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Attorneys for Defendants Harman Management Corporation and Froilan 284, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

YOSELIN ANTONIO-RUIZ, individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

HARMAN MANAGEMENT
CORPORATION, a California corporation;
FROILAN 284, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No: STK-CV-UOE-2023-0010116

CLASS ACTION

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

Complaint filed: October 11, 2022
Trial date: Not set

1 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT**

2 This Joint Stipulation of Class Action and Private Attorneys General Act Settlement is made and
3 entered into by and between Plaintiff YOSELIN ANTONIO-RUIZ, individually, and on behalf of all
4 others similarly situated, (“Plaintiff” or “Class Representative”), and Defendants HARMAN
5 MANAGEMENT CORPORATION and FROILAN 284, INC. (“Defendants”). Plaintiff and
6 Defendants are sometimes referred to individually as a “Party” or collectively referred to herein as “the
7 Parties.” THE PARTIES STIPULATE AND AGREE as follows:

8 **DEFINITIONS**

9 For purposes of this Settlement, the Parties stipulate and agree that the following terms shall apply
10 to this Agreement:

11 1. “Action” refers to the above-captioned action entitled *Antonio Ruiz v. Froilan 184, Inc., et. al.*,
12 Case No. STK-CV-UOE-2023-0010116¹.

13 2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint
14 to administer the Settlement.

15 3. “Administration Expenses” or “Administration Expenses Payment” means the amount the
16 Administrator will be paid from the Maximum Settlement Amount to reimburse for their reasonable fees
17 and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in
18 connection with the Preliminary Approval of the Settlement.

19 4. “Agreement” or “Joint Stipulation of Settlement” or “Settlement” shall refer to the Parties’
20 Joint Stipulation of Class Action and Private Attorneys General Act Settlement.

21 5. “Aggrieved Employee” or “PAGA Employee” means all Class Members that worked during
22 the PAGA Period. It is stipulated by the Parties that, for purposes of this Settlement only, all PAGA
23 Employees are “aggrieved employees” as defined pursuant to PAGA.

24 6. “Class” or “Class Members” shall mean all non-exempt employees of Defendants who worked
25 for Defendants in California during the Class Period. The “Settlement Class” or “Settlement Class
26 _____

27 ¹ The term “Action,” shall also encompass the actioned entitled *Antonio Ruiz v. Froilan 184, Inc., et*
28 *al.*, Case No.: 22CV404364 filed in the Superior Court of Santa Clara County and transferred to the
above-captioned Court.

Members” are those Class Members who do not timely submit a request to opt out of the class to the Settlement Administrator.

7. “Class Counsel” means MOON LAW GROUP, PC.

8. “Class Counsel Litigation Expenses Payment” means the amount allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

9. “Class Data” means Class Member’s identifying information in Defendants’ possession, including the Class Member’s name, last known mailing address, social security number or individual taxpayer identification number, number of Class Period Workweeks, and number of PAGA Pay Periods.

10. “Class Notice” means the Court approved notice of Class Action Settlement and Hearing Date for Final Court Approval, to be mailed to the Settling Class Members in English and Spanish, in the form and without material variation, attached herein as Exhibit A.

11. “Class Period” is October 11, 2018 through January 23, 2024

12. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

13. “Complaint” refers to the operative First Amended Complaint filed in the Action.²

14. “Court” means the San Joaquin Superior Court.

15. “Covered Workweeks” means the number of weeks a Class Member performed any work at Froilan 284, Inc.’s restaurant location in California during the Class Period.

16. “Defendants’ Counsel” means GORDON REES SCULLY MANSUKHANI.

