answer to the Complaint, generally
27 denying all of the allegations contained in the Complaint and asserting a number of affirmative
28 defenses. Defendant also attempted to file an answer to Plaintiffs’ First Amended Complaint, but

1 given that the filing of the First Amended Complaint was rejected by the Court, the Court also did
2 not allow the filing of Defendant's answer to the First Amended Complaint (per the notice of
3 return of document(s), dated February 6, 2023).

4 1.4 At the end of 2022, following class certification rulings in a related action—*Carlos*
5 *Hernandez, et al. v. Restoration Hardware, Inc., et al.*, San Bernardino Case No. CIVDS1723322
6 (filed November 27, 2017) ("*Hernandez*")—the Parties to this Action and *Hernandez* agreed to
7 explore the possibility of a private mediation, to see if they could reach a settlement before
8 investing significant additional time and expense in litigation. The Parties scheduled an in-person
9 mediation with renowned mediator Antonio Piazza for August 16, 2023.

10 1.5 Before the mediation, RH provided Plaintiffs with route data and other requested
11 information (including information on the various third-party logistics providers RH contracted
12 with during the relevant period) and the Parties conducted a diligent investigation into the facts of
13 the Action. In these and other ways, the Parties investigated the facts and analyzed the relevant
14 legal issues regarding the claims in the Action and Defendant's defenses to them. Based on this
15 investigation and analysis, Plaintiffs believe the Action has merit, while Defendant believes the
16 Action has no merit.

17 1.6 On August 16, 2023, the Parties participated in a mediation of the Action before
18 Antonio Piazza, together with *Hernandez* and one other lawsuit also pending in San Bernardino
19 Superior Court—*Joel Serrano, et al. v. HomeDeliveryLink, Inc.*, Case No. CIVDS1715974 (filed
20 August 17, 2017). With Mr. Piazza's assistance, the Parties reached a global agreement to
21 resolve all three lawsuits in their entirety.

22 1.7 The Parties have each considered the uncertainties of continued litigation and the
23 benefits to be obtained under the proposed settlement, and have considered the costs, risks, and
24 delays associated with the continued prosecution of the Action and the likely appeals of any
25 rulings in favor of any of the Plaintiffs or Defendant.

26 1.8 The Parties, through their counsel, have engaged in arm's-length negotiations
27 concerning a resolution of the Action, Released Class Claims, and Released PAGA Claims.
28

1 1.9 It is the Parties’ intention and the objective of this Agreement to avoid the costs of
2 further litigation and trial, and to settle and dispose of, fully and completely and forever, the
3 claims released herein and described below.

4 **2. DEFINITIONS**

5 As used in this Agreement, the terms set forth in this Section 2 shall have the meanings
6 ascribed to them below.

7 2.1 **Action.** “Action” means the above-captioned action entitled *Mario Erazo and*
8 *Pedro Hernandez v. Restoration Hardware, Inc.*, Case No. CIVSB2211655 (filed June 9, 2022),
9 currently pending in the Superior Court of the State of California, County of San Bernardino.

10 2.2 **Agreement.** “Agreement” means this Class Action and PAGA Agreement and
11 Release, including all Exhibits referred to herein and attached hereto.

12 2.3 **Allocations.** “Allocations” means the amounts to be paid from the Net Settlement
13 Sum to the Settlement Class Members and from the PAGA Fund to the PAGA Group Members,
14 as provided in Section 4.7 of this Agreement.

15 2.4 **Class Counsel.** “Class Counsel” means Marlin & Saltzman LLP and its attorneys
16 Alan S. Lazar, Cody R. Kennedy, Stephen P. O’Dell, and Tatiana G. Avakian and The Hamideh
17 Firm, P.C. and its attorney Bassil Hamideh.

18 2.5 **Class Members or Class.** “Class Members” or “Class” means all drivers and
19 helpers who were cleared to deliver RH merchandise on behalf of third-party logistics providers
20 (i.e., freight forwarders) in California at any time during the Class Period.

21 2.6 **Class Settlement Notice.** “Class Settlement Notice” means the Notice of
22 Settlement of Class Action to be mailed to Class Members. The Class Settlement Notice shall be
23 substantially in the form of **Exhibit A** hereto.

24 2.7 **Class Period.** “Class Period” means from August 8, 2020 to and including
25 June 12, 2024, the date initially scheduled for the hearing on Plaintiffs’ motion for Preliminary
26 Approval. The Class Period in *Erazo* commences on the day following the close of the
27 *Hernandez* class period.
28

1 2.8 **Class Settlement.** “Class Settlement” means the settlement and resolution of all
2 Released Class Claims, as defined in Section 2.57, below.

3 2.9 **Class Settlement Award.** “Class Settlement Award” means the amount that the
4 Settlement Administrator determines is owed to a Settlement Class Member pursuant to the Plan
5 of Allocation described in Section 4.7, below. The “Class Settlement Award” shall be comprised
6 of the following: (1) the Individual Settlement Share For Drivers, and/or (2) the Individual
7 Settlement Share for Helpers.

8 2.10 **Complaints.** “Complaints” means the Complaint filed in the Action and First
9 Amended Complaint to be filed in the Action.

10 2.11 **Counsel for Defendant.** “Counsel for Defendant” means Davis Wright Tremaine
11 LLP.

12 2.12 **Court.** “Court” means the Superior Court of the State of California, County of
13 San Bernardino.

14 2.13 **Defendant.** “Defendant” means RH.

15 2.14 **DispatchTrack Data.** “DispatchTrack Data” means any data from the
16 DispatchTrack system that was either produced in advance of the mediation of this Action, or that
17 is in the possession, custody, or control of Defendant, pertaining to the deliveries of Restoration
18 Hardware merchandise by Driver Class Members and/or Driver PAGA Group Members on behalf
19 of third-party logistics providers (i.e., freight forwarders) in California during the Class Period
20 and/or PAGA Period.

21 2.15 **Driver or Drivers.** “Driver” or “Drivers” means those Class Members who were
22 cleared to work as drivers delivering Restoration Hardware merchandise on behalf of third-party
23 logistics providers (i.e., freight forwarders) in California during the Class Period.

24 2.16 **Drivers Class Fund.** “Drivers Class Fund” means half of the Net Settlement Sum
25 (which shall be split evenly between the Drivers Class Fund and Helpers Class Fund). The
26 Drivers Class Fund will be split proportionally among Drivers based on their individual Drivers
27 Workweeks.

1 2.17 **Drivers PAGA Fund.** “Drivers PAGA Fund” means half of the 25% of the total
2 PAGA Amount. The Drivers PAGA Fund will be split proportionally among Drivers based on
3 their individual Drivers PAGA Pay Periods.

4 2.18 **Effective Date.** “Effective Date” means either (a) the date sixty (60) days after the
5 entry of the Final Approval Order and Judgment, if the LWDA has raised no objections and if no
6 motions for reconsideration and no appeals or other efforts to obtain review have been filed, or
7 (b) in the event that the LWDA objects or a motion for reconsideration, an appeal, or other effort
8 to obtain review of the Final Approval Order and Judgment have been filed, the date sixty (60)
9 days after such objection, reconsideration, appeal, or review has been finally concluded and is no
10 longer subject to review, whether by appeal, petition for rehearing, petition for review or
11 otherwise.

12 2.19 **Erazo.** “Erazo” means Plaintiff Mario Erazo.

13 2.20 **Fee and Expense Award.** “Fee and Expense Award” means such award of
14 attorneys’ fees and costs/expenses as the Court may authorize to be paid to Class Counsel for the
15 services they have rendered in the Action as contemplated in Section 3.5 of this Agreement.

16 2.21 **Final Approval Hearing.** “Final Approval Hearing” means the hearing at or after
17 which the Court will make a final decision on whether to grant Final Approval of the Settlement
18 as fair, reasonable, and adequate, implement the terms of this Agreement, and enter Judgment.
19 The Final Approval Hearing shall be scheduled for a date approximately ninety (90) days after the
20 Preliminary Approval Date.

21 2.22 **Final Approval or Judgment.** “Final Approval” or “Judgment” means the Final
22 Approval Order and Judgment finally certifying the Settlement Class and approving the
23 Settlement and this Agreement, as contemplated in Section 4.10 of this Agreement.

24 2.23 **Gross Settlement Amount.** “Gross Settlement Amount” means the maximum
25 total amount that Defendant shall be required to pay for any and all purposes under this
26 Agreement. The Gross Settlement Amount shall be \$6,000,000.00. The following shall be paid
27 from the Gross Settlement Amount pursuant to the Plan of Allocation set forth in Section 4.7,
28 below: (a) Class Settlement Awards, (b) PAGA Settlement Amount, (c) Withholdings and Taxes,

1 (d) Fee and Expense Award, (e) Service Payments, and (f) Settlement Administration Costs.

2 Under no circumstances shall Defendant pay any sum in excess of the Gross Settlement Amount
3 in connection with the Settlement.

4 2.24 **Helper or Helpers.** “Helper” or “Helpers” means those Class Members who were
5 cleared to work as helpers and/or third-men delivering Restoration Hardware merchandise on
6 behalf of third-party logistics providers (i.e., freight forwarders) in California during the Class
7 Period.

8 2.25 **Helpers Class Fund.** “Helpers Class Fund” means half of the Net Settlement
9 Sum (which shall be split evenly between the Drivers Class Fund and Helpers Class Fund). The
10 Helpers Class Fund will be split proportionally among Helpers based on the total number of
11 Helpers.

12 2.26 **Helpers PAGA Fund.** “Helpers PAGA Fund” means half of the 25% of the total
13 PAGA Amount. The Helpers PAGA Fund will be split proportionally among Helpers based on
14 the total number of Helpers.

15 2.27 **Hernandez.** “Hernandez” means Plaintiff Pedro Hernandez.

16 2.28 **Individual PAGA Share For Drivers.** “Individual PAGA Share For Drivers”
17 means the pro rata amount payable from the Drivers PAGA Fund, to each PAGA Group Member
18 who worked as a Driver.

19 2.29 **Individual Settlement Share For Drivers.** “Individual Settlement Share For
20 Drivers” means the pro rata amount payable from the Drivers Class Fund to each Settlement
21 Class Member who worked as a Driver.

22 2.30 **Individual Settlement Payment For Drivers.** “Individual Settlement Payment
23 For Drivers” means, applicable, the sum of the Individual Settlement Share For Drivers and the
24 Individual PAGA Share For Drivers.

25 2.31 **Individual PAGA Share For Helpers.** “Individual PAGA Share For Helpers”
26 means the pro rata amount payable from the Helpers PAGA Fund, to each PAGA Group Member
27 who worked as a Helper.
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1 2.32 **Individual Settlement Share For Helpers.** “Individual Settlement Share For
2 Helpers” means the pro rata amount payable from the Helpers Class Fund to each Settlement
3 Class Member who worked as a Helper.

4 2.33 **Individual Settlement Payment For Helpers.** “Individual Settlement Payment
5 For Helpers” means, applicable, the sum of the Individual Settlement Share For Helpers and the
6 Individual PAGA Share For Helpers.

7 2.34 **Net Settlement Sum.** “Net Settlement Sum” means the Gross Settlement Amount
8 less the following: (a) the Fee and Expense Award, (b) the PAGA Settlement Amount,
9 (c) employer-side portion of Withholdings and Taxes; (d) the Service Payments, and (e) the
10 Settlement Administration Costs.

11 2.35 **Notice Packet.** “Notice Packet” means the Class Settlement Notice and Request
12 for Exclusion (Form A) for all Class Members plus the Notice of Eligible Workweeks for Drivers
13 (Form B), all of which will be mailed to Class Members at the same time.

14 2.36 **Notice of Eligible Workweeks.** “Notice of Eligible Workweeks” means the form
15 (Form B) to be included with the Class Settlement Notice, substantially in the form of **Exhibit D**
16 hereto, wherein each Driver Class Member is notified of the Workweeks attributed to him or her,
17 and each Driver Class Member will have the opportunity to dispute the number of Workweeks
18 attributed to him or her.

19 2.37 **Notice Response Deadline.** “Notice Response Deadline” is forty-five (45)
20 calendar days from the date of initial mailing of the Notice Packet, or such other date set by the
21 Court in the Preliminary Approval Order, and is the date by which Requests for Exclusion,
22 Objections, and Notices of Eligible Workweeks must be submitted in order to be deemed timely.
23 In the event that a Notice Packet is re-mailed to a Class Member, the Notice Response Deadline
24 for that Class Member shall be extended by fifteen (15) calendar days from the date of the
25 original Notice Response Deadline.

26 2.28 **Objection.** “Objection” means a written statement submitted to the Settlement
27 Administrator by a Settlement Class Member objecting to the Settlement by the Notice Response
28 Deadline or an oral objection presented in Court (by the Settlement Class Member or an attorney

1 retained by the Settlement Class Member) at the Final Approval Hearing. An Objection must be
2 submitted in the manner and form described in Section 4.5, below.

3 **2.38 PAGA Fund.** “PAGA Fund” means 25% of the PAGA Settlement Amount,
4 which is the portion to be paid to PAGA Group Members.

5 **2.39 PAGA Group Members or PAGA Group.** “PAGA Group Members” or “PAGA
6 Group” means Plaintiffs and all other drivers and helpers who were cleared to deliver RH
7 merchandise on behalf of third-party logistics providers (i.e., freight forwarders) in California at
8 any time during the PAGA Period.

9 **2.40 PAGA Notice.** “PAGA Notice” means, collectively, the notice filed by Plaintiffs
10 Pedro Hernandez and Mario Erazo with the LWDA regarding Defendant on or about June 9,
11 2022.

12 **2.41 PAGA Pay Period Value For Drivers.** “PAGA Pay Period Value For Drivers”
13 means the dollar amount payable to PAGA Group Members who worked as drivers for each
14 Driver PAGA Pay Period that results from dividing the Drivers PAGA Fund by the total number
15 of Driver PAGA Pay Periods credited to all PAGA Group Members who worked as Drivers.

16 **2.42 PAGA Pay Period Value For Helpers.** “PAGA Pay Period Value For Helpers”
17 means the dollar amount payable to PAGA Group Members who worked as Helpers for each
18 Helpers PAGA Pay Period that results from dividing the Helpers PAGA Fund by the total number
19 of Helpers PAGA Pay Periods credited to all PAGA Group Members who worked as Helpers.

20 **2.43 PAGA Pay Periods.** “Pay Periods” means the total number of estimated pay
21 periods, assumed to be weekly, that all PAGA Group Members, collectively, worked or were
22 cleared to work delivering Restoration Hardware merchandise in California on behalf of Third-
23 Party Logistics Providers during the PAGA Period. Based on the data regarding Drivers and
24 what the Parties have agreed for Settlement purposes only is a reasonable estimate for Helpers
25 based on the information available, it is estimated that there are approximately 21,000 collective
26 Pay Periods in the PAGA Period.

27 **2.44 PAGA Pay Periods For Drivers.** “PAGA Pay Periods For Drivers” (or, “Driver
28 PAGA Pay Periods”) means the number of pay periods, assumed to be weekly, during the PAGA

1 Period that a PAGA Group Member, who worked as a driver cleared to deliver RH merchandise
2 in California on behalf of a third-party logistics provider on at least one day during the PAGA
3 Period. Any week during the PAGA Period in which a PAGA Group Member worked at least
4 one day as a driver according to the DispatchTrack Data will count as a Driver PAGA Pay Period.
5 All PAGA Group Members who worked as drivers will be credited with at least one Driver
6 PAGA Pay Period. The total number of Driver PAGA Pay Periods, worked collectively by all
7 Drivers during the PAGA Period, is estimated to be 10,500 .

8 **2.45 PAGA Pay Periods for Helpers.** “PAGA Pay Periods for Helpers” (or, “Helpers
9 PAGA Pay Periods”) means the same number of total number of PAGA Pay Periods for Drivers,
10 which the Parties agreed for Settlement purposes only is a reasonable estimate based on the
11 information available.

12 **2.46 PAGA Period.** “PAGA Period” means from June 9, 2021 to and including June
13 12, 2024.

14 **2.47 PAGA Settlement.** “PAGA Settlement” means the settlement and resolution of
15 the Released PAGA Claims as defined in Section 2.58, below.

16 **2.48 PAGA Settlement Amount.** “PAGA Settlement Amount” means \$180,000.00 or
17 such other amount approved by the Court, 75% of which is to be paid to the LWDA and 25% of
18 which is to form the PAGA Fund to be paid to PAGA Group Members as described in Section
19 4.7, below. The PAGA Settlement Amount is to be paid for resolution of the PAGA claims
20 alleged in the Action.

