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

FRANCISCA PEREZ LOPEZ, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

HARBINGER GROUP, LLC, a limited liability
company dba MISIONERO; and DOES 1 through
10, inclusive,

Defendants.

Case No.: 22CV002800

[Honorable Joseph T. Ortiz, Department S17]

**JOINT STIPULATION OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT**

Complaint Filed: September 20, 2022
Trial Date: Not Set

1 This Joint Stipulation of Class and Representative Action Settlement Agreement (“Settlement
2 Agreement” or “Settlement” or “Agreement”) is made by and between Plaintiff Francisca Perez Lopez
3 (“Plaintiff”) and Defendant Harbinger Group, LLC (“Defendant”). The Agreement refers to Plaintiff
4 and Defendant collectively as “Parties.”

5 **1. DEFINITIONS.**

6 1.1. “Action” means *Francisca Perez Lopez v. Harbinger Group, LLC*, Superior Court of the
7 State of California, County of Monterey, Case No. 22CV002800.

8 1.2. “Administrator” means APEX Class Action Administration, the neutral entity the Parties
9 have agreed to appoint to administer the Settlement.

10 1.3. “Administration Expenses Payment” means \$23,000.00, the amount allocated to the
11 Administrator from the Gross Settlement Amount to reimburse its reasonable fees and
12 expenses in accordance with its “not to exceed” bid, which will be submitted to the
13 Court in connection with Preliminary Approval of the Settlement.

14 1.4. “Aggrieved Employee” means all current and former non-exempt employees who
15 worked for Defendant in California from September 17, 2021, through June 22, 2024.

16 1.5. “Class” means all current and former non-exempt employees who worked for Defendant
17 in California from September 20, 2018, through June 22, 2024.

18 1.6. “Class Counsel” means Moon Law Group, P.C.

19 1.7. “Class Counsel Fees Payment” means one third of the Gross Settlement Amount, the
20 amount allocated to Class Counsel for reimbursement of the reasonable fees incurred to
21 prosecute the Action.

22 1.8. “Class Counsel Expenses Payment” means \$30,000.00, the amount allocated to Class
23 Counsel for reimbursement of the reasonable expenses incurred to prosecute the Action.

24 1.9. “Class Data” means Class Member identifying information in Defendant’s possession,
25 including the Class Member’s name, last-known mailing address, Social Security
26 number, and number of Class Period Workweeks and PAGA Pay Periods.

27 1.10. “Class Member” means a member of the Class, as either a Participating Class Member
28 or Non-Participating Class Member.

- 1.11. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods, and means, including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.12. “Class Notice” means the court-approved Notice of Class and Representative Action Settlement Agreement and Final Approval Hearing, to be mailed to Class Members in English and Spanish, substantially in the form attached to this Agreement as **Exhibit A** and incorporated by reference into this Agreement.
- 1.13. “Class Period” means the period from September 20, 2018, through June 22, 2024.
- 1.14. “Class Representative” means Francisca Perez Lopez, the named Plaintiff in the Operative Complaint.
- 1.15. “Class Representative Service Payment” means \$10,000.00, the amount allocated from the Gross Settlement Amount to the Class Representative for initiating and providing services in support of the Action and for her General Release.
- 1.16. “Court” means the Superior Court of California, County of Monterey.
- 1.17. “Defendant” means Harbinger Group, LLC, the named Defendant in the Operative Complaint.
- 1.18. “Defense Counsel” means O’Hagan Meyer LLP.
- 1.19. “Effective Date” means the date both of the following have occurred: (a) service on Defendant of the Court Judgment and Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters the Judgment; (b) if one or more Participating Class Members object(s) to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a Remittitur.

- 1.20. “Final Approval Order” means the Court’s Order Granting Final Approval of the Settlement.
- 1.21. “Final Approval Hearing” means the Court’s Hearing on the Motion for Final Approval of the Settlement.
- 1.22. “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.23. “Gross Settlement Amount” means \$975,000.00, the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 7 below and in addition to any and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, which shall be paid separately. The Gross Settlement Amount will be used to pay the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment.
- 1.24. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to his or her number of Workweeks.
- 1.25. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties, allocated pursuant to Labor Code section 2699(i) and calculated according to his or her number of PAGA Pay Periods.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled under California Labor Code (“Labor Code”) section 2699(i).
- 1.27. “LWDA PAGA Payment” means the LWDA’s 75% share of the PAGA Penalties, allocated pursuant to Labor Code section 2699(i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount less the following payments in the amounts approved by the Court: the Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