17. “Effective Date” is the date in which the terms of settlement embodied in this Settlement shall become effective when all of the following events have occurred: (i) this Joint Stipulation of Settlement has been executed by all Parties and their respective counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been given to the Class, providing them with an opportunity to dispute information contained in the Notice, to opt out of the Settlement, or to object to the Settlement; (iv)

² As used in this Settlement, the term Complaint, also includes the operative complaint filed in Case No.: 22CV404364 before the Superior Court of Santa Clara County before this Action was transferred to the current Court.

the Court has held a final approval hearing and entered a final order and judgment certifying the Class for approval purposes and approving this Settlement; and (v) the later of the following events: (a) the day final approval is granted if there are no objections to the settlement; (b) sixty-five (65) days following notice of entry of the Court's final order approving the Settlement if there are any objections by any Class Member; (c) or if any appeal, writ or other appellate proceeding opposing this Settlement has been filed within sixty-five (65) days following notice of entry of the Court's final order approving the Settlement, then twenty (20) days after when any appeal, writ or other appellate proceeding opposing the Settlement has been resolved finally and conclusively with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court's order approving the Settlement is completely final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

18. "Final Approval" means the Court's order granting final approval of the Settlement.

19. "Final Approval Hearing" means the Court's hearing the Motion for Final Approval of the Settlement.

20. "Individual Class Payment" or "Settlement Class Payment" means the Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Covered Workweeks during the Class Period.

21. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of the 25% of the PAGA Penalties calculated according to the number of Pay Periods during the PAGA Period.

22. "Judgment" means the judgment entered by the Court based upon the Final Approval.

23. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).

24. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i). The LWDA PAGA Payment will be in the amount of \$7,500, which will be deducted from the Maximum Settlement Amount as set forth herein and represents 75% of the PAGA Allocation

25. "Maximum Settlement Amount" means Defendants' maximum total payment under the Settlement, including all attorney's fees and costs, the Class Representative Service Payment to the named

1 Plaintiff, the Administration Expenses Payment, the PAGA Allocation, and any other payments provided
2 by this Settlement. The Maximum Settlement Amount is \$155,000.00 all in, subject to the Escalator
3 Clause. Any portions of the Settlement Class Payments from the Maximum Settlement Amount that
4 constitute wages, Defendants will be separately responsible for any employer-side payroll taxes required
5 by law, including the employer FICA, FUTA, and SDI contributions. The employer-side payroll taxes
6 will be Defendants' obligation to satisfy under this Agreement, but are not included in the Maximum
7 Settlement Amount.

8 26. "Net Settlement Amount" means the Maximum Settlement Amount, less the following
9 payments in the amounts approved by the Court: the PAGA Allocation, Class Representative Service
10 Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the
11 Administration Expenses Payment. The remainder is to be paid to the Class Members as Individual Class
12 Payments.

13 27. "PAGA" means the Private Attorneys General Act of 2004 pursuant to Labor Code §§ 2698,
14 *et seq.*

15 28. "PAGA Allocation" means the portion of the Maximum Settlement Amount that the Parties
16 have agreed to allocate to the resolution of the Released PAGA Claims. The Parties have agreed that the
17 PAGA Allocation will be \$10,000 from the Maximum Settlement Amount.

18 29. "PAGA Pay Periods" means the number of pay periods each PAGA Employee worked during
19 the PAGA Period.

20 30. "PAGA Representative" means Plaintiff.

21 31. "PAGA Period" means the period from October 7, 2021, through January 23, 2024.

22 32. "Plaintiff" means Yoselin Antonio-Ruiz.

23 33. "Preliminary Approval" means the Court's Oder Granting Preliminary Approval of the Class
24 portion of the Settlement.

25 34. "Released Class Claims" means the claims being released as described in full in Paragraphs 59
26 and 62 below.

27 35. "Released PAGA Claims" means all claims being released by the LWDA and the Aggrieved
28 Employees as described in Paragraphs 60, 61, and 62 below.

36. “Released Parties” shall mean Defendants Froilan 284, Inc. and Harman Management Corporation and each of their agents, officers, employees, directors, owners, subsidiaries, DBAs, affiliates and parent companies.