21 **2.49 PAGA Settlement Award.** “PAGA Settlement Award” means the amount that
22 the Settlement Administrator determines is owed to a PAGA Group Member pursuant to the Plan
23 of Allocation described in Section 4.7, below. The “PAGA Settlement Award” shall comprise of
24 the following: (1) the Individual PAGA Share For Drivers; and/or (2) the Individual PAGA Share
25 for Helpers.

26 **2.50 Parties.** “Parties” means Plaintiffs and Defendant (referred to individually as a
27 Party).

28 **2.51 Plaintiffs.** “Plaintiffs” means Erazo and Hernandez.

1 2.52 **Plan of Allocation.** “Plan of Allocation” means the manner in which the Net
2 Settlement Sum shall be allocated to Settlement Class Members and the PAGA Fund shall be
3 allocated to PAGA Group Members, as specified in Section 4.7, below.

4 2.53 **Preliminary Approval or Preliminary Approval Order.** “Preliminary
5 Approval” or “Preliminary Approval Order” means the order preliminarily approving the
6 Settlement, which shall, among other things, provisionally certify the Settlement Class for
7 purposes of the Settlement only; determine that Plaintiffs adequately represent the Settlement
8 Class and shall be its class representatives; appoint Class Counsel as counsel for the Settlement
9 Class; approve Simpluris, Inc. as the Settlement Administrator; approve the content and
10 distribution of the Class Settlement Notice, the Notice of Eligible Workweeks for Drivers form
11 (Form B) to Drivers, and Request for Exclusion form (Form A) to the Class Members; approve
12 the content and distribution of Publication Notice in the Publication Notice Plan, set the Notice
13 Response Deadline; and set the date for the Final Approval Hearing, all as contemplated in
14 Section 4.1 of this Agreement.

15 2.54 **Preliminary Approval Date.** “Preliminary Approval Date” means the date upon
16 which the Court enters the Preliminary Approval Order.

17 2.55 **Publication Notice.** “Publication Notice” means the form of information to be
18 provided to Class Members pursuant to the Publication Notice Plan.

19 2.56 **Publication Notice Plan.** “Publication Notice Plan” means the settlement
20 Publication Notice content and program developed by the Settlement Administrator substantially
21 in the form attached as **Exhibit B**.

22 2.57 **Released Class Claims.** “Released Class Claims” means all claims, debts,
23 liabilities, demands, obligations, damages, and actions or causes of action of any kind arising
24 during the Class Period, which were alleged in the Complaints or that could have been alleged
25 against any of the Released Parties based on the factual allegations in the Complaints including
26 claims under California Labor Code sections 200, 201, 202, 203, 226, 226.2, 226.3, 226.7, 226.8,
27 510, 512, 1174, 1182.11, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and 3357; IWC Wage Orders,
28 including Wage Order No. 9-2001, including sections 3, 4, 7, 8, 9, 11, and 12 thereof; California

1 Code of Civil Procedure sections 1021.5 and 1060; and California Business and Professions Code
2 section 17200 et seq. related only to the above claims. Expressly excluded from the Released
3 Class Claims are claims for wages in Workers' Compensation and Unemployment Insurance
4 benefits cases, and claims for benefits under the Employee Retirement Income Security Act of
5 1974 (ERISA).

6 **2.58 Released PAGA Claims.** "Released PAGA Claims" means all claims for civil
7 penalties pursuant to PAGA that arose during the PAGA Period, which were alleged the
8 Complaints or the PAGA Notice, or that could have been alleged based on the factual allegations
9 in the Complaints or PAGA Notice, against any of the Released Parties, for alleged violations of
10 California Labor Code sections 201, 202, 203, 204, 223, 226, 226.2, 226.3, 226.4, 226.7, 226.8,
11 256, 510, 512, 558, 1174, 1174.5, 1182.11, 1182.12, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1195,
12 1197, 1198, 2802, and 2698 et seq.; IWC Wage Orders, including Wage Order No. 9-2001,
13 including sections 3, 4, 7, 8, 9, 11, and 12 thereof.

14 **2.59 Released Parties.** "Released Parties" means RH and the Released Third-Party
15 Logistics Providers, and each of their respective present, former, and future parents, subsidiaries,
16 affiliates, divisions, corporations in common control, predecessors, successors, and assigns, and
17 each of their (including RH's and the Third-Party Logistics Providers') respective present, past
18 and future officers, directors, employees, partners (both general and limited), members.
19 Shareholders, agents, attorneys, accountants, auditors, consultants, insurers, and any other
20 successors, assigns, and legal representatives.

21 **2.60 Released Third-Party Logistics Providers.** "Released Third-Party Logistics
22 Providers" means Allegiant Logistics, Apogee Logistics, Distribution Solutions, Inc. (or DSI),
23 FGO Logistics, Pillar Logistics LLC, and Premier Last Mile, LLC (or PLM), which are third-
24 party logistics providers RH contracted with for the delivery of RH merchandise during the Class
25 Period.

26 **2.61 Request for Exclusion.** "Request for Exclusion" means a written request made by
27 a Class Member to the Settlement Administrator seeking to be excluded from the Class
28

1 Settlement. The Notice Packet will include a Request for Exclusion Form (Form A) that shall be
2 substantially in the form of **Exhibit E** hereto.

3 2.62 **Request for Information.** “Request for Information” means the document
4 substantially in the form of **Exhibit C** that the Settlement Administrator will send to all
5 individuals who respond to publication notice and are not included in the names and contact
6 information of Helper Class Members and Helper PAGA Members provided to the Settlement
7 Administrator. These individuals must submit a completed Request for Information to allow the
8 Settlement Administrator to determine if they are Helper Class Members and/or Helper PAGA
9 Members, as discussed in Section 4.3.4 of this Agreement.

10 2.63 **RH.** “RH” means Defendant Restoration Hardware, Inc.

11 2.64 **Service Payment.** “Service Payment” means the payment authorized by the Court
12 to each of the Plaintiffs, if any, as contemplated in Section 3.7 of this Agreement.

13 2.65 **Settlement.** “Settlement” means this Agreement and all actions taken pursuant to
14 and in furtherance of this Agreement.

15 2.66 **Settlement Administration Costs.** “Settlement Administration Costs” means the
16 amounts approved by the Court to be paid for the services of the Settlement Administrator to
17 perform the duties of settlement administrator, as specified in Section 4.3.2, below. It is
18 estimated that the Settlement Administration Costs will not exceed \$24,623.00.

19 2.67 **Settlement Administrator.** “Settlement Administrator” means Simpluris, Inc., or
20 such other administrator as may be approved by the Court, which shall be responsible for
21 administering the Settlement pursuant to the terms of the Agreement, the Class Settlement Notice,
22 the Publication Notice Plan, the Preliminary Approval Order, and the Final Approval Order and
23 Judgment. The Settlement Administrator shall agree to confidentiality terms as may be required
24 by Defendant and shall work with Class Counsel and Counsel for Defendant to implement and
25 administer appropriate fraud-prevention policies. The Settlement Administration Costs shall be
26 paid out of the Settlement Fund Amount, subject to Court approval.

27 2.68 **Settlement Class.** “Settlement Class” means Plaintiffs and all Settlement Class
28 Members.

1 2.69 **Settlement Class Member.** “Settlement Class Member” means each Class
2 Member who does not submit a valid and timely Request for Exclusion.

3 2.70 **Settlement Fund.** “Settlement Fund” means the fund established and
4 administered by the Settlement Administrator for the purpose of receiving and disbursing
5 amounts to be paid to Settlement Class Members, PAGA Group Members, appropriate
6 governmental taxing authorities, the LWDA, Plaintiffs, Class Counsel, and the Settlement
7 Administrator pursuant to this Agreement. The Settlement Fund shall be funded by Defendant
8 following the Effective Date in accordance with Section 4.11.1, below.

9 2.71 **Settlement Fund Amount.** “Settlement Fund Amount” means the total amount
10 that Defendant shall remit to the Settlement Administrator in accordance with Section 4.11.1.

11 2.72 **Withholdings and Taxes.** “Withholdings and Taxes” means all withholdings
12 from the Class Settlement Awards required by law plus all federal, state, and local employment
13 payroll taxes due in regard to the wages portion of Class Settlement Awards, including
14 “employee” tax withholdings and “employer” payroll taxes.

15 2.73 **Workweek Value For Drivers.** “Workweek Value For Drivers” means the dollar
16 amount payable to Settlement Class Members who worked as Drivers for each Drivers Workweek
17 that results from dividing the Drivers’ Class Fund by the total number of Drivers Workweeks
18 credited to all Settlement Class Members who worked as Drivers.

19 2.74 **Workweek Value For Helpers.** “Workweek Value For Helpers” (or “Helpers
20 Workweeks”) means the dollar amount payable to Settlement Class Members who worked as
21 Helpers for each Helpers Workweeks that results from dividing the Helpers Class Fund by the
22 total number of Helpers Workweeks credited to all Settlement Class Members who worked as
23 Helpers.

24 2.75 **Workweeks.** “Workweeks” means the total number of estimated workweeks that
25 all Class Members, collectively, worked when delivering Restoration Hardware merchandise on
26 behalf of Third-Party Logistics Providers in California during the Class Period. Based on the data
27 provided in this litigation regarding Drivers and what the Parties have agreed for Settlement
28

purposes only is a reasonable estimate for Helpers based on the information available, it is estimated that there are approximately 28,000 Workweeks in the Class Period.

2.76 **Workweeks For Drivers.** “Workweeks For Drivers” (or, “Drivers Workweeks”) means the estimated number of weeks that a Class Member worked as a driver. Any week in which a Class Member worked at least one day as a driver according to the DispatchTrack Data, will count as a Drivers Workweek. All Class Members who worked as drivers will be credited with at least one Drivers Workweek. The total number of Drivers Workweeks, worked collectively by all Drivers, is estimated to be 14,000 . Settlement Class Members who worked as drivers may dispute the number of Drivers Workweeks during which they delivered Restoration Hardware merchandise on behalf of Third-Party Logistics Providers in California during the Class Period by completing and returning the Notice of Eligible Workweeks (Form B) included with the Class Settlement Notice, which shall be substantially in the form of **Exhibit D** hereto, and submitting any documentation demonstrating that the Settlement Class Member was not credited with the correct number of Workweeks.

2.77 **Workweeks for Helpers.** “Workweeks for Helpers” (or “Helpers Workweeks”) means the total number of Drivers Workweeks, which the parties have agreed for Settlement purposes only is a reasonable estimate based on the information available. Each Helper will receive an equal number of Helpers Workweeks.

3. SETTLEMENT TERMS

3.1 **Certification of the Settlement Class.** For purposes of settlement and the proceedings contemplated by this Agreement only, the Settlement Class shall be provisionally certified and consist of Plaintiffs and all Settlement Class Members.

3.2 **Decertification of the Settlement Class if Settlement Not Approved.** Defendant does not consent to certification of the Settlement Class for any purpose other than to effectuate the settlement of the Action. If, for any reason, the Settlement does not become final, any certification of the Settlement Class or any settlement class in the Action will be vacated and the Parties will be returned to their positions with respect to the Action as if this Agreement had not been entered into. In the event that Final Approval is not achieved: (a) any Court order

1 preliminarily approving the certification of any class contemplated by this Agreement shall be
2 null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and
3 (b) the fact of the Settlement reflected in this Agreement, that Defendant did not oppose the
4 certification of the Settlement Class under this Agreement, or that the Court preliminarily
5 approved the certification of the Settlement Class, shall not be used or cited thereafter by any
6 person or entity in any manner whatsoever, including without limitation any contested proceeding
7 relating to the certification of any class.

8 **3.3 Filing of First Amended Complaint for Settlement Purposes.** For purposes of
9 settlement and the proceedings contemplated by this Agreement only, Plaintiffs shall file a First
10 Amended Complaint for the sole purpose of asserting a claim for civil penalties pursuant to
11 PAGA. The First Amended Complaint shall be deemed filed as of the Preliminary Approval
12 Date, and Defendant concurrently shall be deemed to deny any and all of the allegations
13 contained in it and to raise all of the defenses raised in its answer to the First Amended
14 Complaint, which Defendant had previously attempted to file, but which was returned by the
15 Court on February 6, 2023, without the need to formally file an answer to the First Amended
16 Complaint. In the event that final approval of the settlement of this Action is not granted, the
17 Parties shall file a stipulation to withdraw the First Amended Complaint, and to reinstate the
18 Complaint as the operative complaint.

19 **3.4 Settlement Payment by Defendant.** In full settlement of the Released Class
20 Claims and Released PAGA Claims, as provided herein, and following the Effective Date,
21 Defendant shall deliver the Settlement Fund Amount to the Settlement Administrator for
22 establishment of the Settlement Fund, in accordance with Section 4.11.1, below.

23 **3.5 Attorneys' Fees and Expenses.** Defendant agrees not to oppose Plaintiffs'
24 application for attorneys' fees in an amount up to 35% of the Gross Settlement Amount (i.e., the
25 amount up to \$2,100,000.00) and reimbursement of litigation costs and expenses in an amount not
26 to exceed \$50,000.00 subject to the Court's approval. Plaintiffs agree not to petition the Court for
27 an award of attorneys' fees or reimbursement of litigation costs and expenses in excess of these
28 amounts, and in no event shall Defendant be liable for any attorneys' fees or costs in excess of

1 these amounts. The Fee and Expense Award shall represent payment for all claims for Class
2 Counsel's attorneys' fees and litigation costs and expenses, past and future, incurred in the
3 Action. The Fee and Expense Award shall be paid from the Settlement Fund Amount, and
4 Defendant shall not otherwise be required to pay for any portion of Plaintiffs' or the Class
5 Members' attorneys' fees, costs, or expenses. The Fee and Expense Award shall be paid to Class
6 Counsel following the Effective Date, in accordance with Section 4.11.2, below.

7 **3.5.1 Possible Reduction of Fee and Expense Award.** An award by the
8 Court of attorneys' fees or costs that is less than the amounts applied for will not be
9 grounds for Plaintiffs or Class Counsel to challenge or withdraw from the Settlement, and
10 any amounts not awarded in costs or fees will be included in the Net Settlement Sum.
11 However, any reduction by the Court of attorneys' fees or costs that is less than the
12 amounts applied for shall be appealable by Plaintiffs and/or Class Counsel. In the event
13 that such an appeal is filed, administration of the settlement shall be stayed, only as to
14 those amounts under appeal, pending resolution of the appeal. Any amount not awarded as
15 fees and/or costs, which is not challenged via appeal by Plaintiffs and/or Class Counsel,
16 shall be added to the Net Settlement Sum and distributed to the Settlement Class Members
17 in accordance with the terms of this Settlement Agreement. If, after exhaustion of such
18 appellate review, any additional amounts remain which are distributable to the Settlement
19 Class Members, the cost of administration of such additional payments will be paid out of
20 such additional amounts, and will not be chargeable to or payable by Defendants.

21 **3.5.2 Division of Fee and Expense Award.** The Parties agree that Class
22 Counsel shall be solely responsible for the division and distribution of any and all Court-
23 approved attorneys' fees and costs awarded in the Action to Class Counsel, and that Class
24 Counsel agree to release Defendant and the Released Parties from any responsibility for or
25 liability arising out of or related to the division and distribution of any Court-approved
26 attorney's fees and costs to Class Counsel.

27 **3.6 PAGA Settlement Amount.** Plaintiffs shall seek approval from the Court for a
28 total payment of \$180,000.00 for resolution of the PAGA claims alleged in the Action. 75% of

1 the PAGA Settlement Amount (equating to \$135,000.00) shall be paid to the LWDA, and 25% of
2 the PAGA Settlement Amount (equating to \$45,000.00) shall form the PAGA Fund to be paid to
3 PAGA Group Members in accordance with the Plan of Allocation set forth in Section 4.7, below.

4 **3.7 Service Payments.** Defendant agrees not to oppose Plaintiffs' application for
5 Service Payments of up to \$5,000.00 for each of the two Plaintiffs (for a total of \$10,000.00),
6 which shall be for Plaintiffs' efforts as putative class and PAGA representatives in furtherance of
7 litigation and resolving the Action, and in consideration of Plaintiffs' general release of claims set
8 forth in Section 5.5, below. Each Service Payment shall be reported by the Settlement
9 Administrator on IRS Form 1099-MISC as non-wage income and provided by it to each Plaintiff
10 receiving the Service Payment as well as applicable governmental authorities. The Service
11 Payments are separate from and in addition to any Class Settlement Awards and PAGA
12 Settlement Awards to be paid to Plaintiffs as Settlement Class Members and PAGA Group
13 Members hereunder. An award by the Court of any Service Payment that is less than the amounts
14 applied for will not be grounds for Plaintiffs or Class Counsel to challenge or withdraw from the
15 Settlement, and any amounts not awarded by Service Payments will be included in the Net
16 Settlement Sum.