- 1.29. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from September 17, 2021, through June 22, 2024.
- 1.32. “PAGA” means the Labor Code Private Attorneys General Act, Labor Code sections 2698, *et seq.*
- 1.33. “PAGA Notice” means Plaintiff’s September 17, 2022 letter to Defendant and the LWDA providing written notice pursuant to Labor Code section 2699.3(a).
- 1.34. “PAGA Penalties” means \$60,000.00, the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount in settlement of the Released PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class Settlement.
- 1.36. “Plaintiff” means Francisca Perez Lopez, the named plaintiff in the Action.
- 1.37. “Preliminary Approval Order” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Released Class Claims” means the claims released as described in Paragraph 5.2.
- 1.39. “Released PAGA Claims” means the claims released as described in Paragraph 5.3.
- 1.40. “Released Parties” means: Defendant, any potential joint employer of Defendant, and any and all of Defendant’s affiliated companies and respective parent companies, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors, employees, or other persons acting on Defendant’s behalf), predecessors, successors, and assigns.
- 1.41. “Request for Exclusion” means a Class Member’s submission of a signed, written request to be excluded from the Class Settlement.
- 1.42. “Response Deadline” means sixty (60) days after the Administrator mails the Class Notice to the Class Members and the last date on which Class Members may: (a) mail a

Request for Exclusion from the Settlement; or (b) mail an Objection to the Settlement.

The Response Deadline shall be extended fourteen (14) days for Class Members whose Notice Packets are resent after having been returned undeliverable to the Administrator.

1.43. “Workweek” means any week during which a Class Member worked for Defendant for at least one day during the Class Period.

2. **RECITALS.**

2.1. On September 17, 2022, Plaintiff submitted to the LWDA, and sent via certified mail to Defendant, a notice of Labor Code violations pursuant to Labor Code section 2699.3(a).

2.2. On September 20, 2022, Plaintiff filed a Class Action Complaint against Defendant, which alleged seven individual and class causes of action for violation of the Labor Code and one cause of action for violation of the California Business and Professions Code; and on October 28, 2022, Defendant filed an Answer thereto.

2.3. On December 6, 2022, Plaintiff filed a First Amended Class and Representative Action Complaint (the “Operative Complaint”) against Defendant, which alleged a ninth representative cause of action for Civil Penalties under PAGA; and on January 6, 2023, Defendant filed an Answer thereto.

2.4. Between December 6, 2022 and February 14, 2024, the Parties engaged in an informal exchange of data and documents, including, but not limited to, a random twenty-five percent (25%) sample of the time and corresponding payroll records of the putative Class and the employee handbook in effect during the Class Period.

2.5. On February 14, 2024, the Parties participated in an all-day mediation presided over by the Honorable Carl West (Ret.), which led to the Settlement.

2.6. The Parties stipulate to class certification for the purpose of the instant Settlement as to the Participating Class Members and Released Class Claims.

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

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1 **3. MONETARY TERMS.**

2 3.1. Gross Settlement Amount. The Gross Settlement Amount means \$975,000.00, the total
3 amount Defendant agrees to pay under the Settlement, except as provided in Paragraph
4 7 below and in addition to any and all employer payroll taxes owed on the Wage
5 Portions of the Individual Class Payments, which shall be paid separately. Defendant
6 has no obligation to pay the Gross Settlement Amount or any payroll taxes prior to the
7 deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the
8 entire Gross Settlement Amount without asking or requiring Participating Class
9 Members or Aggrieved Employees to submit any claim as a condition of payment.
10 None of the Gross Settlement Amount will revert to Defendant.

11 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
12 the following payments from the Gross Settlement Amount, in the amounts specified
13 by the Court in the Final Approval Order:

14 3.2.1. To Plaintiff: In exchange for a general release as described herein, a Class
15 Representative Service Payment to the Class Representative of not more than
16 \$10,000.00, in addition to the Individual Class Payment and Individual PAGA
17 Payment the Class Representative is entitled to receive as a Participating Class
18 Member and Aggrieved Employee. Defendant will not oppose Plaintiff's
19 request for a Class Representative Service Payment that does not exceed this
20 amount. Plaintiff and/or Class Counsel will file a motion for the Class
21 Representative Service Payment no later than sixteen (16) court days prior to
22 the Final Approval Hearing. If the Court approves of a Class Representative
23 Service Payment less than the amount requested, the Administrator will retain
24 the remainder in the Net Settlement Amount. The Administrator will pay the
25 Class Representative Service Payment using IRS Form 1099. Plaintiff assumes
26 full responsibility and liability for taxes owed on the Class Representative
27 Service Payment.
28