37. “Response Deadline” means the date sixty (60) days after the Settlement Administrator initially mails the Notice to Settlement Class Members (“Notice”) and the last date on which Class Members may submit a request for exclusion or written objection to the Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of sixty (60) calendar days after the initial mailing or fourteen (14) calendar days from re-mailing. The Response Deadline may be extended only as expressly described herein.

38. “Settlement Payments” means all of the payments to Settlement Class Members (“Settlement Class Payments”) and all of the payments to PAGA Employees (“PAGA Settlement Payments”).

STIPULATED BACKGROUND

39. On October 11, 2022, Plaintiff filed a putative Class Action alleging the following labeled causes of action: (1) Failure to Pay Minimum Wage Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, 1197, and the Industrial Welfare Commission Wage Orders]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194, 1198, and the Industrial Welfare Commission Wage Orders]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512, and the Industrial Welfare Commission Wage Orders]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7, and the Industrial Welfare Commission Wage Orders]; (5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; (6) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226, and the Industrial Welfare Commission Wage Orders]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]. (The “Action.”) In the Complaint, Plaintiff sought to represent all persons that worked for Defendants in California as an hourly-paid, non-exempt employee at any time during the period beginning four years before the filing of the initial complaint and ending when Notice to the Class is sent.

40. On or about October 7, 2022, Plaintiff filed a notice of alleged Labor Code violations against Defendants with the LWDA pursuant to PAGA. Plaintiff’s October 7, 2022 letter to the LWDA formed the basis for the PAGA cause of action in the operative Complaint. On or about December 15, 2022,

1 Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a claim for Civil
2 Penalties under PAGA. Plaintiff's theories of liability against Defendants under the California Labor
3 Code were the same or similar to those asserting in Plaintiff's Complaint. After satisfying the
4 administrative exhaustion requirement, Plaintiff filed the operative amended complaint to add a single
5 cause of action for Civil Penalties under PAGA on or about January 31, 2023.

6 41. Solely for purposes of settling the Action, the Parties and their respective counsel stipulate and
7 agree that the requisites for establishing class certification with respect to the Class Members have been
8 met and are met. More specifically for settlement purposes only, the Parties stipulate and agree that:

9 (a) The Class is ascertainable and so numerous as to make it impracticable to join all
10 Class Members.

11 (b) There are common questions of law and fact including, but not limited to, the
12 following:

- 13 1) Whether or not Defendants properly paid all wages, including minimum
14 and overtime wages, to the Class;
- 15 2) Whether or not Defendants provided legally-compliant meal periods to the
16 Class;
- 17 3) Whether or not Defendants provided legally-compliant rest periods to the
18 Class;
- 19 4) Whether or not Defendants indemnified necessary business expenses
20 incurred by the Class Members;
- 21 5) Whether or not Defendants paid proper compensation timely upon
22 separation of employment to Class Members whose employment ended
23 during the Class Period;
- 24 6) Whether or not Defendants paid proper compensation timely throughout
25 Class Members' employment;
- 26 7) Whether or not Defendants provided accurate and complete itemized wage
27 statements to the Class;
- 28 8) Whether or not waiting-time penalties are available to Class Members who

are no longer employed by Defendants for violation of California Labor Code § 203;

9) Whether or not Defendants maintained adequate and requisite records for Class Members;

10) Whether or not Defendants paid proper meal period premiums and/or rest period premiums to the Class; and,

11) Whether or not Defendants engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code §§ 17200-17208.

(c) Plaintiff's claims are typical of the claims of the Class Members.

(d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.

(e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.

(f) With respect to the Class, questions of law and fact common to the members of the Class predominate over any questions affecting any individual member in such Class, and that a class action is superior to other available means for the fair and efficient adjudication of the controversy.

42. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were willing to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or in any other lawsuit. Defendants expressly reserve their right to oppose claim or class certification in this or any other action should this Settlement not become effective. Defendants further and expressly reserve their right to assert any defense to class certification should the Settlement, for whatever reason, not become effective, including, but not limited to opposition to the above-described subsection and factors.

