

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement” or “Settlement”) is reached by and between Christine Jordan (“Ms. Jordan”), Holly Oliver (“Ms. Oliver”), and Shelly Paul (“Ms. Paul”) (together “Plaintiffs,” or the “Class Representatives”), individually and on behalf of all members of the Settlement Class (defined below), and Defendants Animal Keeper, Inc., a California corporation (“AKI”), Brenda Costello (“Ms. Costello”), and Tommy Sayles (“Mr. Sayles”) (collectively “Defendants”) (Plaintiffs and Defendants are referred to herein collectively as the “Parties”). Plaintiffs and the Settlement Class are represented by Daniel E. Gardenswartz and Andrew C. Myers of Solomon Ward Seidenwurm & Smith, LLP (“Class Counsel”). Defendants are represented by Travis K. Jang-Busby and Clint S. Engleson or Procopio, Cory, Hargreaves & Savitch, LLP (“Defense Counsel”).

Plaintiffs filed the Class Action Complaint on July 22, 2022, against Defendants in San Diego Superior Court in the matter entitled *Christine Jordan et al. v. Animal Keepers, Inc., et al.*, Case No. 37-2022-00029015-CU-OE-CTL (“Complaint” or “Lawsuit”). The Complaint alleges that Defendants: (1) failed to pay non-exempt employees all minimum wages due; (2) failed to pay non-exempt employees overtime wages owed; (3) failed to authorize and permit rest periods; (4) failed to authorize and permit meal periods; (5) failed to keep accurate records; (6) failed to timely pay wages owed; (7) failed to provide accurate itemized wage statements; (8) violated Labor Code 351 (Gratuities); (9) converted wages owed; (10) violated Labor 2802 (Reimbursements); (11) should be enjoined to produce personnel and payroll records (Labor Code 1198.5 and 226(c)); (12) engaged in unfair business practices; and (13) violated California’s Private Attorney General Act of 2004.

Given the uncertainty of litigation, Plaintiffs and Defendants wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiffs and Defendants agree as follows:

1. **Settlement Class.** For purposes of this Settlement Agreement only, Plaintiffs and Defendants stipulate to certification of the following Settlement Class:

All current and former non-exempt employees of Defendants in California at any time from July 22, 2018, through April 15, 2023.

Certification of the Settlement Class is for settlement purposes only. The Parties agree that certification for the purpose of settlement is not an admission that class certification is proper under Section 382 of the California Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release.** Plaintiffs and every member of the Settlement Class (except those who opt out of the Settlement Agreement) will release and discharge Defendants, their past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, their respective successors and predecessors in interest, subsidiaries, affiliates, parents, and attorneys (collectively the “Released Parties”) as follows:

- A. Upon the issuance of a Final Judgement (defined below) and Defendants' deposit of the final installment payment of the Maximum Settlement Amount with the claims administrator as set forth in Paragraph 3 below, Settlement Class Members will release all claims, demands, rights, liabilities, and causes of action that were or could have been asserted based on the factual allegations and causes of action in the Complaint by Plaintiffs against Defendants, including, but not limited to, all of the following: (a) failure to pay all minimum wages and overtime wages owed; (b) failure to provide meal periods or pay meal period premiums for missed and/or non-compliant meal periods; (c) failure to authorize and permit rest periods or pay rest period premiums for missed and/or non-compliant rest periods; (d) failure to keep accurate records of non-exempt employees, (e) failure to timely pay wages owed; (f) wage statement violations ; (g) failure to reimburse business expenses; (h) violation of California Labor Code Section 351; (i) conversion; (j) failure to produce personnel and payroll records; (k) unfair business practices; (l) waiting time penalties under Labor Code § 203; claims and penalties pursuant to the Private Attorneys General Act ("PAGA"), as well as any potential penalties, interest or attorneys' fees associated with these causes of action under California law (collectively, the "Released Claims"). The period of the Release shall extend from July 22, 2018 through the April 15, 2023 (the "Class Period"). The *res judicata* effect of the judgment will be the same as that of the Release.
- B. A Settlement Class Member's cashing, depositing, and/or negotiation of his or her Settlement Payment check shall be considered consent and an opt-in to the settlement of all related federal wage and hour claims under the Fair Labor Standards Act, and each Settlement Class Member who cashes, deposits and/or endorses by signature his or her Settlement Payment check will waive his or her rights to bring related claims under the Fair Labor Standards Act for the Class Period. Each Settlement Payment check will include the following disclaimer: "BY ENDORSING AND/OR CASHING THIS CHECK YOU ARE AGREEING TO THE TERMS OF THE SETTLEMENT REACHED IN CHRISTINA JORDAN, ET AL. V. ANIMAL KEEPERS, INC., ET AL., SAN DIEGO COUNTY SUPERIOR COURT CASE NO. 37-2022-00029015-CU-OE-CTL AND AGREE TO OPT-IN TO THE SETTLEMENT AND TO RELEASE ANY CLAIMS YOU MAY HAVE UNDER THE FAIR LABOR STANDARDS ACT." A Settlement Class Member who does not cash and/or endorse by signature his or her Settlement Payment check will retain his or her rights and claims under the Fair Labor Standards Act, but shall still be deemed to have accepted and agreed to the terms of the Class Release relating to any claims under California law, unless he or she submits a timely written request for exclusion, consistent with Paragraph 9.D.
- C. In light of the Class Representative Enhancement Payment, Plaintiffs have agreed to release, in addition to the Released Claims described above, , any and all charges, complaints, claims, causes of action, debts, sums of money, controversies, agreements, promises, damages and liabilities of any kind or nature whatsoever, both at law and equity, known or unknown, suspected or unsuspected, arising from conduct occurring on or before the date Plaintiffs sign this Settlement Agreement, including but not limited to a release of any and all rights Plaintiffs have to sue or bring any type of claim under: (a) California state law, (b) the Fair Labor Standards