1 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one third of
2 the Gross Settlement Amount, or \$325,000.00, and a Class Counsel Expenses
3 Payment of not more than \$30,000.00. Defendant will not oppose Plaintiff's
4 request for a Class Counsel Fees Payment and Class Counsel Expenses
5 Payment that does not exceed these amounts. Plaintiff and/or Class Counsel
6 will file a motion for the Class Counsel Fees Payment and Class Counsel
7 Expenses Payment no later than sixteen (16) court days prior to the Final
8 Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or
9 Class Counsel Expenses Payment less than the amounts requested, the
10 Administrator will allocate the remainder to the Net Settlement Amount.
11 Released Parties shall have no liability to Class Counsel or any other Plaintiff's
12 Counsel arising from any claim to any portion of any Class Counsel Fee
13 Payment and/or Class Counsel Expenses Payment. The Administrator will pay
14 the Class Counsel Fees Payment and Class Counsel Expenses Payment using
15 one or more IRS 1099 Forms. Class Counsel assumes full responsibility and
16 liability for taxes owed on the Class Counsel Fees Payment and Class Counsel
17 Expenses Payment. Class Counsel holds Defendant harmless, and indemnifies
18 Defendant, from any dispute or controversy regarding any division or sharing of
19 any of these Payments.

20 3.2.3. To the Administrator: An Administration Expenses Payment of not more than
21 \$23,000.00, except for a showing of good cause and as approved by the Court.
22 Plaintiff and/or Class Counsel will file a motion for the Administration
23 Expenses Payment no later than sixteen (16) court days prior to the Final
24 Approval Hearing. If the Court approves an Administration Expenses Payment
25 less than the amount requested, or if the Administration Expense Payment is
26 less than the amount requested, the Administrator will allocate the remainder to
27 the Net Settlement Amount.
28

1 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated
2 by (a) dividing the Net Settlement Amount by the total number of Workweeks
3 worked by all Participating Class Members during the Class Period and (b)
4 multiplying the result by each Participating Class Member's Workweeks.

5 3.2.4.1. Tax Allocation of Individual Class Payments. Twenty percent (20%) of
6 each Participating Class Member's Individual Class Payment will be
7 allocated to settlement of claims for wages (the "Wage Portion"). The
8 Wage Portions are subject to tax withholding and will be reported on an
9 IRS W-2 Form. Eighty percent (80%) of each Participating Class
10 Member's Individual Class Payment will be allocated to settlement of
11 claims for interest and penalties (the "Non-Wage Portion"). The Non-
12 Wage Portions are not subject to wage withholdings and will be
13 reported on IRS 1099 Forms. Participating Class Members assume full
14 responsibility and liability for employee taxes owed on their Individual
15 Class Payment.

16 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
17 Class Payments. Non-Participating Class Members will not receive any
18 Individual Class Payments. The Administrator will retain amounts equal
19 to their Individual Class Payments in the Net Settlement Amount for
20 distribution to Participating Class Members on a pro rata basis.

21 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties of not more than
22 \$60,000.00 to be paid from the Gross Settlement Amount. If the Court approves
23 PAGA Penalties less than the amount requested, the Administrator will allocate
24 the remainder to the Net Settlement Amount. Seventy-five percent (75%) (i.e.,
25 \$45,000.00) will be allocated to the LWDA PAGA Payment and twenty-five
26 percent (25%) (i.e., \$15,000.00) will be allocated to the Individual PAGA
27 Payments. The Administrator will calculate each Individual PAGA Payment by
28 (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA

Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Per PAGA, there shall be no opt-out allowance of the PAGA components of the settlement for Aggrieved Employees.

3.2.5.1. Tax Allocation of Individual Class Payments. One hundred percent (100%) of each Aggrieved Employee's Individual PAGA Payment will be allocated to settlement of claims for penalties and interest. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Funding of Gross Settlement Amount. No later than sixty (60) calendar days after the Effective Date, Defendant shall fund the entire Gross Settlement Amount and its share of payroll taxes by transmitting such funds to the Administrator.

4.2. Payments from the Gross Settlement Amount. No later than fourteen (14) calendar days after Defendant funds the entire Gross Settlement Amount, the Administrator shall mail checks for the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment. Disbursement of the Class Counsel Fees Payment, Class Counsel Expenses Payment, and Class Representative Service Payment shall not precede disbursement of the Individual Class Payments and Individual PAGA Payments.