43. Defendants deny any liability or wrongdoing of any kind whatsoever associated with the

1 claims alleged or which could have been alleged in the Complaint, and Defendants further deny that, for
2 any purpose other than settling this lawsuit, the Action is appropriate for class or representative treatment.
3 With respect to Plaintiff's claims, Defendants contend, among other things, that Plaintiff and the Class
4 Members have been paid all wages, including minimum wages and overtime, have been provided meal
5 periods or they have been made available as required or otherwise lawfully waived by mutual consent,
6 where appropriate, have been provided rest periods or they have been authorized and permitted as
7 required, have been reimbursed for all necessary business expenses, have been paid timely and proper
8 wages upon separation of employment and during employment, and have been provided with accurate and
9 complete itemized wage statements. Defendants contend, among other things, that they have complied at
10 all times with the California Labor Code and the applicable Wage Orders of the Industrial Welfare
11 Commission. Furthermore, with respect to all claims, Defendants contend that they have complied at all
12 times with the California Business and Professions Code.

13 44. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all
14 disputes and claims arising from or related to the Complaint.

15 45. Class Counsel has conducted a thorough investigation into the facts of this Action, including
16 an extensive review of relevant documents, and has diligently pursued an investigation of the claims of the
17 Class against Defendant. Based on its own independent investigation and evaluation, Class Counsel is of
18 the opinion that the Settlement with Defendants, for the consideration and on the terms set forth in this
19 Joint Stipulation of Settlement, is fair, reasonable, and adequate and is in the best interest of the Class in
20 light of all known facts and circumstances, including the risk of significant delay, the risk the Class will
21 not be certified by the Court, defenses asserted by Defendants, and numerous potential appellate issues.
22 Defendants and Defendants' Counsel also agree that the Settlement is fair, adequate and reasonable and in
23 the best interest of the Class.

24 46. The Parties agree to cooperate and take all steps necessary and appropriate to obtain
25 preliminary and final approval of this Settlement.

26 47. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to
27 implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.
28

PRIMARY TERMS OF SETTLEMENT

48. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

- (a) It is agreed by and among Plaintiff (on behalf of herself and the Class) and Defendants that this Action and any claims, damages, or causes of action arising out of the disputes which are the subject of this Action or could have been subject to this action based on the facts and legal theories asserted by the Plaintiff or the Class, be settled and compromised as between the Class and Defendants, subject to the terms and conditions set forth in this Settlement and the approval of the Court.
- (b) The terms of settlement embodied in this Settlement shall become effective upon the Effective Date as defined in this Agreement.
- (c) **Maximum Settlement Amount:** Defendants' maximum total payment under the Settlement, including all attorney's fees and costs, the Service Payment to the named Plaintiff, the costs of settlement administration, the PAGA Allocation, and any other payments provided by this Settlement, is \$155,000.00 as defined herein, subject to the escalator clause set forth in subsection 48(d) below, and except that, to the extent that any portions of the Settlement Class Payments constitute wages, Defendants will be separately responsible for any employer-side payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. The Defendants' employer-side payroll taxes is not part of the Maximum Settlement Amount, but Defendants understand and agree that they will satisfy any and all employer-side payroll taxes as part of their obligations under this Settlement Agreement.
- (d) **Escalator Clause:** Defendants have represented that the Class Members have worked a total of no greater than 5,122 total workweeks as of October 18, 2023 (the date of the Parties' mediation with Mediator Steven Rottman, Esq.). The settlement will trigger an escalation clause only in the event of an increase in workweeks of more than 10% from the original estimate of 5,122 workweeks

1 during the Class Period. Specifically, if the number of workweeks exceed 5,634 or
2 more during the Class Period (10% of the total workweeks as of October 18, 2023),
3 then Defendants will have the option to either (a) increase Maximum Settlement
4 Amount proportionately or (b) shorten the release period so that there is no
5 increase in the settlement amount.