17 **3.8 Interim Stay of Proceedings.** The Parties agree to a further extension of the stay
18 of all proceedings in the Action ordered by the Court on March 7, 2022 and extended on
19 September 26, 2022, including with respect to California Code of Civil Procedure
20 section 583.310, except such proceedings as may be necessary to implement and complete the
21 Settlement, pending the Final Approval Hearing to be conducted by the Court.

22 **4. CLASS SETTLEMENT PROCEDURES**

23 **4.1 Preliminary Approval.** As soon as practicable, Plaintiffs shall move for
24 Preliminary Approval of the Settlement. Plaintiffs' motion shall request the Court to:

25 4.1.1 Preliminarily approve this Agreement as fair, reasonable, and
26 adequate;

27 4.1.2 Preliminarily approve the form, manner and content of the Class
28 Settlement Notice described in Section 4.3 and attached as **Exhibit A**, the form, manner

1 and content of the Notice of Eligible Workweeks for Drivers (Form B) described in Section
2 2.36 and attached as **Exhibit D**, and the form, manner and content of the Request for
3 Exclusion Form (Form A) described in Section 2.61 and attached as **Exhibit E**;

4 4.1.3 Preliminarily approve the form, manner and content of the
5 Publication Notice and the distribution of the Publication Notice set out in the Publication
6 Notice Plan described in Section 2.55 and attached as **Exhibit B**;

7 4.1.4 Preliminarily approve the Request for Information described in
8 Section 2.62 and attached as **Exhibit C** that the Settlement Administrator will use to
9 determine if individuals who respond to the Publication Notice are Helper Class Members
10 and/or Helper PAGA Members;

11 4.1.5 Set deadlines for the Settlement Administrator to provide the Class
12 Settlement Notice and to complete the Publication Notice Plan, and for Class Members to
13 opt out of the Class Settlement or object to the Class Settlement;

14 4.1.6 Set the date and time for the Final Approval Hearing;

15 4.1.7 Provisionally certify the Settlement Class;

16 4.1.8 Continue the stay of all proceedings in the Action until Final
17 Approval;

18 4.1.9 Appoint Plaintiffs as class representatives for the Settlement Class
19 for settlement purposes only;

20 4.1.10 Appoint Class Counsel as class counsel for settlement purposes
21 only; and

22 4.1.11 Approve Simpluris, Inc. as the Settlement Administrator.

23 The Preliminary Approval Order shall be substantially the same as the proposed order
24 attached as **Exhibit G**. Class Counsel shall draft the preliminary approval papers and give
25 Counsel for Defendant a draft of the papers to review at least three (3) court days before they are
26 filed.

27 4.2 **PAGA Settlement Notice to LWDA.** As soon as practicable, Plaintiffs shall
28 notify the LWDA of the settlement of Plaintiffs' PAGA claims.

1 **4.3 Class Settlement Notice.** Subject to Court approval, the Parties agree that as soon
2 as practicable after entry of the Preliminary Approval Order, the Settlement Administrator shall
3 provide notice to the Class in English and in Spanish pursuant to the following procedures:

4 **4.3.1 Information Regarding Class Members.** Within twenty (20)
5 business days following entry of the Preliminary Approval Order, Defendant will send or
6 will cause to be sent to the Settlement Administrator: (a) names, last known addresses, and
7 social security numbers, to the extent available, as provided by the Released Third-Party
8 Logistics Providers, for the Class as well as an indication of whether each Class Member
9 was a driver, a helper, or both during the Class Period, to the extent that information is
10 available; and (b) DispatchTrack Data in the form provided to Class Counsel for the period
11 August 8, 2020 to April 27, 2024. The data provided to the Settlement Administrator
12 identified above, along with any updated contact information identified by the Settlement
13 Administrator as set forth in Sections 4.3.2.14 and 4.3.3, below, shall be used solely to
14 administer the Class Settlement Notice and Plan of Allocation process described herein,
15 shall remain confidential, and shall not be disclosed to anyone, except pursuant to the
16 express written authorization of Defendant or the individual in question, by order of the
17 Court, or to the extent necessary to fulfill the Settlement Administrator's reporting
18 obligations hereunder.

19 **4.3.2 Settlement Administrator's Duties.** The Settlement
20 Administrator's duties shall include, without limitation:

21 4.3.2.1 calculating all of the amounts specified in section 4.7.3.1 and
22 4.7.3.2, including information needed for the Notice of Eligible Workweeks;

23 4.3.2.2 translating the Notice Packet (containing the Class Settlement
24 Notice, the Notice of Eligible Workweeks for Drivers form (Form B), and the Request for
25 Exclusion form (Form A)) into Spanish;

26 4.3.2.3 printing the English and Spanish versions of the Notice Packet
27 and mailing them to the Class Members the Notice Packet as directed by the Court;
28

1 4.3.2.4 taking all steps reasonably necessary to ensure Class Members
2 timely receive the Notice Packet;

3 4.3.2.5 executing the Publication Notice Plan, which shall be completed
4 within 30 days of the Preliminary Approval Date;

5 4.3.2.6 sending the Request for Information to individuals who reach
6 out to the Settlement Administrator based on review of published notices as part of the
7 Publication Notice Plan and whose name and/or contact information are not included in the data
8 provided to the Settlement Administrator by RH;

9 4.3.2.7 determining whether any individuals who submit the completed
10 Request for Information are Helper Class Members and/or Helper PAGA Members and
11 immediately: a) sending the Notice Packet to those Helper Class Members and Helper PAGA
12 Members; and b) notifying others that they are not Helper Class Members and/or Helper PAGA
13 Members;

14 4.3.2.8 resolving any disputes by Driver Class Members about the
15 number of Workweeks attributed to them;

16 4.3.2.9 taking receipt of and safeguarding the Settlement Fund Amount;

17 4.3.2.10 calculating and distributing Class Settlement Awards, PAGA
18 Settlement Awards, the portion of the PAGA Settlement Amount payable to the LWDA, the
19 Service Payments, and the Fee and Expense Award, provided such amounts are approved by the
20 Court;

21 4.3.2.11 calculating and remitting all Withholdings and Taxes;

22 4.3.2.12 issuing IRS Forms W-2 and 1099-MISC, as applicable;

23 4.3.2.13 filing such other reports with the taxing authorities as required
24 by law, together with such other tasks as the Parties may mutually agree or the Court may order
25 the Settlement Administrator to perform.

26 4.3.2.14 taking all reasonable steps to ensure that (a) the highest
27 percentage of Class Members receive the Notice Packet and (b) it has the most current and
28

1 accurate addresses for Class Members, including, but not limited to performing an initial National
2 Change of Address database search on all Class Members.

3 4.3.2.15 providing toll-free telephone support to Class Members and
4 creating an information-only website as an additional source of notice and information about the
5 settlement for Class Members. The website will include a copy of the Class Settlement Notice,
6 the Preliminary Approval Order, and the Final Approval Order (once available). The domain
7 name used for the Settlement Administrator's website for the settlement will be subject to
8 Defendant's reasonable approval.

9 4.3.2.16 maintaining appropriate databases to fulfill its duties;
10 receive, control, and account for all returned Notice Packets and submissions received for Notices
11 of Eligible Workweeks containing disputes, Requests for Exclusion, and Objections; calculate the
12 Settlement Class Members' and PAGA Group Members' payments;

13 4.3.2.17 preparing and delivering reports to Class Counsel and
14 Counsel for Defendant on a weekly basis that communicate the status of the notice process,
15 including the status of the Publication Notice Program, the number of Notice Packets mailed,
16 returned, searched, and re-mailed as well as Notices of Eligible Workweeks containing disputes,
17 Requests for Exclusion, and Objections that it has received;

18 4.3.2.18 preparing final declarations, reports, and invoices that
19 accurately describe the notice process, the level of participation, and actions taken to ensure the
20 best possible notice of the Settlement was provided to Class Members. Prior to the Final
21 Approval Hearing, the Settlement Administrator shall provide Class Counsel with a declaration
22 that attaches all timely Objections that it receives, as one or more exhibits, for filing with the
23 Court.

24 4.3.3 **Mailing of Notice Packet to Class Members.** No later than twenty
25 (20) business days following receipt of the information to be provided under Section 4.3.1,
26 above, the Settlement Administrator shall mail the Notice Packet to all Class Members for
27 whom the Settlement Administrator has contact information. The Settlement
28 Administrator shall send a copy of the Class Settlement Notice, the and the Request for

1 Exclusion form (Form A) to all Class Members plus the Notice of Eligible Workweeks
2 form (Form B) to Drivers only in the respective formats approved by the Court in its
3 Preliminary Approval Order to Class Members, via first class United States mail, using the
4 most current mailing address. Any Notice Packets returned to the Settlement
5 Administrator within thirty (30) calendar days of the initial mailing of the Notice Packet,
6 with a forwarding address, shall be immediately re-mailed by the Settlement
7 Administrator. The Settlement Administrator shall conduct one skip trace address search
8 for any Class Member's Notice Packet that is returned to the Settlement Administrator
9 within thirty (30) calendar days of the initial mailing of the Notice Packet without a
10 forwarding address and shall, upon obtaining a new or different address, immediately re-
11 mail the Class Member's Notice Packet. Plaintiffs, Defendant, and their respective counsel
12 each agree that, other than as provided in this Agreement, they will not distribute or make
13 available any documents, notices, or information regarding this Action or the Settlement to
14 any Class Member, unless a specific request is first made by the Class Member.

15 **4.3.4 Mailing of Requests for Information and Determining Whether**
16 **Individuals Who Respond are Helper Class Members and/or Helper PAGA**
17 **Members.** Immediately upon receipt of an inquiry from an individual whose name and/or
18 contact information is not included in the Class Member Data provided to the Settlement
19 Administrator in accordance with section 4.3.1 above, the Settlement Administrator will
20 send the Request for Information by email or first-class mail. All completed Requests for
21 Information must be postmarked or received by the Settlement Administrator within six
22 weeks of the date of the first published notice. Upon receipt of each completed Request for
23 Information, the Settlement Administrator will work with the Parties' counsel to determine
24 whether the individual is a Helper Class Member and/or a Helper PAGA Member. This
25 determination shall be based on the information provided in or with the Request for
26 Information, and the Settlement Administrator's determination shall be final. If the
27 Settlement Administrator determines that the individual is a Helper Class Member and/or a
28

1 Helper PAGA Member, the Settlement Administrator shall immediately send the Notice
2 Packet to the individual by first-class mail.

3 4.4 **Requests for Exclusion/Opt Outs.** Class Members who wish to be excluded
4 from or opt out of the Class Settlement must submit a written, signed Request for Exclusion to the
5 Settlement Administrator, within the Notice Response Deadline.

6 4.4.1 **Contents of Request.** The Request for Exclusion must contain (i) a
7 reference to the name of the Action (*Erazo, et al. v. Restoration Hardware, Inc.*); (ii) the
8 full name, signature, and address of the person requesting to be excluded from the Class
9 Settlement; (iii) the words “Request for Exclusion” at the top of the document; and (iv) the
10 statement: “I wish to be excluded from the Settlement of this case.”

11 4.4.2 **Request for Exclusion Form.** The Notice Packet will include a
12 Request for Exclusion Form (Form A) that shall be substantially in the form of **Exhibit E**,
13 attached hereto.

14 4.4.3 **Personal Signatures.** The Request for Exclusion must be
15 personally signed by the Class Member who seeks to opt out of the Class Settlement. No
16 Class Member may opt out by having a request to opt out submitted by an actual or
17 purported agent or attorney acting on behalf of the Class Member, unless such request to
18 opt out includes the Class Member’s personal signature. No opt out request may be made
19 on behalf of a group of Class Members.

20 4.4.4 **Timeliness.** For purposes of determining timeliness, Requests for
21 Exclusion shall be deemed to have been submitted on the date postmarked by the U.S.
22 Postal Service or other delivery service. The Settlement Administrator shall stamp the date
23 received on the original of any Request for Exclusion it receives. Not later than fifteen
24 (15) days after the Notice Response Deadline set by the Court, the Settlement
25 Administrator will inform Class Counsel and Counsel for Defendant of the total number of
26 Settlement Class Members who timely submitted valid Requests for Exclusion. Not later
27 than ten (10) business days before the date set for the Final Approval Hearing, the
28 Settlement Administrator shall serve copies of all date-stamped Requests for Exclusion on

1 Class Counsel and Counsel for Defendant as well as a declaration describing the Class
2 Settlement Notice procedures and listing the names of the individual(s) who submitted
3 valid and timely Requests for Exclusion. The Settlement Administrator shall retain the
4 originals of all Requests for Exclusion in its files. Counsel for the Parties shall not use or
5 disclose the information thus received for any purpose other than the effectuation of the
6 Settlement.

7 **4.4.5 Non-Opt Outs Bound to Class Settlement.** Each Class Member
8 who does not submit a Request for Exclusion substantially in compliance with this
9 Section 4.4 within the deadline set by the Court is a Settlement Class Member and shall be
10 bound by the Class Settlement and any Court order approving the terms of the Class
11 Settlement.

12 **4.4.6 Resolution of Disputes.** In the event of any issue over the
13 completeness, accuracy, timeliness, or validity of a Request for Exclusion, the Parties shall
14 meet and confer in good faith for the purpose of resolving the issue and, if the issue cannot
15 be resolved, shall submit the dispute to the Settlement Administrator for a final and binding
16 determination that shall not be appealable.

17 **4.4.7 Defendant's Right to Rescind.** If: (a) more than ten percent (10%)
18 of the Class Members submit timely and valid requests to opt out of the Class Settlement;
19 (b) the total Workweeks associated with Class Members who submit timely and valid
20 requests to opt out of the Class Settlement equal or exceed ten percent (10%) of the total
21 Workweeks during the Class Period; or (c) the LWDA objects to the Settlement, Defendant
22 shall have the option, in its sole discretion, to rescind this Agreement, in which case all of
23 Defendant's obligations under this Agreement shall cease to be of any force or effect, and
24 this Agreement shall be null and void. If Defendant exercises this option, it shall provide
25 Class Counsel with written notice of its election within thirty (30) days of the Notice
26 Response Deadline set by the Court, with a copy to the Settlement Administrator, at which
27 point the Parties shall return to their respective positions that existed before the execution
28 of this Agreement, and no term of this Agreement or any draft thereof, or the negotiation,

1 documentation or other part or aspect of the Parties' settlement discussions, shall have any
2 effect or be admissible as evidence for any purpose in the Action, or in any other
3 proceeding. Notwithstanding the foregoing, the Parties agree that in the event this
4 Agreement is rescinded by Defendant pursuant to this Section 4.4.7, Defendant shall pay
5 the expenses incurred by the Settlement Administrator through the date of Defendant's
6 election to rescind, not to exceed the amount approved by the Court in the Preliminary
7 Approval Order.

8 **4.4.8 No Right to Exclusion by PAGA Group Members.** Because the
9 Settlement resolves claims and actions brought pursuant to PAGA by Plaintiffs acting as a
10 proxy and as a Private Attorney General of, and for, the State of California and the LWDA,
11 the Parties agree that no PAGA Group Member has the right to exclude himself or herself
12 from the PAGA Settlement. PAGA Group Members shall be bound by the terms of the
13 PAGA Settlement, upon its approval by the Court, regardless of whether he or she
14 requested exclusion from the Class Settlement, and thus is not a Settlement Class Member,
15 and regardless of whether he or she cashes the PAGA Settlement Award issued to him or
16 her.

17 **4.5 Objections.** Only Settlement Class Members (i.e., those Class Members who
18 have not excluded themselves from the Class Settlement) may object to the Class Settlement.