4.2.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date when the check will be voided. Each check will be voided 180 days after the date of mailing ("void date"). The Administrator will cancel all

1 checks not cashed by the void date. The Administrator will send checks for
2 Individual Class Payments to all Participating Class Members, including those
3 for whom a Class Notice was returned undelivered. The Administrator will send
4 checks for Individual PAGA Payments to all Aggrieved Employees, including
5 Non-Participating Class Members who qualify as Aggrieved Employees and
6 those for whom a Class Notice was returned undelivered.

7 4.2.2. The Administrator may send Participating Class Members a single check
8 combining the Individual Class Payment and Individual PAGA Payment.
9 Before mailing any checks, the Settlement Administrator must update the
10 recipient's mailing addresses using the National Change of Address Database.
11 The Administrator must conduct a Class Member Address Search for all other
12 Class Members whose checks are returned undelivered without USPS
13 forwarding address.

14 4.2.3. No later than seven (7) days after receiving a returned check, the Administrator
15 must re-mail checks to the USPS forwarding address provided or to an address
16 ascertained through the Class Member Address Search. The Administrator need
17 not take further steps to deliver checks to Class Members whose re-mailed
18 checks are returned as undelivered. The Administrator shall promptly send a
19 replacement check to any Class Member whose original check was lost or
20 misplaced and who requests the replacement prior to the void date.

21 4.2.4. For any Class Member whose Individual Class Payment check or Individual
22 PAGA Payment check is uncashed and cancelled after the void date, or for any
23 Class Member whose envelope is returned and no forwarding address can be
24 located for the Class Member after reasonable efforts have been made,
25 including, but not limited to, skip tracing, the Administrator shall transmit the
26 funds represented by such checks to the California Controller's Unclaimed
27 Property Fund in the name of the Class Member thereby leaving no "unpaid
28 residue" subject to the requirements of California Code of Civil Procedure

1 section 384(b).

2 4.2.5. The payment of Individual Class Payments and Individual PAGA Payments
3 shall not obligate Defendant to confer any additional benefits or make any
4 additional payments to Class Members beyond those specified herein.

5 **5. RELEASES OF CLAIMS.** Effective on the date the Court issues its Final Approval Order,
6 but subject to the Court's continuing jurisdiction to monitor compliance with the execution of
7 settlement terms, Plaintiff, the Participating Class Members, the State of California, and the Aggrieved
8 Employees will release claims against all Released Parties as follows:

9 5.1. Plaintiff's Release. Plaintiff fully and finally releases the Released Parties from any and
10 all claims, known and unknown, under federal, state and/or local law, statute, ordinance,
11 regulation, common law, or other source of law, including, but not limited to, all claims
12 arising from or related to her employment with Defendant and her compensation while
13 an employee of Defendant ("Plaintiff's Released Claims"). Plaintiff's Released Claims
14 include all claims for lost wages and benefits, emotional distress, retaliation, punitive
15 damages, and attorneys' fees and costs arising under federal, state, or local laws for
16 discrimination, harassment, retaliation, and wrongful termination, such as, by way of
17 example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of
18 1964, the Americans With Disabilities Act, Age Discrimination in Employment Act;
19 California Fair Employment and Housing Act; and the law of contract and tort.
20 Plaintiff's Released Claims also include any and all claims, known or unknown. Even if
21 Plaintiff discovers facts in addition to or different from those that she now knows or
22 believes to be true with respect to the subject matter of Plaintiff's Released Claims, those
23 claims will remain released and forever barred. Thus, Plaintiff expressly waives and
24 relinquishes the provisions, rights and benefits of section 1542 of the California Civil
25 Code, which reads:

26 **A general release does not extend to claims that the creditor or**
27 **releasing party does not know or suspect to exist in his or her**
28 **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.

Plaintiff's Released Claims excludes claims which cannot be waived under law.

5.2. Release by Participating Class Members: All Participating Class Members fully and finally release and discharge the Released Parties from any and all claims alleged in Plaintiff's pleadings or that could have been alleged based on the factual allegations in Plaintiff's pleadings, including, but not limited to, California Labor Code sections 200, 201, 202, 203, 204, 208, 210, 218.5, 218.6, 221, 222, 223, 226, 226.2, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, any California Industrial Commission Wage Order, Business and Professions Code sections 17200, *et seq.*, California Code of Civil Procedure section 1021.5, and including all claims for or related to alleged unpaid wages, minimum wages, hours worked, overtime or double time wages, regular rate of pay, bonus and incentive pay, sick pay, timely payment of wages during employment or at separation, wage statements, meal periods and meal period premiums, rest breaks and rest break premiums, reimbursements, unfair competition, unfair business practices, unlawful business practices, and claims for statutory penalties based on the facts or claims alleged or that could have been alleged based on the factual allegations in Plaintiff's pleadings arising at any time during the Class Period (collectively, "Released Class Claims").