6 (e) The Maximum Settlement Amount will not be reduced for any reason.

7 (f) Non-reversionary Settlement: No portion of the Maximum Settlement Amount
8 will revert to Defendants.

9 (g) No Claims Required: Class Members will not be required to submit a claim to
10 receive their Settlement payment.

11 (h) Net Settlement Amount: The Net Settlement Amount shall be calculated by
12 deducting from the Maximum Settlement Amount (\$155,000.00) the following
13 sums, subject to approval by the Court: (1) attorney's fees (not to exceed 33 1/3%
14 of the Maximum Settlement Amount , or \$51,666.66); (2) reasonable litigation
15 costs (not to exceed \$20,000.00); (3) the Class Representative Service Payment
16 (not to exceed \$7,500.00 to the named Plaintiff); (4) the PAGA Allocation to the
17 LWDA (\$7,500.00); and (5) the Administration Expenses Payment (estimated not
18 to exceed \$10,000.00). Settlement Class Payments will be calculated by the
19 Settlement Administrator and paid out of the Net Settlement Amount as set forth
20 below.

21 (i) Payroll Taxes and Required Withholdings: To the extent that any portions of the
22 Settlement Class Payments constitute wages, Defendants acknowledge that they
23 will be separately responsible for any **employer-side** payroll taxes required by law,
24 including the employer FICA, FUTA, and SDI contributions, based on any portion
25 of the Settlement Class Payments that constitute wages. The Settlement
26 Administrator will calculate and submit the Defendants' employer share of payroll
27 taxes after advising Defendants of the total amount owed, in the aggregate, as
28 employer-side payroll taxes and receiving a lump sum payment from Defendants in

1 that amount when the Maximum Settlement Amount is delivered to the Settlement
2 Administrator.

3 (j) Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
4 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND
5 EACH PARTY TO THIS AGREEMENT OTHER THAN THE
6 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES
7 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
8 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG
9 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR
10 WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR
11 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
12 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
13 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
14 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
15 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL
16 AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
17 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
18 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY
19 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER
20 PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
21 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER
22 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
23 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY
24 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
25 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S
26 OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
27 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
28 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX

STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

(k) Settlement Class Payments (Excludes PAGA Payments): Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member will be paid a pro-rata share of the Net Settlement Amount as calculated by the Settlement Administrator. The pro-rata share will be determined by comparing the individual Settlement Class Member's Covered Workweeks employed during the Class Period in California to the total Covered Workweeks of all the Settlement Class Members during the Class Period as follows: [Workweeks worked by a Settlement Class Member] ÷ [Sum of all Covered Workweeks worked by all Settlement Class Members] × [Net Settlement Amount] = individual Settlement Payment for a Settlement Class Member. Settlement Class Payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the Settlement Class Members. Uncashed, unclaimed or abandoned checks, shall be transmitted by the Settlement Administrator to the California Controller's Office, as set forth below.

(l) PAGA Payments: PAGA Settlement Payments will be paid out of the PAGA Allocation deducted from the Maximum Settlement Amount after the PAGA Penalty Amount (75 percent of the PAGA Allocation) is paid to the LWDA. Each PAGA Employee will be paid a pro-rata share of the PAGA Settlement Payment, as calculated by the Settlement Administrator. Class Members who are PAGA Employees will not be permitted to exclude themselves from this portion of the Settlement. Each PAGA Employee's pro-rata share will be determined by comparing the individual PAGA Employees' PAGA Pay Periods during the PAGA Period to the total PAGA Pay Periods of all the PAGA Employees during the PAGA Period as follows: [PAGA Pay Periods worked by a PAGA Employee] ÷ [Sum of all PAGA Pay Periods worked by all PAGA Employees] × [PAGA Settlement Payment] = individual PAGA Employee's portion of the PAGA

1 Settlement Payment. PAGA Settlement Payments to PAGA Employees in the
2 appropriate amounts will be distributed by the Settlement Administrator by mail to
3 the PAGA Employees at the same time Settlement Class Payments issue to the
4 Settlement Class. Uncashed, unclaimed or abandoned checks, shall be transmitted
5 by the Settlement Administrator to the California Controller's Office, as set forth
6 below. The Settlement Administrator will send the PAGA Penalty Payment to the
7 LWDA at the same time the Settlement Administrator send Settlement Payments
8 to the Settlement Class and PAGA Settlement Payments to the PAGA Employees.