19 **4.5.1 Manner of Objecting.** Settlement Class Members who wish to
20 object to the Class Settlement must submit to the Settlement Administrator a signed,
21 written statement objecting to the Settlement ("Objection") or must appear in Court (or
22 retain an attorney to appear in Court) to present an oral objection at the Final Approval
23 Hearing at the Settlement Class Member's own expense. For a written objection to be
24 valid, it must contain: (i) a reference to the name and case number of the Action (*Erazo, et*
25 *al. v. Restoration Hardware, Inc.*, San Bernardino Superior Court Case
26 No. CIVSB2211655); (ii) the full name, signature, address, and telephone number of the
27 objecting Settlement Class Member; (iii) a written statement of the grounds for objecting to
28 the Class Settlement; and (iv) a written statement of whether the Settlement Class Member

1 intends to appear at the Final Approval Hearing and whether he or she is represented by
2 counsel. Written Objections must be submitted to the Settlement Administrator, by U.S.
3 mail, postmarked no later than the Notice Response Deadline. Settlement Class Members
4 may, but are not required to, appear at the Final Approval Hearing for their written
5 objection to be heard.

6 **4.5.2 No Right to Objections by PAGA Group Members.** Because the
7 Settlement resolves claims and actions brought pursuant to PAGA by Plaintiffs acting as a
8 proxy and as a Private Attorney General of, and for, the State of California and the LWDA,
9 the Parties agree that no PAGA Group Member has the right to object to the PAGA
10 Settlement, regardless of whether or not he or she has objected to the Class Settlement as a
11 Settlement Class Member.

12 **4.6 Disputes Regarding Number of Workweeks.** Only Settlement Class Members
13 (i.e., those Class Members who have not excluded themselves from the Class Settlement) who are
14 Drivers will have the opportunity to dispute the number of Workweeks attributed to them as listed
15 on the Notice of Eligible Workweeks he or she receives with the Class Settlement Notice.

16 **4.6.1 Manner of Submitting Disputes.** If a Settlement Class Member
17 who is a Driver wishes to dispute or challenge the Workweeks attributed to him or her,
18 then the Settlement Class Member must submit a written, signed dispute, to the Settlement
19 Administrator, by mail, postmarked on or before the Notice Response Deadline. A
20 Workweek dispute must include: (i) a reference to the name and case number of the Action
21 (*Erazo, et al. v. Restoration Hardware, Inc.*, San Bernardino Superior Court Case
22 No. CIVSB2211655); (ii) the full name, signature, address, and telephone number of the
23 Settlement Class Member; (iii) contain a clear statement explaining that the Settlement
24 Class Member wishes to dispute his or her Workweeks; (d) clearly state the number of
25 Workweeks that he or she contends should be attributed to him or her; and (e) attach any
26 documentation demonstrating that the Settlement Class Member was not credited with the
27 correct number of Workweeks.
28

1 4.6.2 Absent an agreement between Class Counsel and Defendant's
2 Counsel regarding how to address the dispute, the Settlement Administrator shall have
3 authority to resolve the dispute and make a final and binding determination without hearing
4 or right of appeal. The Parties agree to provide the Settlement Administrator with
5 additional documents necessary to assess the dispute, if such documents exist. All disputes
6 shall be resolved, either by agreement of Class Counsel and Defendant's Counsel or by
7 decision of the Settlement Administrator as provided herein, prior to submitting the
8 Settlement Administrator's declaration to the Court for Final Approval.

9 4.7 **Plan of Allocation: Calculation of All Settlement Awards.** The Settlement
10 Administrator shall be responsible for the Allocations of the Net Settlement Sum to Settlement
11 Class Members and of the PAGA Fund to PAGA Group Members and, thereby, for determining
12 the Class Settlement Awards and the PAGA Settlement Awards, all to be paid on a pro rata basis
13 as discussed below.

14 4.7.1 The Parties recognize and agree that the amounts Plaintiffs allege are
15 owed based on the claims asserted in the Action are extremely difficult to quantify with
16 any certainty and are subject to myriad differing calculations and assumptions. The
17 allocation methodology specified below, including pro rata distribution to drivers and
18 helpers cleared to deliver RH merchandise is fair and reasonable where the Parties do not
19 possess records identifying all drivers or any helpers who actually delivered RH
20 merchandise on behalf of third-party logistics providers during the Class Period. The
21 Parties have agreed that Class Settlement Awards and PAGA Settlement Awards will be
22 calculated as follows:

23 4.7.2 Before computing the amounts of any Class Settlement Awards to be
24 paid to Settlement Class Members, the Settlement Administrator shall determine the
25 amount of the Net Settlement Sum.

26 4.7.3 The Class Settlement Award for each Settlement Class Member
27 shall be the Settlement Class Member's pro-rata share of the Net Settlement Sum,
28 calculated as follows:

4.7.3.1 For Drivers.

(a) By relying on the DispatchTrack Data, the Settlement Administrator will calculate the total number of Drivers Workweeks for each Driver, and will also calculate the aggregate total number of Drivers Workweeks.

(b) By relying on the DispatchTrack Data, the Settlement Administrator will also calculate the total number of Drivers PAGA Pay Periods worked by each PAGA Group Member who worked as a Driver during the PAGA Period, and the aggregate total number of Drivers PAGA Pay Periods.

(c) The Drivers Class Fund will be divided by the aggregate total number of Drivers Workweeks, resulting in the “Workweek Value for Drivers.” Each Individual Settlement Share for Drivers will be calculated by multiplying each individual driver’s total number of Drivers Workweeks by the Workweek Value for Drivers.

(d) The Settlement Administrator will use the following formula to calculate each Individual Driver’s PAGA Share: The Drivers PAGA Fund will be divided by the aggregate total number of Drivers PAGA Pay Periods, resulting in the “PAGA Pay Period Value for Drivers.” Each Individual PAGA Share for Drivers will be calculated by multiplying each individual Driver’s total number of Drivers PAGA Pay Periods by the PAGA Pay Period Value for Drivers.

(e) The Individual Settlement Share for Drivers will be reduced by the share of any employee payroll taxes with respect to the wage portion of the Individual Settlement Share for Drivers.

(f) The Settlement Administrator will add, as applicable, each Individual Settlement Share for Drivers and Individual PAGA Share for Drivers to obtain the Individual Settlement Payment for Drivers.

1 4.7.3.2 For Helpers.

2 (a) The Helpers Class Fund will be divided equally
3 among all Helpers, and each Helper's proportionate share of that amount will
4 constitute each Helper's Individual Settlement Share for Helpers.

5 (b) The Helpers PAGA Fund will be divided equally
6 among all Helpers who were cleared to work during the PAGA Period, and each
7 Helper's proportionate share of that amount will constitute each Helper's Individual
8 PAGA Share for Helpers.

9 (c) The Individual Settlement Share for Helpers will be
10 reduced by the share of any employee payroll taxes with respect to the wage portion
11 of the Individual Settlement Share for Helpers.

12 (d) The Settlement Administrator will add, as
13 applicable, each Individual Settlement Share for Helpers and Individual PAGA
14 Share for Helpers to obtain the Individual Settlement Payment for Helpers.

15 4.7.4 The Settlement Administrator shall pay Class Settlement Awards
16 from the Net Settlement Sum and shall pay only those Class Settlement Awards payable to
17 Settlement Class Members. It is anticipated that the Settlement Class Members will be a
18 subset of the Class Members because some number of Class Members may opt out of the
19 Class Settlement.

20 4.7.5 At its discretion, the Settlement Administrator may combine the
21 Class Settlement Award (if any) and PAGA Settlement Award (if any) to be issued to an
22 individual who is both a Settlement Class Member and PAGA Group Member into a single
23 check. If a Settlement Class Member worked as a Driver and a Helper at different times
24 during the Class Period, the Settlement Administrator, at its discretion, may combine the
25 Individual Settlement Shares for Drivers and the Individual Settlement Shares for Helpers
26 to be issued to an individual into a single check. If the Settlement Administrator so
27 chooses, the Cover Letter included with the check must identify the portions of the check
28 that are attributable to the Class Settlement Award (if any) and PAGA Settlement Award

(if any). Likewise, if a PAGA Group Member is both a Driver and a Helper, the Settlement Administrator, at its discretion, may combine the Individual PAGA Shares for the individual into a single check. At the time of distributing a PAGA Settlement Award to anyone who is a PAGA Group Member but not a Settlement Class Member, the Settlement Administrator shall enclose a cover letter in the form of **Exhibit F** advising the recipient that the payment is in connection with the PAGA Settlement memorialized in this Agreement. The Parties understand and acknowledge that a given person may be both a Settlement Class Member and a PAGA Group Member, may be a Settlement Class Member but not a PAGA Group Member (to the extent such person did not work during the PAGA Period), or may be a PAGA Group Member but not a Settlement Class Member. The Settlement Administrator shall deduct each Settlement Class Member's share of the Withholdings and Taxes from his or her Class Settlement Award and shall pay him or her only the net amount thereof.

4.7.6 In the event that any dispute arises with respect to a Settlement Award amount, the Settlement Administrator shall make the final determination after consultation with Class Counsel and Counsel for Defendant, as set forth in Section 4.6.2, above.

4.8 Taxes.

4.8.1 **Withholdings and Taxes.** The Parties agree that, for purposes of this Settlement, Class Settlement Awards shall be allocated 20% to wages subject to Withholdings and Taxes and 80% to interest, penalties, and non-wage damages. The entirety of each PAGA Settlement Award shall be allocated as penalties.

4.8.2 **Tax Reporting.** When reporting Class Settlement Awards and PAGA Settlement Awards for tax purposes, the amount of each Class Settlement Award allocated to wages under Section 4.8.1 shall be reported by the Settlement Administrator on IRS Form W-2 as wages, and the remainder of any Class Settlement Award, together with any PAGA Settlement Award, shall be reported by the Settlement Administrator on IRS Form 1099-MISC as interest, penalties, and non-wage damages.

4.8.3 Tax Obligations of Settlement Class and PAGA Group

Members. Each Settlement Class Member and PAGA Group Member shall be responsible for paying his or her share of applicable federal, state, and local income taxes on all amounts such person receives pursuant to this Agreement. Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiffs, Settlement Class Members, PAGA Group Members, and Class Counsel are not relying on any statement, representation, or calculation by Defendant or by the Settlement Administrator as advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

4.8.4 Settlement Administrator Responsibilities Regarding Taxes. It

shall be the responsibility of the Settlement Administrator or its designee to timely and properly withhold all applicable Withholdings and Taxes from Class Settlement Award amounts and to prepare and deliver the necessary tax documentation for signature by all necessary parties and, thereafter, to pay Withholdings and Taxes to the appropriate authorities, and to file all necessary information and other tax returns. Payments to Settlement Class Members, PAGA Group Members, Plaintiffs, and Class Counsel pursuant to this Agreement shall be reported on IRS Forms W-2 or 1099-MISC as applicable, and shall be provided to the respective Settlement Class Members, PAGA Group Members, Plaintiffs, Class Counsel, and all applicable governmental entities as required by law. All Withholdings and Taxes deposited with the applicable governmental entities in accordance with this Agreement shall be part of, and paid out of, the Class Settlement Award to each Settlement Class Member.

4.8.5 Tax Expenses Resulting from Settlement Administration. All

reasonable and direct expenses and costs incurred by or at the direction of the Settlement Administrator in connection with the administration of the Settlement (including, without limitation, expenses of tax attorneys and/or accountants incurred in providing advice to the Settlement Administrator, and mailing and distribution costs and expenses relating to the

1 filing, or failure to file, the informational and other tax returns described above) shall be
2 considered a cost of administration of the Settlement and shall be part of the Settlement
3 Administration Costs, to be paid out of the Settlement Fund Amount.

4 4.8.6 **No Claims.** No person shall have any claim against Defendant,
5 Counsel for Defendant, Plaintiffs, the Class Members, Class Counsel, or the Settlement
6 Administrator based on mailings, distributions, and payments made in accordance with or
7 pursuant to this Agreement.

8 4.9 **Escalation Clause.** Defendant estimates that there are a total of 14,000 Driver
9 Workweeks during the period of August 8, 2020 to June 12, 2024, the date initially scheduled for
10 the hearing on Plaintiffs' motion for Preliminary Approval. If it is determined that the actual
11 number of Driver Workweeks during that period exceeds 15,400 [14,000+10% of 14,000)], then
12 the Gross Settlement Amount will be increased proportionally over the 10% increase. For
13 example, if the number of Driver Workweeks during the period between August 8, 2020 and June
14 12, 2024 is 15% over 14,000 Driver Workweeks, then the Gross Settlement Amount will increase
15 by 5%.

16 4.10 **Final Approval and Entry of Judgment.** Following the Notice Response
17 Deadline and before the Final Approval Hearing, on or before the date set by the Court, Plaintiffs
18 shall move for Final Approval of the Settlement. The Final Approval Order and Judgment shall
19 be substantially the same as the proposed order attached as **Exhibit H**. Class Counsel shall draft
20 the final approval papers and give Counsel for Defendant a draft of the papers to review at least
21 three (3) court days before they are filed. Class Counsel shall also submit a copy of the Final
22 Approval Order and Judgment to the LWDA for approval.

23 4.11 **Distribution of Settlement Payments to Settlement Class Members and PAGA**
24 **Group Members.** After the Effective Date, the Class Settlement Awards shall be distributed to
25 Settlement Class Members and PAGA Settlement Awards shall be distributed to PAGA Group
26 Members in accordance with the procedures set forth below:
27
28

1 **4.11.1 Remittance of Settlement Fund Amount.** Within fifteen (15)
2 business days from the Effective Date, Defendant will remit the Settlement Fund Amount
3 to the Settlement Administrator for the establishment of the Settlement Fund.

4 **4.11.2 Delivery of Payments.** Within ten (10) business days from
5 Defendant's remittance to the Settlement Administrator of the Settlement Fund Amount,
6 the Settlement Administrator shall establish the Settlement Fund and distribute (a) the
7 Class Settlement Award checks to Settlement Class Members and the PAGA Settlement
8 Award checks to PAGA Group Members, (b) the portion of the PAGA Settlement Amount
9 payable to the LWDA, (c) the Service Payments to Plaintiffs, (d) the Withholdings and
10 Taxes arising from the Class Settlement Awards to the appropriate government entities,
11 (e) the Fee and Expense Award to Class Counsel, and (f) the Settlement Administration
12 Costs to itself. Also within ten (10) business days from Defendant's remittance of the
13 Settlement Fund Amount, the Settlement Administrator shall provide Counsel for
14 Defendant a written report listing each Settlement Class Member and PAGA Group
15 Member, the amount to be paid to each such person, and the amount of Withholdings and
16 Taxes for each such payment. No payments shall be made or distributed unless and until
17 the orders and Final Approval Order and Judgment described in this Agreement are final
18 (meaning that the LWDA has not objected and the right to appeal or otherwise seek review
19 of such orders or the Judgment has expired) and on the condition that the LWDA has not
20 objected and that no appeals from the orders and the Final Approval Order and Judgment
21 have been filed. Additionally, by no later than the date set by the Court in its Final
22 Approval Order and Judgment, the Settlement Administrator shall file a report with the
23 Court setting forth (1) the total amount of money paid to the Settlement Class Members
24 and PAGA Group Members, (2) the portion of the PAGA Settlement Amount paid to the
25 LWDA, (3) the Service Payments paid to Plaintiffs, and (4) the Fee and Expense Award
26 paid to Class Counsel.

27 **4.11.3 Negotiation of Settlement Checks.** Any checks tendered to
28 Settlement Class Members or PAGA Group Members shall remain valid and negotiable for

one hundred and eighty (180) days from the date of their issuance and shall thereafter be automatically cancelled if not cashed, deposited, or otherwise negotiated by the Settlement Class Member or PAGA Group Member within that time, although the individual shall remain a Settlement Class Member and/or PAGA Group Member bound by the Judgment entered in the Action. After 180 days, any amounts from cancelled checks shall be transmitted to the California Controller's Office Unclaimed Property Division, with an identification of the person to whom the funds belong, in accordance with Code of Civil Procedure section 384, to be held in trust for those persons who did not timely cash their settlement checks. Any checks tendered to Settlement Class Members or PAGA Group Members that are returned as undeliverable will also be transmitted to the State Controller's Office Unclaimed Property Division with an identification of the person to whom the funds belong, in accordance with Code of Civil Procedure section 384, to be held in trust for those persons. The Parties agree that this disposition results in no "unpaid residue" under Code of Civil Procedure section 384, as the entire Net Settlement Fund will be paid out to Settlement Class Members or PAGA Group Members, whether or not they all cash their settlement checks. Therefore, Defendant will not be required to pay any interest on such amounts. Administration of the Settlement shall be completed no later than two hundred and seventy (270) days from the Effective Date.