5.3. Release by the State of California and Aggrieved Employees: The State of California and all Aggrieved Employees fully and finally release and discharge the Released Parties from any and all claims for PAGA civil penalties that Plaintiff alleged against the Released Parties or that could have been alleged against the Released Parties based on the facts stated in Plaintiff's pleadings or PAGA Notice, including, but not limited to, (i) all PAGA claims seeking civil penalties premised upon California Labor Code sections 200, 201, 202, 203, 204, 208, 210, 218.5, 218.6, 221, 222, 223, 226, 226.2, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, *et seq.*, and 2802, California Industrial Commission Wage Orders, and (ii) all other claims for civil penalties recoverable under the PAGA based on the facts or

claims alleged in Plaintiff's pleadings or PAGA Notice arising at any time during the PAGA Period (collectively, "Released PAGA Claims"). The Released PAGA Claims do not release any Aggrieved Employees' claims for wages or statutory penalties, and the Aggrieved Employees may not opt out of the Released PAGA Claims.

6. SETTLEMENT ADMINISTRATION.

- 6.1. Selection of Administrator. The Parties have jointly selected APEX Class Action Administration to serve as the Administrator and verified that, as a condition of appointment, APEX Class Action Administration agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for the Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 6.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 6.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation § 468B-1.
- 6.4. Class Data. No later than thirty (30) days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of the instant Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible.

1 6.4.1. Without any extension of the deadline by which Defendant must send the Class
2 Data to the Administrator, the Parties and their counsel will expeditiously use
3 best efforts, in good faith, to reconstruct or otherwise resolve any issues related
4 to missing or omitted Class Data.

5 6.4.2. No later than fourteen (14) calendar days after receiving the Class Data, the
6 Administrator will send to all Class Members identified in the Class Data, via
7 first-class United States Postal Service (“USPS”) mail, the Class Notice in
8 English and Spanish, substantially in the form attached to this Agreement as
9 **Exhibit A**. The first page of the Class Notice shall prominently estimate the
10 dollar amounts of any Individual Class Payment and/or Individual PAGA
11 Payments payable to the Class Member and/or Aggrieved Employee, and the
12 number of Workweeks and PAGA Pay Periods used to calculate these amounts.
13 Before mailing Class Notices, the Administrator shall update Class Member
14 addresses using the National Change of Address database.

15 6.4.3. No later than three (3) business days after its receipt of any Class Notice returned
16 by the USPS as undelivered, the Administrator shall re-mail the Class Notice
17 using any forwarding address provided by USPS. If USPS does not provide a
18 forwarding address, the Administrator shall conduct a Class Member Address
19 Search and re-mail the Class Notice to the most current address obtained. The
20 Administrator has no obligation to make further attempts to locate or send Class
21 Notice to Class Members whose Class Notice is returned by USPS a second time.

22 6.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
23 and/or PAGA Pay Periods, and Requests for Exclusion will be extended an
24 additional fourteen (14) days beyond the sixty (60) days otherwise provided in
25 the Class Notice for all Class Members whose notice is re-mailed. The
26 Administrator will inform the Class Member of the extended deadline with the
27 re-mailed Class Notice.
28

1 6.4.5. If the Administrator, Defendant, Defense Counsel, or Class Counsel is contacted
2 by or otherwise discovers any persons who believe they should have been
3 included in the Class Data and should have received Class Notice, the Parties will
4 expeditiously meet and confer in person or by telephone, and in good faith, in an
5 effort to agree on whether to include them as Class Members. If the Parties agree,
6 such persons will be Class Members entitled to the same rights as other Class
7 Members, and the Administrator will send, via email or overnight delivery, a
8 Class Notice requiring them to exercise options under this Agreement no later
9 than fourteen (14) days after receipt of Class Notice, or the deadline dates in the
10 Class Notice, whichever are later.

11 6.5. Notice to Class Members. No later than three (3) business days after receipt of the Class
12 Data, the Administrator shall notify Class Counsel that the list has been received and
13 state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay
14 Periods in the Class Data.

15 6.6. Requests for Exclusion (Opt-Outs). Class Members who wish to exclude themselves
16 from the Class Settlement must send the Administrator by mail a signed written Request
17 for Exclusion no later than sixty (60) days after the Administrator mails the Class Notice
18 (plus an additional fourteen (14) days for Class Members whose Class Notice is re-
19 mailed). A Request for Exclusion is a letter from a Class Member or his/her
20 representative that reasonably communicates the Class Member's election to be excluded
21 from the Settlement and includes the Class Member's name, address, and email address
22 or telephone number. To be valid, a Request for Exclusion must be timely postmarked by
23 the Response Deadline.