Act; (c) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et. seq., (d) the Employment Act of 1967, (e) the Civil Rights Act of 1991, (f) the Civil Rights Act of 1866 and 1870, (g) 42 U.S.C. § 1981, as amended, (h) Executive Order 11246, (i) the Americans with Disabilities Act 42 U.S.C. § 12101, et. seq, as amended, (j) the Family and Medical Leave Act, as amended, (k) the Equal Pay Act of 1963, as amended, (l) the Immigration and Reform Control Act, as amended, (m) the Occupational Safety and Health Act, as amended, (n) the Sarbanes-Oxley Act of 2002, as amended, (o) the Employment Retirement Income Security Act of 1974, as amended (except vested benefits), (p) the Worker Adjustment and Benefit Protection Act of 1990, as amended, (q) the Worker Adjustment and Retraining Notification Act, as amended, (r) any federal, state or common law claim or cause of action based on any alleged failure to pay wages, breach of contract, wrongful discharge, constructive discharge, retaliation, defamation, slander, libel, intentional or negligent infliction of emotional distress, misrepresentation, fraud, promissory estoppel, (s) any other tort or negligence claim or obligations arising out of any of Defendants' employment policies or practices, employee handbooks, and/or any statements by any employee or agent of Defendants whether oral or written; and (t) for reinstatement, back pay, bonus, attorneys' fees, compensatory damages, costs, front pay, any form of equitable or declaratory relief, liquidated damages, emotional distress, personal injury, punitive damages, pain and suffering, medical expenses, damage to reputation, damage for personal, emotional or economic injury or damage of any kind. This provision is intended by the Parties to act as a full and total release of any claim, whether specifically enumerated herein or not, that Plaintiffs might have or have had, that exists or ever has existed on or prior to the date this Settlement Agreement is signed against the Released Parties. The Parties understand and agree that the word "claims" includes all actions, group actions (including any pending or future collective, class, private attorney general or representative actions for which Plaintiffs may otherwise qualify as a putative class member or represented party), complaints and grievances that could potentially be brought by Plaintiffs against the Released Parties, excluding only claims that, by law, may not be privately released, including but not limited to recovery under State workers' compensation laws.

- D. Plaintiffs understand that their release includes unknown claims and that they are, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code:

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

3. **Maximum Settlement Amount.** As consideration, AKI agrees to pay, and Ms. Costello and Mr. Sayles agree to guarantee, a non-reversionary maximum amount ("Maximum Settlement Amount") of \$408,000 in full and complete settlement of this matter, as follows:

- A. The Parties have agreed to engage Phoenix Class Action Administration Solutions as the “Claims Administrator” to administer this Settlement.
- B. The Maximum Settlement Amount shall be deposited with the Claims Administrator in up to twelve equal installments, as follows:
- (1) The first installment payment in the amount of \$34,000 shall be deposited with the Claims Administrator on or before June 23, 2023;
 - (2) The second installment payment in the amount of \$34,000 shall be deposited with the Claims Administrator within 30 days of Defendants’ deposit of the first installment payment;
 - (3) The third through twelfth installment payments, each in the amount of \$34,000, shall be deposited with the Claims Administrator no later than 30 days after the preceding installment payment provided, however, that if the Court does not grant final approval of this Settlement and the parties are unable to agree to terms that would allow approval of the Maximum Settlement Amount, then any installment payments made to the Claims Administrator shall be returned to Defendants within a reasonable time thereafter.
- C. The Maximum Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Claims Administrator associated with the administration of the Settlement, which are anticipated to be no greater than \$10,000;
 - (3) Up to \$7,500.00 for each Class Representative (total up to \$22,500.00) in recognition of Plaintiffs’ contributions to the Lawsuit and their service to the Settlement Class (the “Enhancement Payments”). In the event that the Court reduces or does not approve the requested Class Representatives’ Enhancement Payments, Plaintiffs shall not have the right to revoke this Settlement, and it will remain binding;
 - (4) Up to forty percent of the Maximum Settlement Amount in attorneys’ fees, which is currently estimated at \$163,200.00, plus actual costs and expenses related to the Lawsuit, which are not to exceed \$20,000.00, as supported by declaration. Even in the event that the Court reduces or does not approve the requested attorneys’ fees and costs, Plaintiffs shall not have the right to revoke this Settlement, and it will remain binding;
 - (5) \$30,000 of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code Section 2699(i), 75% of such penalties, or \$22,500, will be payable to the California Labor & Workforce Development Agency (“LWDA”) for its share of PAGA

penalties, and the remaining 25%, or \$7,500, will be payable to the Settlement Class as the “PAGA Amount.”

- (6) Except for (a) the employer’s share of payroll taxes payable on the portion of the Net Settlement Amount allocated specifically to wages and (b) as set forth in the Escalator Clause under paragraph 3.E. below, in no event, shall Defendants pay more than the Maximum Settlement Amount.

D. Defendants shall pay AKI’s standard company share of payroll taxes on all wages paid as part of this Settlement separate and apart from the Maximum Settlement Amount.

E. **Escalator Clause.** Defendants represent that as of March 1, 2023, there are approximately 28,000 cumulative workweeks worked by all Settlement Class Members in the Class Period. Defendants agree that if during the Class Period the actual total number of Settlement Class Member workweeks increases by more than 10% (i.e., there are 2,800 or more total Settlement Class Member workweeks), then the Maximum Settlement Amount shall increase by an amount that mirrors the increase in the overall class size (e.g., if the number of Settlement Class Member workweeks increases by 15% as of the end of the Class Period, Defendants must increase the Maximum Settlement Amount by 15%).

F. **Guaranty.** Ms. Costello and Mr. Sayles shall not be a party to any judgment upon Final Approval. Plaintiffs will dismiss Ms. Costello and Mr. Sayles from the Action without prejudice however, Ms. Costello and Mr. Sayles shall guaranty AKI’s payment of the Maximum Settlement amount by signing, concurrent with the signing of this Settlement Agreement, individual guarantees in the form attached as Exhibit A.

4. **Payments to the Settlement Class.** Settlement Class Members are not required to submit a claim form to receive a payment (an “Individual Settlement Payment”). Individual Settlement Payments will be determined and paid as follows:

A. The Claims Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, the Class Representatives’ Enhancement Payments, and the Claims Administrator’s costs. The remaining amount shall be known as the “Net Settlement Amount.”

B. From the Net Settlement Amount, the Claims Administrator will calculate each Settlement Class Member’s Individual Settlement Payment based on the following formula:

- i. Wage Statement Amount: Twenty percent (20%) of the Net Settlement Amount shall be designated as the “Wage Statement Amount.” Each participating Settlement Class Member who was employed by Defendants at any time from July 22, 2018 to the Effective Date of this Settlement Agreement (defined below) shall receive a portion of the Wage Statement

Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period.