4.11.4 Discharge of Obligations. Defendant shall fully discharge its obligations to Plaintiffs, the Settlement Class Members, the PAGA Group Members, and the State of California through the remittance of the Settlement Fund Amount to the Settlement Administrator as set forth in Section 4.11.1, above, regardless of whether checks representing Class Settlement Awards and/or PAGA Settlement Awards are actually received and/or negotiated by the payee. Once Defendant has complied with its obligation set forth in Section 4.11.1, above, it will be deemed to have satisfied all terms and conditions under this Agreement, shall be entitled to all protections afforded to it under this Agreement, and shall have no further obligations under the terms of this Agreement, regardless of what occurs with respect to the further administration of the Settlement.

1 Without prejudice to any other remedies, the Settlement Administrator shall hold
2 Defendant harmless from and against all liabilities, claims, causes of action, costs, and
3 expenses (including legal fees and expenses) arising out of any failure to timely or properly
4 compensate Settlement Class Members, PAGA Group Members, Plaintiffs, or Class
5 Counsel as provided for in this Agreement.

6 **4.12 Notification and Certification by Settlement Administrator.** The Settlement
7 Administrator shall keep Counsel for Defendant and Class Counsel apprised of the status of the
8 settlement administration process and its distribution of all sums pursuant to this Agreement.
9 Upon completion of administration of the Settlement, the Settlement Administrator shall provide
10 a detailed, written certification of such completion to the Court and counsel for the Parties.

11 **4.13 Nullification of Settlement Agreement if Settlement Not Approved.** In the
12 event: (a) the Court denies preliminary approval, without leave to amend and/or supplement the
13 Settlement; (b) the Court denies final approval, without leave to amend an/or supplement the
14 Settlement; or (c) the Settlement does not become final for any other reason, including the
15 exercise of Defendant's right to rescind the Settlement under Section 4.4.7, above, this
16 Agreement shall be null and void *ab initio* (with the exception of this Section, Section 3.2,
17 Section 3.3, and Section 4.4.7) and any order or Final Approval Order and Judgment entered by
18 the Court in furtherance of the Settlement shall be treated as withdrawn or vacated by stipulation
19 of the Parties. In such case, the Parties shall be returned to their respective statuses as of August
20 15, 2023. In the event an appeal is filed from the Final Approval Order and Judgment, or any
21 other appellate review is sought before the Effective Date, administration of the Settlement shall
22 be stayed pending final resolution of the appeal or other appellate review.

23 **5. ENTRY OF JUDGMENT AND RELEASES**

24 **5.1 Obtaining Approval.** As soon as practicable after execution of this Agreement,
25 Class Counsel shall, with the cooperation of Counsel for Defendant as reasonably requested by
26 Class Counsel, take all necessary steps to secure Preliminary Approval and Final Approval of this
27 Agreement by the Court.
28

1 5.2 **Entry of Judgment.** The Final Approval Order and Judgment in the Action shall
2 include a provision for entry of judgment in accordance with this Agreement, with each Party to
3 bear all of his or its own costs and attorneys' fees, except as expressly set forth herein.

4 5.3 **The Settlement Class Release.** Upon the Effective Date and full funding of the
5 Settlement Fund, all Settlement Class Members shall be deemed to have, and by operation of the
6 Final Approval Order and Judgment shall have, expressly released, waived, and relinquished the
7 Released Class Claims. Settlement Class Members shall not sue or otherwise make a claim
8 against any of the Released Parties for any of the Released Class Claims and shall be barred from
9 filing any actions, claims, complaints, or proceedings regarding the Released Class Claims with
10 the California Division of Labor Standards Enforcement, or from initiating any other proceedings
11 against the Released Parties regarding the Released Class Claims. Settlement Class Members'
12 release, waiver, and relinquishment of the Released Class Claims shall preclude them from
13 participating in any judgment or settlement of any of the Released Class Claims in any other
14 class, collective, or representative action.

15 5.4 **The PAGA Group Release.** Upon the Effective Date and full funding of the
16 Settlement Fund, all PAGA Group Members and the State of California shall be deemed to have,
17 and by operation of the Final Approval Order and Judgment shall have, expressed released,
18 waived, and relinquished the Released PAGA Claims. PAGA Group Members shall be barred
19 from bringing, joining, or otherwise participating in a PAGA representative action or otherwise
20 making, joining, or otherwise participating in a claim against any of the Released Parties for any
21 of the Released PAGA Claims, and the State of California shall also be barred from pursuing
22 recovery of any civil penalties from any of the Released Parties for any of the Released PAGA
23 Claims.

24 5.5 **Plaintiffs' General Release.** Upon the Effective Date and full funding of the
25 Settlement Fund, Plaintiffs, and each of their successors, assigns, heirs, personal representatives,
26 and all those who claim through them or who assert claims on each of their behalf, shall each be
27 deemed to have, and by operation of the Final Approval Order and Judgment shall have,
28 expressly released, waived, and relinquished any and all claims, demands, rights, liabilities, and

1 causes of action each of them has or has ever had against any of the Released Parties, whether for
2 economic damages, noneconomic damages, exemplary damages, penalties, restitution, injunctive
3 or declaratory relief, interest, attorneys' fees, costs, or any other forms of monetary or non-
4 monetary relief in any way arising out of or relating to any facts, transactions, events, policies,
5 occurrences, acts, disclosures, statements, omissions, or failures to act from the beginning of time
6 to the date each of them signs this Agreement, including but not limited to any claims arising
7 from or related to each of their delivery of RH merchandise. This general release by Plaintiffs
8 shall become effective upon the Effective Date and full funding of the Settlement Fund and
9 include all statutory claims, common law claims (including but not limited to those sounding in
10 contract, tort, and equity), and claims for compensation to the fullest extent permitted by law.
11 Plaintiffs each further agree not to sue or otherwise make a claim against any of the Released
12 Parties for any of the claims that are released pursuant to this Section 5.5.

13 **5.6 Waiver of California Civil Code Section 1542.** Plaintiffs each acknowledge that
14 the general release herein, pertaining to them individually, includes potential claims and costs that
15 may not be known or suspected by each of them to exist, and they each hereby expressly and
16 affirmatively waive and relinquish any and all rights and benefits which may otherwise exist
17 relating to the claims released in Section 5.5 pursuant to California Civil Code section 1542, and
18 any similar law of any state or territory of the United States. California Civil Code section 1542
19 states as follows:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
21 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
22 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
23 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.

24 **6. ADDITIONAL PROVISIONS**

25 **6.1 No Admission of Liability.** Defendant contends that all of its practices with
26 respect to drivers and helpers comply and have complied with all applicable laws and regulations;
27 that Class Members and PAGA Group Members were and are properly classified as independent
28 contractors and deny all derivative claims for minimum wages and overtime wages, meal and rest

1 breaks, waiting time penalties, obligation to provide itemized wage statements, and
2 reimbursement of necessary business expenses; that Defendant did not and does not engage in
3 unfair competition, business acts, or practices; and that Defendant's conduct was not and is not
4 willful, knowing and intentional, or otherwise unlawful with respect to any of the claims alleged
5 in the Action. Defendant has denied and continues to deny each of the claims alleged and the
6 contentions made by Plaintiffs in the Action. Defendant denies any wrongdoing or legal liability
7 arising out of any of the facts or conduct alleged in the Action and believes it has valid defenses
8 to Plaintiffs' claims. This Agreement reflects the compromise and settlement of disputed claims
9 between the Parties, and its provisions and any and all drafts, communications or discussions
10 relating thereto do not constitute, are not intended to constitute, and will not under any
11 circumstances be deemed to constitute an admission by Defendant as to the merits, validity, or
12 accuracy of any of the allegations or claims in the Action, nor a waiver of any defense.

13 **6.2 Sexual Harassment Claims.** Nothing in this Agreement is intended to prevent or
14 restrict discussion or disclosure of factual information regarding sexual assault, sexual
15 harassment, harassment, discrimination, unlawful acts in the workplace (e.g., harassment or
16 discrimination or any other conduct for which there is reason to believe said conduct is unlawful),
17 failure to prevent an act of workplace harassment or discrimination, and/or an act of retaliation
18 against a person for reporting or opposing harassment or discrimination.

19 **6.3 Parties Represented by Counsel.** The Parties hereby acknowledge that they have
20 been represented in negotiations for and in the preparation of this Agreement by independent
21 counsel of their own choosing, they have read this Agreement and have had it fully explained to
22 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal
23 effect.

24 **6.4 Voluntary Agreement.** This Agreement is executed voluntarily and without
25 duress or undue influence on the part of or on behalf of any Party, or of any other person, firm or
26 entity. Each Party has made such investigation of the facts pertaining to this Agreement and of
27 all other matters pertaining hereto as he or it deems necessary.
28

1 6.5 **Notices.** The Parties, Class Counsel, and Counsel for Defendant acknowledge and
2 agree that for the purposes of any claims, actions, or proceedings arising out of this Agreement,
3 notice provided to Class Counsel shall be deemed notice to Plaintiffs, Class Members, and PAGA
4 Group Members. All notices, requests, demands, and other communications required to be given
5 to counsel for the Parties under this Agreement shall be in writing and shall be delivered
6 personally, faxed, emailed, or mailed, postage prepaid, by first class United States mail, addressed
7 as follows:

8 To Class Members, PAGA Group Members, or to Plaintiffs:

9 Alan S. Lazar (alazar@marlinsaltzman.com)
10 Cody R. Kennedy (ckennedy@marlinsaltzman.com)
11 Stephen P. Odell (sodell@marlinsaltzman.com)
12 Tatiana G. Avakian (tavakian@marlinsaltzman.com)
13 MARLIN & SALTZMAN, LLP
14 29800 Agoura Road, Suite 210
15 Agoura Hills, California 91301
16 Telephone: 818.991.8080
17 Facsimile: 818.991.8081

18 Bassil A. Hamideh (bhamideh@hamidehfirm.com)
19 THE HAMIDEH FIRM, PC
20 1801 Century Park East, Suite 2400
21 Los Angeles, California 90067
22 Telephone: 310.556.9687
23 Facsimile: 310.733.5699

24 To Defendant RH:

25 Tritia M. Murata (TritiaMurata@dwt.com)
26 Nancy R. Thomas (NancyThomas@dwt.com)
27 Maya Harel (MayaHarel@dwt.com)
28 DAVIS WRIGHT TREMAINE LLP
 865 South Figueroa Street, 24th Floor
 Los Angeles, California 90017-2566
 Telephone: 213.633.6800
 Facsimile: 213.633.6899

29 6.6 **No Press Releases/Public Comment.** Unless they first obtain Defendant's
30 express written consent, Class Counsel and Plaintiffs shall not (a) discuss, reveal, disclose,
31 publicize, or promote the terms of the Settlement, or the negotiations leading to the Settlement, to
32 any third party (including but not limited to the media, the legal community, or the public at
33 large), or (b) issue any press releases or initiate any contact with the media regarding the

1 Settlement, or otherwise advertise or publicize the Settlement. Nothing in this Agreement is
2 intended to prevent Plaintiffs or Class Counsel from disclosing or discussing the terms of the
3 Settlement (i) with the Court, (ii) with any Class Member or PAGA Group Member, (iii) with the
4 Settlement Administrator, (iv) with the LWDA in conformity with PAGA, or (v) as otherwise
5 required by law. Moreover, nothing herein will restrict Class Counsel from including publicly
6 available information regarding the Settlement in future judicial submissions regarding Class
7 Counsel's qualifications and experience.

8 **6.7 Authorization.** The Parties hereto represent and warrant that each signatory
9 hereto has the full right and authority to enter into this Agreement and bind the Party on whose
10 behalf he, she, or it has executed this Agreement.

11 **6.8 Agreement Binding on Successors in Interest.** This Agreement shall be binding
12 on and inure to the benefit of the respective successors, assigns, heirs, and personal
13 representatives of the Parties.

14 **6.9 Time Periods.** The time periods and dates set forth in this Agreement with respect
15 to the giving of notices and hearings are subject to approval and modification by the Court or the
16 written stipulation of counsel for the Parties.

17 **6.10 Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to
18 accomplish the terms of this Agreement, including but not limited to execution and delivery of
19 any and all additional papers, documents, and other assurances and taking such other action that
20 may be reasonably necessary to implement the terms of this Agreement. The Parties and their
21 counsel shall use their best efforts, including all efforts contemplated by this Agreement and any
22 other efforts that may become necessary by order of the Court, to effectuate this Agreement and
23 the terms set forth herein. In particular, the Parties understand and acknowledge that the
24 Settlement Administrator will need information only available from the Released Third-Party
25 Logistics Providers and that neither of the Parties nor their counsel have control over the timing
26 of receipt of that required information. The Parties agree to work together to adjust deadlines as
27 needed to the extent there are delays in obtaining the necessary data from the Released Third-
28 Party Logistics Providers.

1 6.11 **Entire Agreement.** The Exhibits to this Agreement are integral parts of this
2 Agreement and are hereby incorporated and made a part of this Agreement. This Agreement
3 contains the entire agreement between the Parties and constitutes the complete, final, and
4 exclusive embodiment of their agreement with respect to the subject matter hereof. This
5 Agreement is executed without reliance upon any promise, representation, or warranty by any
6 Party or any representative of a Party, other than those expressly set forth herein. Any
7 inconsistency between this Agreement and the attached Exhibits will be resolved in favor of this
8 Agreement.

9 6.12 **Headings.** The various headings used in this Agreement are solely for the
10 convenience of the Parties and shall not be used to interpret this Agreement.

11 6.13 **No Construction Against Drafter.** This Agreement shall be deemed to have been
12 drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter
13 shall not apply to this Agreement.

14 6.14 **Amendment and Modification.** Except as expressly provided in Sections 6.9 and
15 6.10, above, with respect to time periods and dates set forth herein, this Agreement may not be
16 amended, altered, or modified except in writing and signed by the Parties hereto, their successors
17 in interest, or their duly authorized representatives, and approved by the Court.

18 6.15 **Governing Law.** This Agreement is entered into in accordance with the laws of
19 the State of California and shall be governed by and interpreted in accordance with those laws.

20 6.16 **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or
21 otherwise arising out of this Agreement, or relating to the Action, the Released Class Claims, or
22 the Released PAGA Claims, shall be subject to the exclusive jurisdiction of the Court, and the
23 Plaintiffs, Class Members, PAGA Group Members, the LWDA, and Defendant agrees to submit
24 to the personal and exclusive jurisdiction of the Court for the purpose of resolving any such
25 dispute. Following the Effective Date, the Court shall retain jurisdiction solely with respect to the
26 interpretation, implementation, and enforcement of the terms of this Agreement and all orders and
27 judgments entered in connection therewith, and the Parties and their counsel submit to the
28

jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

6.17 **Agreement Constitutes a Complete Defense.** To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this Agreement.

6.18 **Signatures.** Signatures by facsimile, in Portable Document Format (PDF), or by other electronic means, shall have the same force and effect as original signatures.

6.19 **Execution Date and Execution in Counterparts.** This Agreement shall be deemed executed upon the last date of signature of all of the undersigned. The Parties may execute this Agreement in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument having the same force and effect as if all Parties had signed the same instrument.

IN WITNESS THEREOF, the Parties hereto have so agreed.

Dated: May 14, 2024

MARIO ERAZO



On behalf of himself, the Settlement Class, and the State of California and PAGA Group Members as a private attorney general

Dated: May __, 2024

PEDRO HERNANDEZ

On behalf of himself, the Settlement Class, and the State of California and PAGA Group Members as a private attorney general

jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

6.17 **Agreement Constitutes a Complete Defense.** To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this Agreement.

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IN WITNESS THEREOF, the Parties hereto have so agreed.

Dated: May __, 2024

MARIO ERAZO

On behalf of himself, the Settlement Class, and the State of California and PAGA Group Members as a private attorney general

Dated: May 14, 2024

PEDRO HERNANDEZ



On behalf of himself, the Settlement Class, and the State of California and PAGA Group Members as a private attorney general

1 Dated: May 14 2024

RESTORATION HARDWARE, INC.

2
3 By: 
4 Edward Lee
Chief Legal and Compliance Officer

5 **Approved as to Form and Content and Agreed as to Publicity Provision (Section 6.6)**

6 Dated: May __, 2024

MARLIN & SALTZMAN, LLP

7
8 By: _____
9 Alan S. Lazar
Cody R. Kennedy
10 Stephen P. O'Dell
Tatiana G. Avakian

11 THE HAMIDEH FIRM, P.C.

12
13 By: _____
Bassil A. Hamideh

14 Attorneys for Plaintiffs
MARIO ERAZO AND PEDRO HERNANDEZ

15 Dated: May 14, 2024

DAVIS WRIGHT TREMAINE LLP

16
17 By: 
18 Tritia M. Murata

19 Attorneys for Defendant
20 RESTORATION HARDWARE, INC.

1 Dated: May __, 2024

RESTORATION HARDWARE, INC.