24 6.6.1. The Administrator may not reject a Request for Exclusion as invalid because it
25 fails to contain all the information specified in the Class Notice. The
26 Administrator shall accept any Request for Exclusion as valid if the
27 Administrator can reasonably ascertain the identity of the person as a Class
28 Member and the Class Member's desire to be excluded. The Administrator's

determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

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

6.6.3. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment. Pursuant to PAGA, there shall be opt-out allowance as to the PAGA component of the settlement for Aggrieved Employees.

6.7. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and PAGA Pay Periods allocated to the Class Member and/or Aggrieved Employee in the Class Notice.

6.7.1. The Class Member and/or Aggrieved Employee may challenge the allocation by communicating with the Administrator via mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In

the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

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

6.8.1. Participating Class Members may send written objections to the Administrator, by mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than sixty (60) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

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

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

6.9.1. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the

1 Preliminary Approval, Class Notice, Motion for Final Approval, Motion for
2 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and
3 Class Representative Service Payment, and Final Approval and Judgment. The
4 Administrator will also maintain and monitor an email address and a toll-free
5 telephone number to receive Class Member calls, faxes and emails.

6 6.9.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
7 promptly review on a rolling basis Requests for Exclusion to ascertain their
8 validity. No later than five (5) days after the expiration of the deadline for
9 submitting Requests for Exclusion, the Administrator shall email a list to Class
10 Counsel and Defense Counsel containing (a) the names and other identifying
11 information of Class Members who have timely submitted valid Requests for
12 Exclusion (“Exclusion List”); (b) the names and other identifying information of
13 Class Members who have submitted invalid Requests for Exclusion; (c) copies of
14 all Requests for Exclusion from Settlement submitted (whether valid or invalid).

15 6.9.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
16 reports to Class Counsel and Defense Counsel that, among other things, tally the
17 number of: Class Notices mailed or re-mailed, Class Notices returned
18 undelivered, Requests for Exclusion (whether valid or invalid) received,
19 objections received, challenges to Workweeks and/or PAGA Pay Periods
20 received and/or resolved, and checks mailed for Individual Class Payments and
21 Individual PAGA Payments (“Weekly Report”). The Weekly Reports must
22 include provide the Administrator’s assessment of the validity of Requests for
23 Exclusion and attach copies of all Requests for Exclusion and objections
24 received.

25 6.9.4. Workweek and/or Pay Period Challenges. The Parties have the authority to final
26 decisions consistent with the terms of this Agreement on all Class Member
27 challenges over the calculation of Workweeks and/or Pay Periods.
28

1 6.9.5. Administrator's Declaration. No later than seven (7) calendar days before the
2 date Plaintiff is required to file the Motion for Final Approval of the Settlement,
3 the Administrator will provide to Class Counsel and Defense Counsel, a signed
4 declaration suitable for filing in Court attesting to its due diligence and
5 compliance with all of its obligations under this Agreement, including, but not
6 limited to, its mailing of Class Notice, the Class Notices returned as undelivered,
7 the re-mailing of Class Notices, attempts to locate Class Members, the total
8 number of Requests for Exclusion from Settlement it received (both valid or
9 invalid), the number of written objections and attach the Exclusion List. The
10 Administrator will supplement its declaration as needed or requested by the
11 Parties and/or the Court. Class Counsel is responsible for filing the
12 Administrator's declaration(s) in Court.

13 6.9.6. Final Report by Settlement Administrator. No later than fourteen (14) calendar
14 days after the Administrator disburses all funds in the Gross Settlement Amount,
15 the Administrator will provide Class Counsel and Defense Counsel with a final
16 report detailing its disbursements by employee identification number only of all
17 payments made under this Agreement. At least fourteen (14) calendar before any
18 deadline set by the Court, the Administrator will prepare and submit to Class
19 Counsel a signed declaration suitable for filing in Court attesting to its
20 disbursement of all payments required under this Agreement. Class Counsel is
21 responsible for filing the Administrator's declaration in Court.