- ii. Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” Each participating Settlement Class Member who separated their employment with Defendants between July 22, 2021 and the Effective Date of this Settlement Agreement shall receive an equal, pro-rata share of the Waiting Time Amount.
 - iii. PAGA Amount: \$7,500.00 of the Net Settlement Amount has been designated as the “PAGA Amount” as described above. Each participating Settlement Class Member who was employed by Defendants at any time from July 22, 2021 to the Effective Date of this Settlement Agreement shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period.
 - iv. The remainder of the Net Settlement Amount will be distributed to each Settlement Class Member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all Settlement Class Members during the Class Period.
- C. Within 14 calendar days following the deposit of the entire Maximum Settlement Amount with the Claims Administrator, the Claims Administrator will calculate each Settlement Class Member’s Individual Settlement Payment and will prepare and mail Individual Settlement Payments to Settlement Class Members.
- D. For purposes of calculating applicable taxes and withholdings for Settlement Class Members, each Individual Settlement Payment shall be allocated as 20% wages and 80% penalties and interest. The amounts allocated as wages shall be reported on an IRS Form W-2, and the amounts allocated for penalties and interest shall be reported on an IRS Form 1099.
- E. Each member of the Settlement Class who receives an Individual Settlement Payment must cash that check within 180 days from the date the Claims Administrator mails it.
- F. Any funds payable to Settlement Class Members whose checks remain uncashed one hundred and eighty (180) calendar days after such checks are mailed by the Claims Administrator (“Check Expiration Date”) shall become void, and the funds associated with such voided checks, plus any accrued interest that has not otherwise been distributed (together, “Unused Funds”), shall be distributed to the San Diego Humane Society in accordance with California Civil Procedure Code § 384.

- G. Neither Plaintiffs nor Defendants shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Claims Administrator.
- H. The Claims Administrator shall prepare all tax forms related to any and all employer taxes incurred by AKI as a result of this Settlement, shall inform AKI and its counsel of the amounts owed, shall collect the necessary funds from AKI and remit them to the requisite taxing authorities.
- I. Upon completion of administration of the Settlement, the Claims Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties. Class Counsel shall file the declaration with the Court to confirm full satisfaction of the Settlement.
- J. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiffs and the Settlement Class Members are not relying on any statement, representation, or calculation by any of the Parties, their counsel, or by the Claims Administrator in this regard. Plaintiffs and Settlement Class Members understand and agree that they will be solely responsible for payment of any taxes and penalties assessed on the payments described herein and will hold Plaintiffs, Class Counsel, Defendants, Defendants' counsel, and the Released Parties free and harmless from and against any claims resulting from the tax treatment of payments under this Agreement, with the sole exception of the employer's portion of the payroll withholdings. Plaintiffs and the Settlement Class Members acknowledge and agree that no provision of this Settlement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).
- K. Payments and tax reporting by the Claims Administrator in the manner described above shall be deemed conclusive of compliance with this Settlement Agreement as to all Settlement Class Members. No Settlement Class Members shall have any claim against the Plaintiffs, Class Counsel, Defendants, Defendants' counsel or the Claims Administrator for distributions made substantially in accordance with this Settlement Agreement and/or orders of the Court.

5. **Attorneys' Fees and Costs to Class Counsel.** Defendants will not object to the request for Class Counsel's attorneys' fees amounting to forty percent of the Maximum Settlement Amount, which is currently estimated to be \$163,200.00, plus actual costs and expenses, which are not to exceed \$20,000.00. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation all work performed and all costs incurred to date, and all work to be performed and costs to be incurred in connection with obtaining the Court's anticipated preliminary and final approval of this Settlement Agreement, and including any objections raised and any appeals necessitated by those objections. Class Counsel

will be issued an IRS Form 1099 by the Claims Administrator when it pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payment.** Defendants will not object to a request for a Class Representative Enhancement Payment of up to \$7,500.00 for each Class Representative's Enhancement Payment (total up to \$22,500.00) for their time and risks in prosecuting this case and their service to the Settlement Class. This award will be in addition to Plaintiffs' Individual Settlement Payment as a Settlement Class Member, and shall be reported on an IRS Form 1099 by the Claims Administrator.

7. **Claims Administrator.** Defendants will not object to the appointment of Phoenix Class Action Administration Solutions as Claims Administrator, nor to the request to seek approval to pay up to \$9,000 for its services from the Maximum Settlement Amount. The Claims Administrator shall be responsible for sending notices and for calculating Individual Settlement Payments and preparing all checks and mailings. The Claims Administrator shall be authorized to pay itself from the Maximum Settlement Amount only after Individual Settlement Payments have been mailed to all Settlement Class Members.