3 By: _____

4 Edward Lee
Chief Legal and Compliance Officer

5 **Approved as to Form and Content and Agreed as to Publicity Provision (Section 6.6)**

6 Dated: May 14, 2024

MARLIN & SALTZMAN, LLP

8 By: _____

9 Alan S. Lazar
Cody R. Kennedy
Stephen P. O'Dell
Tatiana G. Avakian

11 THE HAMIDEH FIRM, P.C.

13 By: _____

14 Bassil A. Hamideh

15 Attorneys for Plaintiffs
MARIO ERAZO AND PEDRO HERNANDEZ

16 Dated: May __, 2024

DAVIS WRIGHT TREMAINE LLP

18 By: _____

19 Tritia M. Murata

20 Attorneys for Defendant
RESTORATION HARDWARE, INC.

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

PEDRO HERNANDEZ and MARIO ERAZO,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

RESTORATION HARDWARE, INC., a
Delaware Corporation, and DOES 1 to 100,
inclusive,

Defendant.

Case No. CIVSB2211655

**NOTICE OF SETTLEMENT OF CLASS
ACTION**

You are not being sued. This notice affects your rights. Please read it carefully.

ATTENTION: If you were a driver and/or helper who was cleared to deliver Restoration Hardware, Inc. (“RH”) merchandise on behalf of a Third-Party Logistics Provider (i.e. a freight forwarder) in California at any time between August 8, 2020 and June 12, 2024 (the “Class Period”), you may be a Class Member eligible to receive money from a proposed Class Settlement in the above-captioned class action lawsuit (the “Action”).

PLEASE READ THIS NOTICE CAREFULLY. This Notice relates to the proposed Class Settlement in the above-captioned action. If you are a Class Member, it contains important information affecting your rights to participate in the Class Settlement, as described below. This Notice advises you of the terms of the Class Settlement and your rights and options under it.

To be eligible for your share of the Class Settlement, you are not required to make a claim. However, to ensure receipt of your share, you must update the Settlement Administrator, Simpluris, Inc., with any change of address.

What is this proposed Settlement about?

The original Complaint in this Action was filed on June 9, 2022 against Defendant RH. The Complaint in this Action contains 12 causes of action alleging: (1) declaratory relief; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide meal breaks; (5) failure to provide rest breaks; (6) failure to pay all wages upon discharge; (7) failure to maintain adequate records; (8) failure to reimburse for necessary business expenses; (9) unlawful deductions from wages; (10) failure to provide adequate wage statements; (11) unfair competition; and (12) intentional misclassification. As part of this Class Settlement, and for settlement purposes only, the Parties have agreed that Plaintiffs Mario Erazo and Pedro Hernandez (collectively, “Plaintiffs”) may file a First Amended Complaint to add a claim for civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 (Lab. Code § 2698, et seq.; “PAGA”).

Plaintiffs allege these Labor Code violations based on their theory that they and other drivers and helpers who delivered RH merchandise on behalf of Third-Party Logistics Providers in California were improperly classified as independent contractors instead of employees.

RH has agreed to settle the case as part of a compromise with Plaintiffs following a mediation with an experienced and well-respected class action mediator. The proposed Settlement is not an admission of liability by RH. Throughout the course of litigation in the Action, RH has denied any liability or wrongdoing, or that any compensable injury arose out of any of the matters alleged. RH contends that all of its practices with respect to drivers and helpers comply and have complied with all applicable laws and regulations, and that drivers and helpers were properly classified as independent contractors. RH additionally denies all derivative claims for minimum and overtime wages, meal and rest breaks, waiting time penalties, itemized wage statements, and reimbursement of necessary business expenses. RH further contends that it did not and does not engage in unfair competition, business acts, or practices; that it did not and does not engage in any willful, knowing, or intentional violations of any law or regulation as to drivers or helpers; or otherwise engage in any unlawful conduct with respect to any of the claims alleged in the Action. By agreeing to settle, RH is not admitting liability on any of the factual allegations or claims in the Action or that it can or should proceed as a class or PAGA representative action.

Counsel for Plaintiffs, who are the attorneys approved by the Court to represent the class for purposes of the Settlement (“Class Counsel”), believe that the proposed Settlement is in the best interests of the Class Members. Further proceedings would be expensive and take a long time. Moreover, no one can predict the precise outcome of the disputed issues in this case. Therefore, Class Counsel believe the proposed Settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Under the proposed Class Settlement, RH has agreed to make payments (“Class Settlement Awards”) to all Class Members who do not opt out of the Settlement (“Settlement Class Members”). The Class Settlement Awards will be based on the number of estimated workweeks that Settlement Class Members delivered RH merchandise on behalf of Third-Party Logistics Providers (i.e. freight forwarders) in California during the Class Period (“Workweeks”).

The Court has preliminarily approved the proposed Class Settlement, meaning that it has determined only that there is sufficient evidence to suggest that it might be fair, reasonable, and adequate. Any final determination of those issues will be made at the Final Approval Hearing.

Summary of the proposed Settlement terms

Plaintiffs and Defendants have agreed to settle the underlying class and PAGA claims in exchange for a Gross Settlement Amount of \$6,000,000. This amount is inclusive of: (1) up to \$2,100,000 in attorneys’ fees and up to \$50,000 in litigation costs and expenses; (2) individual service payments to each of the Plaintiffs for a total aggregate sum of up to \$10,000; (3) a \$180,000 settlement of claims under PAGA; (4) reasonable Settlement Administrator’s fees and expenses, not to exceed \$24,623.00; and (5) the employer-side portion of withholdings and taxes. After deducting the above payments, a total of approximately \$ [REDACTED] (the “Net Settlement Sum”) will be allocated to individual settlement payments (“Class Settlement Awards”) to all

Class Members who do not opt out (“Settlement Class Members”). Further details regarding the allocation of the Gross Settlement Amount are below:

Fees and Expense Award to Class Counsel: Subject to the Court’s approval, Class Counsel (Marlin & Saltzman LLP and its attorneys Alan S. Lazar, Cody R. Kennedy, Stephen P. O’Dell, and Tatiana Avakian and The Hamideh Firm, P.C. and its attorney Bassil Hamideh) seek up to 35% of the Gross Settlement Amount (i.e., up to \$2,100,000) as their fees for prosecuting this case and reimbursement of actual litigation costs and expenses not to exceed \$5,000. You are not personally responsible for any of Class Counsel’s attorneys’ fees, costs, or expenses. These amounts will be paid directly from the Gross Settlement Amount.

Service Payments: The proposed Settlement provides for a Service Payment of up to \$5,000 each to Plaintiffs Mario Erazo and Pedro Hernandez (for a total of \$10,000), subject to Court approval. These payments are for their services as plaintiffs in the Action and for their general release of all claims against RH.

PAGA Settlement Amount: The proposed Settlement provides for a payment of \$180,000 for resolution of the PAGA claims alleged in the Action. Of that amount, 75% (\$135,000) shall be paid to the Labor and Workforce Development Agency (“LWDA”) and 25% (\$45,000) shall form the PAGA Fund to be distributed to PAGA Group Members. PAGA Group Members are drivers and helpers who were cleared to deliver RH merchandise on behalf of Third-Party Logistics Providers in California at any time during the PAGA Period (June 9, 2021 to [Insert Preliminary Approval Date]). All PAGA Members will receive a proportional share of the \$45,000 PAGA Fund and be bound by the PAGA portion of the Settlement, regardless of whether they opt out of the class portion of the Settlement.

Settlement Administration Costs: The proposed Settlement provides for a payment not to exceed \$24,623.00 to the Settlement Administrator, Simpluris, Inc., for its services in mailing the Notice of Settlement of Class Action and administering the Settlement.

Class Settlement Awards to Settlement Class Members: Settlement Class Members will each be paid a Class Settlement Award, which is their pro-rata share of the Net Settlement Sum (made up of the Drivers Class Fund and the Helpers Class Fund), calculated as follows:

Drivers Class Fund: The Drivers Class Fund is approximately 50% of the Net Settlement Sum. For those Class Members who were cleared to work as drivers delivering RH merchandise on behalf of Third-Party Logistics Providers in California during the Class Period, the Settlement Administrator will calculate the total number of Drivers Workweeks for each driver based on DispatchTrack Data. The Drivers Class Fund will be divided by the aggregate total number of Drivers Workweeks resulting in the “Workweek Value For Drivers.” Each Class Settlement Award for Drivers will be calculated by multiplying each individual driver’s total number of Drivers Workweeks by the Workweek Value for Drivers. The wage portion of each driver’s Class Settlement Award will be reduced by their share of any payroll taxes.

Helpers Class Fund: The Helpers Class Fund is approximately 50% of the Net Settlement Sum. The Helpers Class Fund will be divided equally among all Class

Members cleared to work as helpers and/or third-men delivering RH merchandise on behalf of Third-Party Logistics Providers in California during the Class Period. The wage portion of each helper's Class Settlement Award will be reduced by their share of any payroll taxes.

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to Settlement Class Members and the appropriate taxing authorities reflecting the payments they receive under the Settlement. Settlement Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this Settlement, 20% of each Class Settlement Award will be allocated as wages for which IRS Forms W-2 will be issued, and 80% of each Class Settlement Award will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. Additionally, any settlement payments from the PAGA Fund will be allocated as penalties, for which IRS Forms 1099-MISC will be issued.

What are my rights and options?

1. You can exclude yourself from the Class Settlement: If you do not want a Class Settlement Award and do not want to be bound by any of the proposed Class Settlement's terms, including the release of the Released Class Claims (described below), you must make a timely written Request for Exclusion. Your Request for Exclusion must contain (a) the name of the Action (*Erazo, et al. v. Restoration Hardware, Inc.*), (b) your full name, signature, and address, (c) the words "Request for Exclusion" at the top of the document, and (d) the statement: "I wish to be excluded from the Class Settlement of this case."

You may use the Request for Exclusion form that is attached as Form B to this Notice. Your Request for Exclusion must be mailed to the Settlement Administrator and must be postmarked by [DATE – 45 days from mailing Class Notice / Notice Response Deadline]. You should not request exclusion if you wish to receive money from the class portion of the Settlement.

You do not have the right to be excluded from the PAGA portion of the Settlement, whether or not you exclude yourself from the class portion of the Settlement.

2. You can object to the Class Settlement: You can object to the class portion of the Settlement before the Court grants final approval of it. To object in writing, you must submit a written statement to the Settlement Administrator by [DATE – 45 days from mailing Class Notice / Notice Response Deadline]. To be valid, your written objection must contain: (a) a reference to the name and case number of the Action (*Erazo, et al. v. Restoration Hardware, Inc.*, San Bernardino Superior Court Case No. CIVSB2211655); (b) your full name, signature, address, and telephone number; (c) a written statement of the grounds for your objection to the Class Settlement; and (d) a written statement of whether you intend to appear at the Final Approval Hearing and whether you are represented by counsel.

Alternatively, you can object (or personally retain a lawyer to object, at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See **Page 7** of this Notice for specifics regarding the Final Approval Hearing.

You are not required to appear, either personally or through counsel, at the Final Approval Hearing in order for your written objection to be considered.

You may object to the class portion of the Settlement only if you do NOT submit a Request for Exclusion (option 1 above). If you submit both a valid Request for Exclusion as well as an objection to the Class Settlement, your objection will not be considered because you will be excluded from the Class Settlement and will be unable to object to it.

You do not have the right to object to the PAGA portion of the Settlement, whether or not you object to the class portion of the Settlement.

3. If you are or were a Driver, you can dispute the number of your Workweeks during the Class Period: If you are or were a Driver, a Notice of Eligible Workweeks form is attached as Form A to this Notice. It provides your number of Workweeks during the Class Period according to information provided by RH. If you were a driver cleared to deliver RH merchandise on behalf of a Third-Party Logistics Provider, Workweeks are calculated by relying on DispatchTrack Data (“Drivers Workweeks”).

If you are a Driver and you do not agree with the number of your Workweeks during the Class Period shown on the form, you may dispute the number by completing the Notice of Eligible Workweeks form and mailing it to the Settlement Administrator together with supporting documentation, if any, by **[DATE – 45 days from mailing Class Notice / Notice Response Deadline]**.

If you are or were a Helper cleared to deliver RH merchandise on behalf of a Third-Party Logistics Provider, you and all other Class Members who are helpers will receive an equal number of Workweeks for the Class Period (“Helpers Workweeks”). If you were cleared to deliver RH merchandise on behalf of a Third-Party Logistics Provider as both a Driver and a Helper during the Class Period, you will receive a combined total number of Drivers Workweeks and Helpers Workweeks.

4. You can do nothing: You can do nothing. If you do nothing, you will be bound by the proposed Settlement terms and you will be entitled to receive a Class Settlement Award as described above after the Court grants final approval of the Settlement.

You should also correct your mailing address if it is not correct or if you move before receiving your Class Settlement Award by calling the Settlement Administrator at **- -**.

Irrespective of which of the above options you choose, to the extent you are a PAGA Group Member, you will also receive a PAGA Settlement Award, regardless of whether you exclude yourself from the Class Settlement, object to the Class Settlement, dispute the number of your Workweeks (for Drivers), or do nothing.

What claims am I releasing by participating in the Class Settlement?

In exchange for the consideration given by RH in the proposed Settlement, all Class Members who do not opt out of the Class Settlement (the Settlement Class Members) will expressly

release, waive, and discharge, and will be deemed to have released, waived, and discharged, all Released Class Claims against all Released Parties.

“Released Class Claims” means all claims, debts, liabilities, demands, obligations, damages, and actions or causes of action of any kind arising during the Class Period, which were alleged in the Complaints or that could have been alleged against any of the Released Parties based on the factual allegations in the Complaints including claims under California Labor Code sections 200, 201, 202, 203, 226, 226.2, 226.3, 226.7, 226.8, 510, 512, 1174, 1182.11, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and 3357; IWC Wage Orders, including Wage Order No. 9-2001, including sections 3, 4, 7, 8, 9, 11, and 12 thereof; California Code of Civil Procedure sections 1021.5 and 1060; and California Business and Professions Code section 17200 et seq. related only to the above claims. Expressly excluded from the Released Class Claims are claims for wages in Workers’ Compensation and Unemployment Insurance benefits cases, and claims for benefits under the Employee Retirement Income Security Act of 1974 (ERISA).

“Released Parties” means RH and the Released Third-Party Logistics Providers, and each of their respective present, former, and future parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and assigns, and each of their (including RH’s and the Third-Party Logistics Providers’) respective present, past and future officers, directors, employees, partners (both general and limited), members, shareholders, agents, attorneys, accountants, auditors, consultants, insurers, and any other successors, assigns, and legal representatives.

The Released Third-Party Logistics Providers are Allegiant Logistics, Apogee Logistics, Distribution Solutions, Inc. (or DSI), FGO Logistics, Pillar Logistics LLC, and Premier Last Mile, LLC (or PLM), which are third-party logistics providers RH contracted with for the delivery of RH merchandise during the Class Period.

All Settlement Class Members intend and are deemed to intend that this Settlement shall be effective as a bar to any and all Released Class Claims against any and all Released Parties. All Settlement Class Members further agree not to sue or otherwise make a claim against any of the Released Parties arising out of or related to any of the Released Class Claims. All Settlement Class Members further agree that they shall be barred from filing any actions, claims, complaints, or proceedings regarding the Released Class Claims with the California Division of Labor Standards Enforcement, or from initiating any other proceedings against any of the Released Parties regarding any of the Released Class Claims. All Settlement Class Members further agree that their release, waiver, and relinquishment of the Released Class Claims shall preclude them from participating in any judgment or settlement of any of the Released Class Claims in any other class, collective, or representative action.

Regardless of whether you are a Settlement Class Member or have opted out of the Class Settlement, if you are a PAGA Group Member (defined above), you will be deemed to have released, waived, and discharged, all Released PAGA Claims against all Released Parties.

“Released PAGA Claims” means all claims for civil penalties pursuant to PAGA that arose during the PAGA Period, which were alleged the Complaints or the PAGA Notice, or that could have been alleged based on the factual allegations in the Complaints or PAGA Notice, against

any of the Released Parties, for alleged violations of California Labor Code sections 201, 202, 203, 204, 223, 226, 226.2, 226.3, 226.4, 226.7, 226.8, 256, 510, 512, 558, 1174, 1174.5, 1182.11, 1182.12, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1195, 1197, 1198, 2802, and 2698, et seq.; IWC Wage Orders, including Wage Order No. 9-2001, including sections 3, 4, 7, 8, 9, 11, and 12 thereof.