22 7. ESCALATOR CLAUSE

23 Based on its records, Defendant estimates that, as of the date of this Settlement, there are 2,228
24 Class Members and 79,742 total Workweeks from September 20, 2018, to February 14, 2024. If the
25 actual number of total Workweeks from September 20, 2018, through June 22, 2024 exceeds 79,742 by
26 more than ten percent (10%), i.e., exceeds 87,717, Defendant, at its sole discretion, may either: (1) pay
27 the pro rata percentage increase in excess of ten percent (10%) of the Gross Settlement Amount to
28 include the additional workweeks, e.g., an eleven percent (11%) increase in total Workweeks would

1 result in a one percent (1%) increase in the Gross Settlement Amount; or (2) reduce the Class Period to
2 the date that 87,717 Workweeks are met, but not exceeded.

3 **8. DEFENDANT'S RIGHT TO WITHDRAW.**

4 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten
5 percent (10%) of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw
6 from the Settlement within fourteen (14) calendar days after expiration of the Response Deadline. If
7 Defendant elects to withdraw from the Settlement, Defendant must notify Class Counsel and the Court
8 of its decision no later than fourteen (14) calendar days after expiration of the Response Deadline, and
9 Defendant will be responsible for paying all settlement administration expenses incurred to that point.
10 Further, the Settlement shall be void ab initio, have no force or effect whatsoever, and neither Party will
11 have any further obligation to perform under this Agreement, except as provided in this Paragraph.

12 **9. MOTION FOR FINAL APPROVAL.**

13 No later than sixteen (16) court days before the Final Approval Hearing, Plaintiff will file a
14 Motion for Final Approval of the Settlement that includes a request for approval of the PAGA
15 settlement under Labor Code section 2699(l) and a Proposed Final Approval Order and Judgment
16 (collectively "Motion for Final Approval").

17 9.1. Response to Objections. No later than five (5) court days prior to the Final Approval
18 Hearing, or as otherwise ordered or accepted by the Court, each Party retains the right to
19 respond to any Objection raised by a Participating Class Member, including the right to
20 file responsive documents in Court

21 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
22 Approval on any material change to the Settlement, including, but not limited to, the
23 scope of release to be granted by Class Members, the Parties will expeditiously work
24 together in good faith to address the Court's concerns by revising the Agreement as
25 necessary to obtain Final Approval. The Court's decision to award less than the amounts
26 requested for the Class Counsel Fees Payment, Class Counsel Expenses Payment, Class
27 Representative Service Payment, and/or Administration Expenses Payment shall not
28 constitute a material modification to the Agreement within the meaning of this

paragraph.

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

9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

1 **10. AMENDED JUDGMENT.**

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

4 **11. ADDITIONAL PROVISIONS.**

5 11.1. No Admission of Liability, Class Certification or Representative Manageability for Other

6 Purposes. This Agreement represents a compromise and settlement of highly disputed
7 claims. Nothing in this Agreement is intended or should be construed as an admission by
8 Defendant that any of the allegations in the Operative Complaint have merit or that
9 Defendant has any liability for any claims asserted; nor should it be intended or
10 construed as an admission by Plaintiff that Defendant's defenses in the Action have
11 merit. The Parties agree that class certification and representative treatment is for
12 purposes of this Settlement only. If, for any reason the Court does grant Preliminary
13 Approval, Final Approval or enter Judgment, Defendant reserves the right to contest
14 certification of any class for any reason, Defendant reserves all available defenses to the
15 claims in the Action, and Plaintiff reserves the right to move for class certification on any
16 grounds available and to contest Defendant's defenses. The Settlement, this Agreement,
17 and the Parties' willingness to settle the Action will have no bearing on, and will not be
18 admissible in connection with, any litigation (except for proceedings to enforce or
19 effectuate the Settlement and this Agreement).

20 11.2. No Solicitation. The Parties separately agree that they and their respective counsel and
21 employees will not solicit any Class Member to opt out of or object to the Settlement, or
22 appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
23 Counsel's ability to communicate with Class Members in accordance with Class
24 Counsel's ethical obligations owed to Class Members.

25 11.3. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
26 together with its attached exhibits shall constitute the entire agreement between the
27 Parties relating to the Settlement, superseding any and all oral representations,
28 warranties, covenants, or inducements made to or by any Party.