8. **Preliminary Approval.** Upon execution of this Settlement Agreement, Plaintiffs shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Daniel E. Gardenswartz and Andrew C. Myers of Solomon Ward Seidenwurm & Smith, LLP as Class Counsel;
- C. Appointing Plaintiffs as Class Representatives for the Settlement Class;
- D. Approving Phoenix Class Action Administration Solutions as Claims Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Court-approved Notice Packet in a format substantially similar to that attached hereto as Exhibit B, and directing the mailing of same;
- G. Scheduling a Final Approval hearing; and
- H. Staying all litigation of the Action pending the Final Approval Hearing, except as necessary to implement and effectuate the Settlement.

Plaintiffs will provide the proposed motion to AKI's counsel of record no less than three (3) calendar days before the motion is filed for review and comment.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within 20 calendar days after entry of an order preliminarily approving this Settlement, Defendants will provide the Claims Administrator with the names, last known addresses, last known telephone numbers, and social security numbers (in electronic format) of the members of the Settlement Class, including the dates of employment and the number of workweeks worked during the Class Period.
- B. Within 7 calendar days from receipt of this information, the Claims Administrator shall (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members, (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search, and (iii) mail the Notice Packet to each Settlement Class Member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Any Notice Packets returned to the Claims Administrator as undelivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Claims Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within 5 business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Claims Administrator shall resend the Notice Packet to the Settlement Class Member promptly, and in any event within 3 business days of obtaining the updated address. Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Claims Administrator shall have 14 calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion, objection, or dispute (“Extended Response Deadline”). Notice Packets that are re-sent shall inform the recipient of this adjusted deadline.
- D. Requests for Exclusion. Any Settlement Class Member who wishes to opt out of the Settlement must complete and mail a Request for Exclusion to the Claims Administrator within 60 calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
 - i. The Request for Exclusion must: (1) contain the name, address, telephone number, and last four digits of the social security number of the Settlement Class Member; (2) be signed by the Settlement Class Member; and (3) be postmarked by the Response Deadline and mailed to the Claims Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in items (1)-(3), it will not be deemed valid for exclusion from this Settlement, except a Request for Exclusion form not containing a Class Member’s telephone number and/or last four digits of his or her social security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any potential Settlement Class Member who validly requests to be excluded from the Settlement will no longer be a member of the Settlement Class, will not be entitled to any recovery under this Settlement Agreement, and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon.

- ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class Member to object to the Settlement or opt out of the Settlement Class, or encourage any Settlement Class Member to appeal from the final judgment.
 - iii. The Claims Administrator shall immediately notify the Parties by email and phone if and when the number of timely-submitted Requests for Exclusion reaches ten percent (10%) of all Class Members. If more than ten percent (10%) of Class Members opt out of the Settlement, AKI at its sole and absolute discretion may elect to rescind and revoke the entire Settlement Agreement by sending written notice to Class Counsel that it revokes the Settlement within twenty (20) calendar days after the Response Deadline or Extended Response Deadline, if applicable.
 - iv. At AKI's request, the Claims Administrator shall supply AKI only the identities of those Class Members who have opted out of the Settlement.
 - v. Plaintiffs agree not to request exclusion from the Settlement.
 - vi. The Parties agree there is no statutory or other right for any Class Member to opt out or otherwise exclude himself or herself from the settlement and release of the PAGA Claims.
- E. Objections. Settlement Class Members who do not opt out may object to this Settlement Agreement as explained in the Class Notice by (1) submitting a written objection with the Claims Administrator (who shall provide all objections as received to Class Counsel and Defendants' counsel, as well as file all such objections with the Court), or (2) by offering oral comments at the Final Approval Hearing. Defendants' counsel and Class Counsel shall submit any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any objection must be postmarked no later than the Response Deadline or Extended Response deadline, if applicable.
- F. Notice of Settlement Award/Disputes. Each Notice Packet mailed to Settlement Class Members shall contain a Notice of Settlement Award, which shall disclose the amount of the Settlement Class Member's estimated Individual Settlement Payment, as well as all of the information that was used from Defendants' records in order to calculate the Individual Settlement Payment, including the Settlement Class Member's number of workweeks worked during the Class Period. Settlement Class Members will have the opportunity, should they disagree with Defendants' records regarding the information stated in their Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Claims Administrator and postmarked by the Response Deadline, or Extended Response Deadline, where applicable. If there is a dispute, the Claims Administrator will consult with the Parties to determine whether an adjustment is warranted. Any disputes that remain unresolved as of the Final Approval Hearing will be referred to the Court for final determination.