All PAGA Group Members intend and are deemed to intend that this Settlement shall be effective as a bar to any and all Released PAGA Claims against any and all Released Parties. All PAGA Group Members further agree that they shall be barred from bringing, joining, or otherwise participating in a PAGA representative action or otherwise making, joining, or otherwise participating in a claim against any of the Released Parties for any of the Released PAGA Claims.

When is the next Court hearing?

A Final Approval Hearing will be held before the Honorable Jessica Morgan in Department S26 of the Superior Court of California, County of San Bernardino, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California 92415-0210, on [FA hearing date] at [FA hearing time] to determine whether the Settlement is fair, reasonable, and adequate. Judge Morgan will be asked to approve the plan for distributing the Class Settlement Awards, the Fee and Expense Award to Class Counsel, the Service Payments to Plaintiffs, the PAGA Settlement Amount, and the Settlement Administration Costs to the Settlement Administrator. A motion for final approval of these items should be on file with the Court no later than [redacted], 202 [redacted] and will be available for review after that date. This hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing, but you may do so if you wish.

What if I need more information?

Capitalized terms in this Notice have the same meaning they are given in the Class Action and PAGA Settlement Agreement and Release (“Agreement”), filed with the San Bernardino Superior Court on [DATE] as an attachment to Plaintiff’s Motion for Preliminary Approval of Class Action Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed Agreement and the Preliminary Approval Order, which is also on file with the Court. If you have any questions, you can contact the Settlement Administrator at [redacted] - [redacted] - [redacted]. You can also contact Class Counsel:

Alan S. Lazar (alazar@marlinsaltzman.com)
Cody R. Kennedy (ckennedy@marlinsaltzman.com)
Stephen P. O’Dell (sodell@marlinsaltzman.com)
Tatiana G. Avakian (tavakian@marlinsaltzman.com)
MARLIN & SALTZMAN, LLP
29800 Agoura Road, Suite 210
Agoura Hills, California 91301
Telephone: 818.991.8080
Facsimile: 818.991.8081

Bassil A. Hamideh (bhamideh@hamidehfirm.com)
THE HAMIDEH FIRM, PC
1801 Century Park East, Suite 2400
Los Angeles, California 90067
Telephone: 310.556.9687
Facsimile: 310.733.5699

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION
ABOUT THIS SETTLEMENT**

EXHIBIT B

PUBLICATION NOTICE PLAN

Erazo, et al. v. Restoration Hardware, Inc.

Overview

As part of the Settlement, the Parties have asked Simpluris to create a Publication Notice Plan designed to reach Helper Class Members whose names and contact information RH does not have, which is a population Simpluris understands is primarily comprised of Spanish speaking males ages 20-50 who are located in, or frequently visit, Ontario or Tracy, California, the location of the RH warehouses from which Helpers started their routes. The details of the Publication Notice Plan are set out below.

Media Notice—Facebook Ads

To reach Helpers, Simpluris will place advertisements on Facebook with the following text:

If you were a **Helper** cleared to deliver Restoration Hardware merchandise on behalf of a freight forwarder in California between August 8, 2020, and June 12, 2024, you may be eligible to participate in a proposed class action settlement.

You can learn more about the settlement here: [settlement website URL]

Facebook is one of the dominant social media platforms in the United States, and is used by over 68% of Americans.¹ Facebook use is higher with US Hispanics, 71% of whom report that they use Facebook daily.²

Simpluris will place ads that target Facebook users who are Spanish-speaking males, ages 20 to 50, who are located in, or frequently visit, Ontario or Tracy, California, the location of the RH warehouses from which Helpers started their routes. The ads will be hyperlinked (“clickable”) to a page on the settlement website that will explain the Class definition and include a copy of the Request for Information that individuals can download, fill out, and return.

Simpluris will also utilize Facebook’s predictive algorithms by creating a lookalike audience based on users who follow a notice ad to the settlement website. Lookalike audiences are created by analyzing the interests and online behaviors of a known group—in this case, users who interacted with a notice ad—and identifying other users who closely resemble those interests and behaviors. Lookalike audiences are extremely

¹ *Americans’ Social Media Use*, Pew Research Center, <https://www.pewresearch.org/internet/2024/01/31/americans-social-media-use/> (last visited April 17, 2024).

² *Digital Diversity: A Closer Look at US Hispanics*, Facebook IQ, <https://www.facebook.com/business/news/insights/digital-diversity-a-closer-look-at-us-hispanics> (last visited April 17, 2024).

effective in identifying similarities, and are commonly used in class action notice campaigns to reach class members who cannot be individually ascertained.

Simpluris will create a Facebook page as part of the publication notice campaign.

This campaign is expected to produce approximately 385,840 impressions, targeting the approximately 63,000 Hispanic males who live in and around Ontario, California,³ and 20,000 Hispanic males who live in and around Tracy, California.⁴

Media Notice—Radio

Radio is a very popular media platform with Spanish-speakers, with 93% reporting that they listen to radio at least once per week.⁵

Simpluris will place radio ads in Spanish with KTSE La Suavecita 97.1 FM, KLAX La Raza 97.9 FM, KCVR Fuego 98.9 & 103.5, and KMIX La Tricolor 100.9 FM. All four radio stations have streaming options that extend their reach beyond the local radio signal.

The radio ads will state the following:

If you were a Helper cleared to deliver Restoration Hardware merchandise on behalf of a freight forwarder in California between August 8, 2020, and June 12, 2024, you may be eligible to participate in a proposed class action settlement. Find out more at [settlement website URL].

Again, Helpers cleared to deliver Restoration Hardware merchandise on behalf of a freight forwarder, visit [settlement website URL] to find out more.

That's [settlement website URL].

The radio ads will run twice a day for five consecutive days, during the week of [specify DATE].

³ *QuickFacts: Ontario, California*, US Census Bureau, <https://www.census.gov/quickfacts/fact/table/ontariocitycalifornia/PST045222> (last visited April 17, 2024)

⁴ *QuickFacts: Tracy, California*, US Census Bureau, <https://www.census.gov/quickfacts/fact/table/tracycitycalifornia/PST045222> (last visited April 17, 2024).

⁵ *Spanish-Language Radio in the United States*, Instituto Cervantes at FAS – Harvard University, https://cervantesobservatorio.fas.harvard.edu/sites/default/files/027_report_radio_united_states.pdf (last visited April 17, 2024).

EXHIBIT C

REQUEST FOR INFORMATION

Erazo, et al. v. Restoration Hardware, Inc.
San Bernardino County Superior Court, Case No. CIVSB2211655

To: [Name]

You recently reached out to the Settlement Administrator in response to an advertisement about a class action and PAGA settlement in this case. The Settlement Administrator will need you to provide the information below to determine if you are a Helper Class Member who has the option of participating in the Settlement and/or a Helper PAGA Member.

To be a Helper Class Member, you must have been cleared to work as a helper or a third-man delivering Restoration Hardware merchandise on behalf of one or more third-party logistics providers (i.e. freight forwarders) in California between August 8, 2020 and June 12, 2024. To be a Helper PAGA Member, you must have been cleared to work as a helper or a third-man delivering Restoration Hardware merchandise on behalf of one or more third-party logistics providers (i.e. freight forwarders) in California between June 9, 2021 and June 12, 2024

Please provide all of the information requested below, sign and date this form, and return it to the Settlement Administrator by [DATE 14 DAYS AFTER MAILING OF REQUEST FOR INFORMATION or DATE THAT IS SIX WEEKS AFTER PUBLICATION OF THE INITIAL PUBLISHED NOTICE, WHICHEVER IS SOONER].

You may send the completed form by email to: [EMAIL ADDRESS] or by mail to: [ADDRESS]. If you send the completed form by email, you must send it by [DATE]. If you send the completed form by mail, it must be postmarked by [DATE]

REQUIRED INFORMATION

1. Your contact information:

Full Name: _____

Address: _____

Email Address: _____

Phone Number: _____

2. Did you deliver RH merchandise as a Helper or a Third-Man on behalf of a Third-Party Logistics Provider during the period between August 8, 2020 and June 12, 2024?

☐ YES

☐ NO

3. Please list the dates when you delivered RH merchandise as a Helper or a Third-Man on behalf of a Third-Party Logistics Provider during the period between August 8, 2020 and June 12, 2024.

Dates when you worked as a driver: _____

Dates when you worked as a helper: _____

4. Please list the name(s) of each Third-Party Logistics Provider on whose behalf you delivered RH merchandise as a Helper or a Third-Man during the period between August 8, 2020 and June 12, 2024.

5. Please list the first and last names of Drivers you worked with when you worked as a Helper or a Third-Man delivering RH merchandise on behalf of a Third-Party Logistics Provider during the period between August 8, 2020 and June 12, 2024.

Driver names: _____

6. **PLEASE PROVIDE COPIES OF ANY DOCUMENTS THAT YOU HAVE THAT SUPPORT THE INFORMATION YOU HAVE PROVIDED ABOVE** (e.g. evidence of payments you received from the Third-Party Logistics Companies, or emails or text messages with the Third-Party Logistics Companies or with Drivers regarding your work delivering RH merchandise on behalf of a Third-Party Logistics Company).

Dated: _____

(signature)

The Settlement Administrator will contact you to let you know if you are determined to be a Helper Class Member and/or Helper PAGA Member. The Settlement Administrator's decision

on whether you are a Helper Class Member and/or Helper PAGA Member will be final and binding.

If the Settlement Administrator determines that you are a Helper Class Member and/or a Helper PAGA Member, the Settlement Administrator will send you additional information about the Settlement.

EXHIBIT D

NOTICE OF ELIGIBLE WORKWEEKS FOR DRIVERS

Erazo, et al. v. Restoration Hardware, Inc.,
San Bernardino County Superior Court, Case No. CIVSB2211655

To: [Class Member Name]

Your potential individual Class Settlement Award in the Settlement of the class action lawsuit listed above is based on the number of weeks Restoration Hardware, Inc.'s ("RH") DispatchTrack Data reflects you worked as a driver delivering RH merchandise on behalf of third-party logistics providers (i.e., freight forwarders) in California at any time between August 8, 2020 and June 12, 2024 (the "Class Period"). According to RH's DispatchTrack Data, you delivered RH merchandise on behalf of third-party logistics providers in California for at least one day in a workweek, for a total of [] Workweeks during the Class Period.

If you wish to participate in the Class Settlement and you agree with the number of your Workweeks during the Class Period shown above, then you do not need to take any further action. You will receive your Class Settlement Award once the Settlement becomes final.

If you **do not agree** with the number of your Workweeks during the Class Period shown above, please insert in the space below the number of workweeks in the Class Period during which you believe you worked as a driver delivering RH merchandise on behalf of third-party logistics providers in California. If you have documentation to support the number of your Workweeks during the Class Period, you should provide it for the Settlement Administrator to consider.

The number of Workweeks during the Class Period you believe is correct for you: _____

- ☐ I am enclosing documentation to support the number of my Workweeks during the Class Period being different from the number of Workweeks during the Class Period shown for me above.
- ☐ I am not enclosing documentation to support the number of my Workweeks during the Class Period being different from the number of Workweeks during the Class Period shown for me above.

Dated: _____

(signature)

If you wish to dispute the number of your Workweeks during the Class Period shown above, you must complete, sign, and date this Notice of Eligible Workweeks form and mail it with any supporting documentation to the Settlement Administrator, Simpluris, Inc., at [Settlement Administrator's Address], postmarked no later than [Notice Response Deadline].

If you dispute the number of your Workweeks during the Class Period, the Settlement Administrator will resolve the dispute, and its decision will be final and binding. In resolving the dispute, the information provided by RH's DispatchTrack Data will be presumed accurate.

EXHIBIT E

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

PEDRO HERNANDEZ and MARIO ERAZO,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

RESTORATION HARDWARE, INC., a
Delaware Corporation, and DOES 1 to 100,
inclusive,

Defendant.

Case No. CIVSB2211655

**REQUEST FOR EXCLUSION
FROM CLASS SETTLEMENT**

If you wish to be excluded from the Class Settlement, please complete and sign this Request for Exclusion form, and mail it to [Name of Settlement Administrator] at [Settlement Administrator's Address] no later than [Notice Response Deadline]. If you choose not to use this Request for Exclusion form, you may use a different similar written request, as long as you complete your name and address, sign it, include the name of the case (*Erazo, et al. v. Restoration Hardware, Inc.*, Case No. CIVSB2211655) and include a clear statement that you wish to be excluded from the Class Settlement of this case, and mail it to [Name of Settlement Administrator] at [Settlement Administrator's Address] no later than [Notice Response Deadline].

Name: _____

Address: _____

I wish to be excluded from the Class Settlement of this case,
Erazo, et al. v. Restoration Hardware, Inc., Case No.
CIVSB2211655, currently pending in the Superior Court of the
State of California, County of San Bernardino.

Dated: _____

(signature)

Form A

EXHIBIT E

EXHIBIT F

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: PAGA Settlement Award in *Erazo, et al. v. Restoration Hardware, Inc.*, San Bernardino County Superior Court, Case No. CIVSB2211655

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This payment represents your portion of civil penalties agreed to be paid in the settlement of the action entitled *Erazo, et al. v. Restoration Hardware, Inc.*, San Bernardino County Superior Court Case No. CIVSB2211655 (the “Action”) to settle claims brought pursuant to the Labor Code Private Attorneys General Act of 2004 (Lab. Code, § 2698, et seq.; “PAGA”).

Based on available records, you have been identified as a PAGA Group Member, which is defined in the settlement as drivers and helpers who were cleared to deliver Restoration Hardware, Inc. (“RH” or “Defendant”) merchandise on behalf of third-party logistics providers (i.e., freight forwarders) in California at any time during the period from June, 9 2021 to June 12, 2024 (the “PAGA Period”).

The Action sought civil penalties alleged to be owed by RH, alleging that it violated the California Labor Code and Industrial Welfare Commission Wage Orders by: (1) failing to pay minimum wages; (2) failing to pay overtime wages; (3) failing to provide meal periods; (4) failing to provide rest periods; (5) failing to pay all wages upon discharge; (6) failing to maintain adequate records; (8) failing to reimburse for necessary business expenses; (9) unlawful deductions from wages; (10) failing to provide adequate wage statements; (11) unfair competition; and (12) intentional misclassification.

The Court has not ruled on the merits of the Action¹ but it has approved the settlement, which includes a payment to settle the PAGA claims, of which 75% is being paid to the California Labor and Workforce Development Agency, and the remaining 25% is being paid to individuals such as yourself. In conformance with the PAGA statute, enclosed is a check made out to you. The check, in the amount of \$<<TotalAmount>>, represents your proportionate share of the settlement for the 25% of the PAGA penalties payable to the PAGA Group Members. You are responsible for paying any federal, state, or local taxes owed as a result of this settlement.

As a result of this settlement, the State of California’s and your ability to seek civil penalties recoverable under the PAGA for the claims that were asserted in the Action have been forever released for the PAGA Period. Specifically, all individuals falling within the definition of “PAGA Group Members” will have released, waived, and relinquished RH and the Released Third Party Logistics Providers, and each of their respective present, former, and future parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and assigns, and each of their (including RH’s and the Third-Party Logistics Providers’) respective present, past and future officers, directors, employees, partners (both general and limited), members, shareholders, agents, attorneys, accountants, auditors, consultants, insurers, and any other successors, assigns, and legal representatives

¹ The Settlement is not an admission of liability by Defendant. To the contrary, Defendant has denied any liability or wrongdoing, or that any compensable injury arose out of any of the matters alleged in the Action. Defendant contends that all of its practices with respect to the affected drivers and helpers comply and have complied with all applicable laws and regulations.

[Settlement Administrator Letterhead]

(the “Released Parties”), throughout the PAGA Period, of and from any and all claims for civil penalties under PAGA, Cal. Lab. Code section 2698, *et seq.*, alleged in the Complaints or the PAGA Notice, or that could have been alleged based on the factual allegations in the Complaints or PAGA Notice, against any of the Released Parties, for alleged violations of California Labor Code sections 201, 202, 203, 204, 223, 226, 226.2, 226.3, 226.4, 226.7, 226.8, 256, 510, 512, 558, 1174, 1174.5, 1182.11, 1182.12, 1193.5, 1193.6, 1194, 1194.2, 1194.5, 1195, 1197, 1198, 2802, and 2698, *et seq.*; IWC Wage Orders, including Wage Order No. 9-2001, including sections 3, 4, 7, 8, 9, 11, and 12 thereof.