- 1 11.4. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
2 represent that they are authorized by Plaintiff and Defendant, respectively, to take all
3 appropriate action required or permitted to be taken by such Parties pursuant to this
4 Agreement to effectuate its terms, and to execute any other documents reasonably
5 required to effectuate the terms of this Agreement including any amendments to this
6 Agreement.
- 7 11.5. Cooperation. The Parties and their counsel will cooperate with each other and use their
8 best efforts, in good faith, to implement the Settlement by, among other things,
9 modifying the Settlement Agreement, submitting supplemental evidence and
10 supplementing points and authorities as requested by the Court. In the event the Parties
11 are unable to agree upon the form or content of any document necessary to implement
12 the Settlement, or on any modification of the Agreement that may become necessary to
13 implement the Settlement, the Parties will seek the assistance of a mediator and/or the
14 Court for resolution.
- 15 11.6. No Prior Assignments. The Parties separately represent and warrant that they have not
16 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
17 or encumber to any person or entity and portion of any liability, claim, demand, action,
18 cause of action, or right released and discharged by the Party in this Settlement.
- 19 11.7. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are
20 providing any advice regarding taxes or taxability, nor shall anything in this Settlement
21 be relied upon as such within the meaning of United States Treasury Department
22 Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 23 11.8. Modification of Agreement. This Agreement, and all parts of it, may be amended,
24 modified, changed, or waived only by an express written instrument signed by all Parties
25 or their representatives, and approved by the Court.
- 26 11.9. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
27 the benefit of, the successors of each of the Parties.
28

- 1 11.10. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
2 governed by and interpreted according to the internal laws of the state of California,
3 without regard to conflict of law principles.
- 4 11.11. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
5 this Agreement. This Agreement will not be construed against any Party on the basis that
6 the Party was the drafter or participated in the drafting.
- 7 11.12. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
8 during Action and in this Agreement relating to the confidentiality of information shall
9 survive the execution of this Agreement.
- 10 11.13. Use and Return of Class Data. Information provided to Class Counsel pursuant to
11 Evidence Code section 1152, and all copies and summaries of the Class Data provided to
12 Class Counsel by Defendant in connection with the mediation, other settlement
13 negotiations, or in connection with the Settlement, may be used only with respect to this
14 Settlement, and no other purpose, and may not be used in any way that violates any
15 existing contractual agreement, statute, or rule of court. No later than ninety (90) days
16 after the date when the Court discharges the Administrator's obligation to provide a
17 Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy,
18 all paper and electronic versions of Class Data received from Defendant unless, prior to
19 the Court's discharge of the Administrator's obligation, Defendant makes a written
20 request to Class Counsel for the return, rather than the destructions, of Class Data.
- 21 11.14. Headings. The descriptive heading of any section or paragraph of this Agreement is
22 inserted for convenience of reference only and does not constitute a part of this
23 Agreement.
- 24 11.15. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall
25 be to calendar days. In the event any date or deadline set forth in this Agreement falls on
26 a weekend or federal legal holiday, such date or deadline shall be on the first business
27 day thereafter.
28

11.16. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
MOON LAW GROUP, P.C.
725 South Figueroa Street, 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128

To Defendant:

Joseph R. Lordan
Vincent R. Fisher
Trenten Bilodeaux
O'HAGAN MEYER LLP
One Embarcadero Center, Suite 2100
San Francisco, California 94111
Telephone: (628) 626-6909

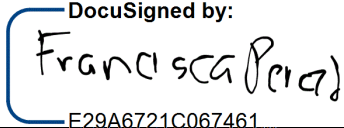
11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same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

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

Signatures on following page.

Plaintiff & Class Representative:
5/30/2024

Dated: May , 2024

By: 
E29A6721C067461
Plaintiff, Francisca Perez Lopez

Plaintiff's Counsel:

Dated: May 31, 2024

MOON LAW GROUP, P.C.

By: 
Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Francisca Perez Lopez

Defendant:

Dated: May , 2024

On behalf of Defendant, Harbinger Group, LLC

By: _____
Print Name

Signature

Title

Defendant's Counsel:

Dated: May , 2024

O'HAGAN MEYER LLP

By: _____
Joseph R. Lordan
Vincent R. Fisher
Trenten Bilodeaux
Attorneys for Defendant, Harbinger Group, LLC

Plaintiff & Class Representative:

Dated: May , 2024

By: _____
Plaintiff, Francisca Perez Lopez

Plaintiff's Counsel:

Dated: May , 2024

MOON LAW GROUP, P.C.

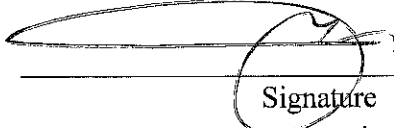
By: _____
Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Francisca Perez Lopez

Defendant:

Dated: May , 2024

On behalf of Defendant, Harbinger Group, LLC

By: JOE MERENDA
Print Name


Signature
CO-CEO / PRESIDENT
Title

Defendant's Counsel:

Dated: May , 2024

O'HAGAN MEYER LLP

By: _____
Joseph R. Lordan
Vincent R. Fisher
Trenten Bilodeaux
Attorneys for Defendant, Harbinger Group, LLC