10. **Final Approval and Final Judgement.** Following preliminary approval and the close of the period for filing Requests for Exclusion, objections, or disputes under this Settlement Agreement, Plaintiffs shall apply to the Court for entry of an Order for final approval of this Settlement (the “Final Approval”), which will include:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Adjudging that the Claims Administrator has fulfilled its initial notice and reporting duties under the Settlement and that the Class Notice (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, and their right to exclude themselves from or object to the proposed Settlement and to appear at the final approval hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of due process, and any other applicable rules or law;
- C. Plaintiffs and Class Counsel may adequately represent the Settlement Class for the purpose of entering into and implementing the Agreement;
- D. The Settlement Administrator is to execute the distribution of proceeds pursuant to the terms of this Agreement;
- E. Without affecting the finality of the Final Approval order and Judgment, the Court retains continuing jurisdiction over Plaintiffs, AKI, and Settlement Class Members, as to all matters concerning the administration, consummation, and enforcement of this Settlement Agreement;
- F. As of the Effective Date, Plaintiffs and Settlement Class Members, regardless of whether they have received actual notice of the proposed Settlement, have conclusively compromised, settled, discharged, and provided the release of Released Claims, during the applicable time period and release of Released Claims arising under FLSA (in the case of Settlement Class Members who negotiate their settlement checks) against Defendants and the Released Parties during applicable time period, and are bound by the provisions of this Settlement Agreement;
- G. Notwithstanding the submission of a timely request for exclusion or objection, Settlement Class Members are still bound by the settlement and release of the PAGA Claims and the State’s claims for civil penalties pursuant to PAGA are also extinguished;
- H. This Settlement Agreement and the Final Approval order and Judgment to be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings that encompass Plaintiffs’ and Settlement Class Members’ claims released herein, and that are maintained by or on behalf of Plaintiffs and Settlement Class Members;
- I. Approving Plaintiffs’ and Class Counsel’s application for attorneys’ fees, costs, and the Class Representative Enhancement Payment; and

- J. Entering judgment against only Defendant AKI pursuant to California Rule of Court 3.769 (the “Final Judgment”).

Drafts of the motion for final approval of the Settlement and proposed Final Approval order shall be provided to Defendants’ counsel at least five (5) court days before the documents are filed.

11. **Non-Admission of Liability/Effectiveness prior to Final Approval.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement shall no longer be in force or effective, but remains protected by California Evidence Code Section 1152. Unless and until Final Approval does not occur, this Settlement Agreement shall remain a binding agreement and the Parties agree to cooperate in good faith, using their respective best efforts, to obtain preliminary and Final Approval with the Court including by negotiating in good faith to make any necessary changes to obtain Final Approval.

12. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendants: Travis K. Jang-Busby, Partner
BLANK ROME
2029 Century Park East, 6th Floor
Los Angeles, CA 90067
Email: travis.jangbusby@blankrome.com

if to Plaintiffs: Daniel E. Gardenswartz, Partner
Solomon Ward Seidenwurm & Smith, LLP
401 B Street, Suite 1200
San Diego, California 92101
Email: dgardenswartz@swsslaw.com

14. **Effect Of Disapproval, Cancellation, or Termination of Settlement Agreement.**

- A. If the Court does not approve the Settlement as set forth in this Settlement Agreement, or if the Court enters the Judgment and appellate review is sought, and on such review, the entry of Judgment is vacated, modified in any way, or reversed, or if the Final Approval order does not otherwise become Final, then this Settlement Agreement shall be cancelled and terminated, unless all Parties, in their sole discretion within thirty (30)

days from the date such ruling becomes final, provide written notice to all other Parties hereto of their intent to proceed with the Settlement under the terms of the Judgment as it may be modified by the Court or any appellate court.