9 (m) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
10 Payments will be allocated as follows: 80% to penalties, 10% to interest, and 10%
11 to wages. The PAGA Settlement Payments will be entirely allocated to penalties.
12 Appropriate federal, state and local withholding taxes will be taken out of the wage
13 allocations, and each Settlement Class Member will receive an IRS Form W-2 with
14 respect to this portion of the Settlement Class Payment. The Settlement Class
15 Member's share of payroll taxes and other required withholdings will be remitted
16 by the Settlement Administrator to the appropriate taxing authorities as set forth
17 above, along with Defendants' employer portion of FICA and FUTA contributions,
18 based on the payment of claims to the Settlement Class Members. IRS Forms
19 1099 will be issued by the Settlement Administrator to each Settlement Class
20 Member and/or PAGA Employee reflecting the payments for penalties and
21 interest. Settlement Class Members and PAGA Employees are responsible to pay
22 appropriate taxes due on the Settlement Class Payments and PAGA Settlement
23 Payments they receive. To the extent required by law, IRS Forms 1099 and W-2
24 will be issued to each Settlement Class Member and PAGA Employee with respect
25 to such payments.

26 (n) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
27 Payments to individual Settlement Class Members and PAGA Employees shall be
28 deemed to be paid to such Settlement Class Member or PAGA Employee solely in

the year in which such payments actually are received by the Settlement Class Member or PAGA Employee. It is expressly understood and agreed that the receipt of such Settlement Payments will not entitle any Settlement Class Member or PAGA Employee to additional wages, compensation or benefits under any company bonus, contest or other compensation or benefit plan or agreement in place during the period covered by the Settlement up to and including the date the Settlement becomes effective, nor will it entitle any Settlement Class Member or PAGA Employee to any increased retirement, 401(k) benefits or matching benefits or deferred compensation benefits. To the extent that any Settlement Class Member is ineligible for re-employment, any individual payment to the Class members shall not render them eligible for reemployment. It is the intent of all Parties that the Settlement Payments provided for in this Settlement are the sole payments to be made by Defendants to the Settlement Class Members and PAGA Employees, and that the Settlement Class Members and PAGA Employees are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

- (o) Attorneys' Fees and Costs: Subject to approval by the Court, Defendants will not object to Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Maximum Settlement Amount (\$51,666,66) and reimbursement of litigation costs and expenses not to exceed \$20,000.00.
- (p) Service Payment: Subject to Court approval, and in exchange for a general release, Defendants will not object to Class Counsel's application for an additional payment of up to \$7,500.00 to Plaintiff as the Class Representative Service Payment. It is understood that the Class Representative Service Payment is in addition to the individual Settlement Payment to which the Plaintiff and Class Representative is entitled along with the other Settlement Class Members.