The Released Third-Party Logistics Providers are Allegiant Logistics, Apogee Logistics, Distribution Solutions, Inc. (or DSI), FGO Logistics, Pillar Logistics LLC, and Premier Last Mile, LLC (or PLM), which are third-party logistics providers RH contracted with for the delivery of RH merchandise during the Class Period.

You are not a party to this lawsuit, but you and the State of California will be bound by the PAGA portion of the settlement in this matter, regardless of whether you cash your check. You should cash your check by [180 days from date of issuance], after which the check will be void. If you have any questions, you can contact us (at the contact information listed at the top of this letter).

Very Truly Yours,

[Settlement Administrator]

EXHIBIT G

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

PEDRO HERNANDEZ and MARIO ERAZO,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

RESTORATION HARDWARE, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: CIVSB2211655
(Assigned to Hon. Jessica Morgan, Dept. S26)

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: June 9, 2022

1 **ORDER**

2 Having considered Plaintiffs' Motion for Preliminary Approval of the Class Action and
3 PAGA Settlement ("Motion"), and the points and authorities and declarations submitted in support
4 of the Motion, including the Class Action and PAGA Settlement Agreement and Release
5 ("Settlement Agreement" or "SA") and the proposed Notice of Settlement of Class Action ("Class
6 Settlement Notice"), and good cause appearing, **IT IS HEREBY ORDERED** that:

7 1. This Order incorporates by reference the definitions in the Settlement Agreement
8 as though fully set forth herein, and all capitalized terms used herein shall have the same meaning
9 as set forth in the Settlement Agreement.

10 2. The Court preliminarily approves the Settlement and finds on a preliminary basis
11 that: (a) the Settlement is fair, adequate and reasonable; (b) the Gross Settlement Amount and Net
12 Settlement Sum are fair, adequate and reasonable when balanced against the risk, expense,
13 complexity, and likely duration of further litigation; (c) sufficient discovery, investigation, and
14 research have been conducted such that counsel for the Parties at this time are able to reasonably
15 evaluate their respective positions; (d) settlement at this time will avoid additional costs by all
16 Parties, as well as avoid the delay and risks that would be presented by the further prosecution of
17 the Action; and (e) the Settlement has been reached as the result of non-collusive, arm's length
18 negotiations.

19 3. With respect to the Class and for purposes of proceeding pursuant to California
20 Code of Civil Procedure § 382 for approval of the Settlement only, the Court finds on a
21 preliminary basis that: (a) Class Members are so numerous that joinder of all Class Members is
22 impracticable; (b) the proposed Settlement Class is ascertainable; (c) there is a sufficiently well-
23 defined community of interest; (d) there are questions of law and fact common to the Class that
24 predominate over any questions affecting only individual Class Members; (e) Plaintiffs' claims
25 are typical of the Class claims; (f) the Class Representatives can fairly and adequately represent
26 the Class; (g) Class Counsel are qualified to serve as counsel for the Class; and (h) class
27 certification is a superior method for implementing the Settlement and adjudicating this Action in
28 a fair and efficient manner.

1 4. Accordingly, the Court preliminarily certifies the following Class for settlement
2 purposes only pursuant to California Code of Civil Procedure § 382: all drivers and helpers who
3 were cleared to deliver RH merchandise on behalf of third-party logistics providers (i.e., freight
4 forwarders) in California at any time during the Class Period, which is the period from August 8,
5 2020 to and including June 12, 2024, the date initially scheduled for the hearing on Plaintiff's
6 motion for Preliminary Approval.

7 5. The Court preliminarily appoints Plaintiffs Mario Erazo and Pedro Hernandez as
8 Class Representatives.

9 6. The Court preliminarily appoints Marlin & Saltzman, LLP and its attorneys Alan
10 S. Lazar, Cody R. Kennedy, Stephen P. O'Dell, and Tatiana G. Avakian, and The Hamideh Firm,
11 P.C. and its attorney Bassil Hamideh, as Class Counsel.

12 7. The Court appoints Simpluris, Inc. as the Settlement Administrator.

13 8. The Court preliminarily approves the definition and disposition of the Gross
14 Settlement Amount and Net Settlement Sum and related matters provided for in the Settlement
15 Agreement.

16 9. The Court preliminarily approves the procedure for the treatment of uncashed
17 settlement checks established by the Settlement. Pursuant to that procedure, the sum of uncashed
18 settlement payments shall be transmitted to the California Controller's Office Unclaimed Property
19 Division, with an identification of the person to whom the funds belong, in accordance with
20 California Code of Civil Procedure § 384, to be held in trust for those persons who did not timely
21 cash their settlement checks. Any checks tendered to Settlement Class Members or PAGA Group
22 Members that are returned as undeliverable will also be transmitted to the State Controller's
23 Office Unclaimed Property Division with an identification of the person to whom the funds
24 belong, in accordance with Code of Civil Procedure § 384, to be held in trust for those persons,
25 until such time they claim their property. This disposition results in no "unpaid residue" under
26 Code of Civil Procedure § 384, as the entire Net Settlement Sum will be paid out to Settlement
27 Class Members and/or PAGA Group Members, whether or not they all cash their settlement
28 checks.

1 10. The Court hereby approves, as to form and content, the Class Settlement Notice,
2 attached as **Exhibit A** to the Settlement Agreement, to be distributed to the Class Members and
3 PAGA Group Members. The Court also approves, as to form and content, the Publication Notice
4 Plan attached as Exhibit B to the Settlement Agreement and the Request for Information attached
5 as Exhibit C to the Settlement Agreement. The Court finds that distribution of the Class
6 Settlement Notice and execution of the Publication Notice Plan, substantially in the manner and
7 form set forth in the Settlement Agreement and this Order, meets the requirements of due process
8 and California Code of Civil Procedure § 382, California Civil Code § 1781, and California Rules
9 of Court, Rules 3.166 and 3.769, and is the best notice practicable under the circumstances, and
10 shall constitute due and sufficient notice to all Class Members and PAGA Group Members.

11 11. The Court further approves the procedures for Class Members to opt out of or
12 object to the class action portion of the Settlement, as set forth in the Settlement Agreement and
13 the Class Settlement Notice.

14 12. A Final Approval Hearing shall be held on _____, 2024, at
15 _____ a.m./p.m., in Department S26. At the Final Approval Hearing, the Court will determine:
16 (a) whether the Settlement should be finally approved as fair, reasonable, and adequate pursuant
17 to California law; (b) the amount of the award of attorneys' fees and costs to Class Counsel; (c) the
18 amount of the Service Payments to Plaintiffs; and (d) whether a judgment granting final approval
19 of the Settlement should be entered.

20 13. The Parties are ordered to carry out the proposed Settlement according to the terms
21 of the Settlement Agreement. Counsel for the Parties are hereby authorized to utilize all
22 reasonable procedures in connection with the administration of the Settlement that are not
23 materially inconsistent with either this Order and/or the terms of the Settlement Agreement.

24 14. Pending the Final Approval Hearing, all further proceedings in this Action shall
25 be stayed except such proceedings necessary to review, approve, and implement this Settlement.

15. The Court orders the following schedule for further proceedings:

Event	Timing
Last day for Restoration Hardware, Inc. to produce the Class Data to the Settlement Administrator	20 business days after the Preliminary Approval Order
Last day for the Settlement Administrator to mail Notice Packet.	20 business days after receiving the Class Data
Last day for Class Members to submit Requests for Exclusion, or object, to the class action portion of the Settlement, or for Drivers to dispute the number of Workweeks attributed to them ("Notice Response Deadline")	45 calendar days from the date of initial mailing of the Notice Packet (plus 15 calendar days for re-mailed Notice Packets)
Last day for Settlement Administrator to provide Counsel with a declaration describing the Class Settlement Notice procedures	10 business days before Final Approval Hearing
Last day for Class Counsel to file Motion for Final Approval of Class Action and PAGA Settlement	16 court days before Final Approval Hearing
Last day for Class Counsel to file Motion for Attorneys' Fees, Costs, and Service Payments	16 court days before Final Approval Hearing
Final Approval Hearing	_____, 2024, at _____ a.m./p.m.

16. The Court reserves the right to adjourn or continue the date of the Final Approval Hearing and all dates provided for in the Settlement without further notice to Class Members and PAGA Group Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

IT IS SO ORDERED:

Dated: _____

Hon. Jessica Morgan
Judge of the Superior Court

EXHIBIT H

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

PEDRO HERNANDEZ and MARIO ERAZO,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

RESTORATION HARDWARE, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. CIVSB2211655
(Assigned to Hon. Jessica Morgan, Dept. S26)

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT AND FINAL
JUDGMENT**

Complaint Filed: June 9, 2022

ORDER AND FINAL JUDGMENT

Having considered Plaintiffs' Motion for Final Approval of the Class Action and PAGA Settlement and Motion for Attorneys' Fees, Costs, and Class Representative Service Payments (collectively, the "Motions"), the points and authorities and declarations submitted in support of the Motions, including the Class Action and PAGA Settlement Agreement and Release ("Settlement Agreement" or "SA"), due and adequate notice having been given to the Class Members as required by the Court's Preliminary Approval Order, and determining that the Settlement is fair, adequate and reasonable, and otherwise being fully informed and good cause appearing, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

1. This Order and Final Judgment incorporates by reference the definitions of the Settlement Agreement as though fully set forth herein, and all capitalized terms used herein shall have the same meaning as set forth in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of the Action and the Parties, including all Class Members and PAGA Group Members.

3. Pursuant to the Preliminary Approval Order, the Settlement Administrator sent the Class Settlement Notice and executed the Publication Notice Plan. In addition, the Settlement Administrator sent a Request for Information to each individual who responded to the Publication Notice, determined which individuals who returned the completed Request for Information are Helper Class Members and/or Helper PAGA Members, and sent those individuals the Notice Packet. The Class Settlement Notice informed Class Members of the terms of the Settlement, their right to receive a Class Settlement Award, and their right to object to the class action portion of the Settlement or to elect not to participate in the class action portion of the Settlement, and their right to appear in person or through counsel at the Final Approval Hearing and to be heard regarding the approval of the Settlement. Adequate periods of time were provided for these procedures.

4. The Court finds and determines that the Class Settlement Notice, the procedure for its distribution, and the Publication Notice Plan afforded adequate protections to Class Members and provide the basis for the Court to make an informed decision regarding approval of the Settlement based on the responses of Class Members. Notice was accomplished in all material

1 respects in the manner prescribed by the Settlement. The Court finds and determines that the notice
2 provided in this case was the best notice practicable under the circumstances, and satisfies the
3 requirements of the California Rules of Court and due process.

4 5. For the reasons stated in the Preliminary Approval Order, the Court finds and
5 determines that the Class meets all of the legal requirements for class certification. It is hereby
6 ordered that the Class is finally certified for purposes of the settlement of this Action.

7 6. The Settlement Class is defined as: all drivers and helpers who were cleared to
8 deliver Restoration Hardware merchandise on behalf of third-party logistics providers (i.e., freight
9 forwarders) in California at any time during the Class Period, which is the period from August 8,
10 2020 to and including [*preliminary approval date*].

11 7. The Court confirms as final the appointments of Plaintiffs Pedro Hernandez and
12 Mario Erazo as Class Representatives. The Court finds that Plaintiffs' investment and commitment
13 to the litigation and its outcome ensured adequate and zealous advocacy for the Class, and that their
14 interests aligned with those of the Class Members.

15 8. The Court confirms as final the appointment of Marlin & Saltzman, LLP and its
16 attorneys Alan S. Lazar, Cody R. Kennedy, Stephen P. O'Dell, and Tatiana G. Avakian, and The
17 Hamideh Firm, P.C. and its attorney Bassil Hamideh, as Class Counsel.

18 9. The Court confirms as final the appointment of Simpluris, Inc. as the Settlement
19 Administrator.

20 10. The Court finds that the settlement of this Action, on the terms and conditions set
21 forth in the Settlement, is in all respects fair, reasonable, adequate, and in the best interests of the
22 Class Members, especially in light of the benefits provided to Class Members, the strength of
23 Plaintiffs' claims and Defendant's defenses, the complexity, expenses, and probable duration of
24 Further litigation, and the risk and delay inherent in possible appeals. The Court further finds that
25 the Settlement is the result of arm's length between experienced counsel representing the interests
26 of the Class and Defendant respectively, following thorough and adequate factual and legal
27 investigation, with the assistance of an experienced and well-respected mediator.

28 11. The response of Class Members to the Settlement further supports final approval.

1 12. The Settlement, which has been filed with the Court and shall be deemed
2 incorporated herein, is finally approved and shall be implemented in accordance with its terms.

3 13. The Court directs Defendant to pay the Gross Settlement Amount to the Settlement
4 Administrator pursuant to the Settlement Agreement.

5 14. The Court hereby awards the following Service Payments in the total amount of
6 \$10,000 (which is comprised of \$5,000.00 to each Plaintiff).

7 15. The settlement of claims for civil penalties under PAGA in the amount of
8 \$180,000.00 is hereby finally approved. Seventy-Five Percent (75%), or \$135,000.00, shall be paid
9 to the California Labor and Workforce Development Agency. The remaining Twenty-Five Percent
10 (25%), or \$45,000.00, will be distributed to PAGA Group Members pursuant to the Settlement
11 Agreement.

12 16. The Court hereby awards \$2,100,000.00 in attorneys' fees and \$50,000.00 in
13 litigation costs to Marlin & Saltzman, LLP and The Hamideh Firm, P.C. The Court finds that the
14 requested award of attorneys' fees is reasonable for a contingency fee in a class action such as this.
15 Counsel has also established the reasonableness of the requested award of attorneys' fees via their
16 lodestar crosscheck, and the Court finds that the rates, hours billed, and risk multiplier are fair and
17 reasonable.

18 17. The Court hereby awards \$24,632.00 to Simpluris, Inc. for Settlement
19 Administration Costs.

20 18. The Settlement Administrator shall make all payments contemplated by the
21 Settlement Agreement, including all payments to Settlement Class Members and PAGA Group
22 Members, as set forth in the Settlement.

23 19. Any settlement check that is not negotiated within 180 days from the date the check
24 is issued by the Settlement Administrator and mailed to the Settlement Class Members and/or
25 PAGA Group Members shall be distributed as follows: The sum of uncashed settlement payments
26 shall be transmitted to the California Controller's Office Unclaimed Property Division, with an
27 identification of the person to whom the funds belong, in accordance with California Code of Civil
28 Procedure § 384, to be held in trust for those persons who did not timely cash their settlement

1 checks. Any checks tendered to Settlement Class Members or PAGA Group Members that are
2 returned as undeliverable will also be transmitted to the State Controller's Office Unclaimed
3 Property Division with an identification of the person to whom the funds belong, in accordance
4 with Code of Civil Procedure § 384, to be held in trust for those persons, until such time they claim
5 their property. This disposition results in no "unpaid residue" under Code of Civil Procedure § 384,
6 as the entire Net Settlement Sum will be paid out to Settlement Class Members and/or PAGA Group
7 Members, whether or not they all cash their settlement checks.

8 20. By operation of the entry of this Final Approval Order and Final Judgment and
9 pursuant to the Settlement, as of the Effective Date of the Settlement, and only after Defendant has
10 fully funded the Settlement, all Settlement Class Members shall be deemed to have released the
11 Released Parties from all Released Class Claims. As of the Effective Date of the Settlement, and
12 only after Defendant has fully funded the Settlement, all PAGA Group Members and the State of
13 California shall be deemed to have released the Released Parties from all Released PAGA Claims.

14 21. The Final Approval Order and Judgment shall be posted on the information-only
15 website maintained by the Settlement Administrator within seven (7) calendar days after entry of
16 this Order and shall remain there for at least 180 days after the date of Final Approval.

17 22. Without affecting the finality of this order or the entry of this judgment in any way,
18 the Court retains jurisdiction of all matters relating to the interpretation, administration,
19 implementation, effectuation, and enforcement of this order and the Settlement.

20 23. After Settlement administration has been completed in accordance with the
21 Settlement Agreement, and in no event later than 280 days after the Effective Date, the Settlement
22 Administrator shall prepare a declaration regarding the distribution of settlement funds. Class
23 Counsel is directed to file the Settlement Administrator's declaration no later than
24 _____, 202_.

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1 24. This document shall constitute a judgment for purposes of California Rules of Court,
2 Rule 3.769(h).

3 **IT IS SO ORDERED, ADJUDGED, AND DECREED:**

4
5 Dated: _____

Hon. Jessica Morgan
Judge of the Superior Court