- B. In the event that: (i) the Settlement is not approved, is overturned, or is materially modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this Settlement Agreement is terminated, cancelled, or fails to become effective pursuant to this Agreement, then: (a) the Parties stipulate and agree that the Settlement, the Class Information, and all documents exchanged and filed in connection with the Settlement shall be treated as inadmissible mediation communications under Cal. Evid. Code §§ 1115 et seq., (b) the Settlement shall be without force and effect upon the rights of the Parties hereto, and none of its terms shall be effective or enforceable, with the exception of this Paragraph and Paragraph 11, which shall remain effective and enforceable; (c) the Parties shall be deemed to have reverted to their respective status prior to execution of this Agreement except as otherwise provided in this Agreement; (d) all Orders entered in connection with the Settlement, including the certification of the Class, shall be vacated without prejudice to any Party's position on the issue of class certification, the issue of amending the complaint, or any other issue, in this Action or any other action, and the Parties shall be restored to their litigation positions existing on the date of execution of this Agreement; and (e) the Parties shall proceed in all respects as if the Settlement Agreement and related documentation and orders had not been executed, and without prejudice in any way from the negotiation or fact of the Settlement or the terms of the Settlement Agreement. The Settlement, all documents, orders, and evidence relating to the Settlement, the fact of their existence, any of their terms, any statement or report concerning the Settlement Agreement, its existence, or their terms, any negotiations, proceedings, acts performed, or documents executed pursuant to or in furtherance of the Settlement Agreement shall not be admissible in any proceeding, and shall not be offered, received, or construed as evidence of a presumption, concession, or an admission of liability, of unenforceability of any arbitration agreement, of the certifiability of a litigation class, or otherwise used by any Person for any purpose whatsoever, in any trial of this Action or any other action or proceedings, except as provided in this Paragraph and Paragraph 11.

14. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

15. **Counterparts.** This Settlement Agreement may be executed by one or more Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

16. **Attorney Fees.** In the event any litigation, arbitration, mediation, or other proceeding ("Proceeding") is initiated by any party against any other party to enforce this Settlement Agreement, the prevailing party in such Proceeding will be entitled to recover from the unsuccessful party all costs, expenses, and actual attorney's fees relating to or arising out of such Proceeding (whether or not such Proceeding proceeds to judgment), and any post judgment or post award proceeding including without limitation one to enforce any judgment or award resulting from any

such Proceeding. Any such judgment or award will contain a specific provision for the recovery of all such subsequently incurred costs, expenses, and actual attorney's fees.

17. **Withdrawal of Pending Records Requests.** The Parties and their counsel agree that the requests for personnel, time, and payroll records submitted to Defendants by Plaintiffs' counsel on behalf of multiple current and former employees are withdrawn and Defendants will have no obligation to respond.

18. **Effective Date.** This Settlement shall become effective on the date each of the Parties and their respective counsel have all signed this Settlement Agreement (the "Effective Date") and shall be in full force and effect unless the Court fails to give preliminary or Final Approval and the parties have failed to make changes necessary to obtain preliminary or Final Approval for a reasonable period of time thereafter.

DATED: May 2, 2023

ANIMAL KEEPER, INC.

By: *The Animal Keeper, Inc*
By: *Brenda Costello*
Title: *President*

DATED: May 2, 2023

BRENDA COSTELLO

By: *Brenda Costello*
Brenda Costello
Title: *President*

DATED: _____

TOMMY SAYLES

By: _____
Tommy Sayles
Title: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

such Proceeding. Any such judgment or award will contain a specific provision for the recovery of all such subsequently incurred costs, expenses, and actual attorney's fees.

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DATED: _____

ANIMAL KEEPER, INC.

By: _____

By: _____

Title: _____

DATED: _____

BRENDA COSTELLO

By: _____

Brenda Costello

Title: _____

DATED: 5/5/2023

TOMMY SAYLES

By: Tommy Sayles

Tommy Sayles

Title: Chief operating officer

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

DATED: 05/08/2023

CHRISTINE JORDAN

By: *Christine Jordan*
Plaintiff and Settlement Class Representative

DATED: 05/11/2023

HOLLY OLIVER

By: *Holly*
Plaintiff and Settlement Class Representative

DATED: 05/11/2023

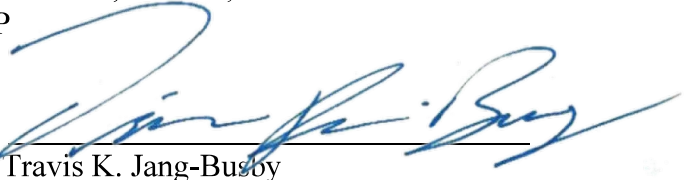
SHELLY PAUL

By: *Shelly Paul*
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: May 22, 2023

PROCOPIO, CORY, HARGREAVES & SAVITCH
LLP

By: 
Travis K. Jang-Busby
Attorneys for Defendants

DATED: May 12, 2023

SOLOMON WARD SEIDENWURM & SMITH,
LLP

By: 
Daniel E. Gardenswartz
Attorneys for Plaintiffs