- (q) The Settlement Administrator will issue an IRS Form 1099 for the Class Representative Service Payment to the Plaintiff. The Plaintiff will be individually responsible for correctly characterizing this compensation on personal income tax returns for tax purposes and for paying any taxes on the amounts received. Should the Court approve a Class Representative Service Payment in an amount less than that set forth above, the difference between the lesser amount(s) approved by the Court and the Class Representative Service Payment amount(s) set forth above shall be added to the Net Settlement Amount. Plaintiff agrees not to opt out of the Settlement or object to the consideration of the Class Representative Service Payment as the Class Representative.
- (r) Settlement Administrator: The Settlement Administrator will be ILYM Group, Inc., or such Settlement Administrator as may be mutually agreeable to the Parties and approved by the Court. Settlement Administration Costs are estimated not to exceed \$10,000. The costs of the Settlement Administrator for work done shall be paid regardless of the outcome of this Settlement. If the Settlement does not become final and effective, the cost of the Settlement Administrator will be shared equally by Plaintiff and Defendants.
- (s) Funding of Settlement Account: Defendant will fund the settlement account thirty (30) days after the Effective Date.
- (t) Mailing of Settlement Payments: The Settlement Administrator shall cause the Settlement Payments to be mailed to the Class Members within fourteen (14) calendar days of the receipt of funding.
- (u) Notice of Settlement: Each Class Member will be mailed a notice setting forth the material terms of the proposed Settlement, along with instructions about how to object or request exclusion from the proposed class action Settlement (“Notice”). For each Class Member, there will be pre-printed information on the mailed Notice, based on Defendants’ records, stating the Class Member’s Covered Workweeks during the Class Period, PAGA Workweeks during the PAGA Period,

1 if applicable, and the estimated total Settlement Payment under the Settlement,
2 including the Settlement Class Payment and the PAGA Settlement Payment. As
3 discussed below, the PAGA Settlement Payment will be distributed irrespective of
4 any exclusion request. The pre-printed information based on Defendants' records
5 shall be presumed to be correct. A Class Member may dispute the pre-printed
6 information on the Notice as to his or her or their Covered Workweeks during the
7 Class Period or PAGA Workweeks during the PAGA Period. Class Members
8 must submit any dispute regarding the information on the Notice as to his or her or
9 their Covered Workweeks or PAGA Workweeks within the Response Deadline.
10 Unless a disputing Class Member submits documentary evidence in support of his
11 or her or their dispute, the records of the Defendants will be determinative.

12 (v) Settlement Notice Language: The Notice will be issued in English and Spanish. If
13 there is any ambiguity between the English and Spanish translation, the English
14 version will be controlling.

15 (w) Class Members Cannot Exclude Themselves from the Released PAGA Claims:
16 Class Members submitting a Request for Exclusion will nevertheless receive their
17 pro-rata share of the PAGA Settlement Payment. If the Court approves the
18 compromise of the PAGA Claim, all Class Members are bound by the Court's
19 resolution of that Claim. Plaintiff, through Class Counsel, shall serve a notice of
20 settlement on the California Labor and Workforce Development Agency at or
21 before the time Plaintiff files the motion for preliminary approval.

22 (x) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of
23 Defendants' records used to calculate Covered Workweeks or PAGA Workweeks,
24 and the Parties' counsel cannot resolve the dispute informally, the matter will be
25 referred to the Settlement Administrator. The Settlement Administrator will
26 review Defendants' records and any information or documents submitted by the
27 Class Member and issue a non-appealable decision regarding the dispute. The
28 Class Member must submit information or documents supporting his or her or their

position to the Settlement Administrator prior to the expiration of the Response Deadline. Information or documents submitted after the expiration of the Response Deadline will not be considered by the Settlement Administrator, unless otherwise agreed to by the Parties.

(y) Right of Class Member to Request Exclusion from the Settlement: Any Class Member may request to be excluded from the Settlement Class by mailing a “Request for Exclusion” from the Settlement within the Response Deadline, stating, as follows or in substantially similar terms:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *ANTONIO-RUIZ V. FROILAN 284, INC. ET. AL.* CLASS ACTION LAWSUIT, SAN JOAQUIN COUNTY SUPERIOR COURT CASE NO. STK-CV-UOE-2023-0010116. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT.”

Any Request for Exclusion must include the name, address, telephone number, last four digits of the Class Member’s Social Security Number, and the signature of the Class Member requesting exclusion. Any such request must be made in accordance with the terms of the Notice, and the Notice will advise Class Members of these requirements. Any Class Member who timely requests exclusion in compliance with these requirements (i) shall not have any rights under this Settlement other than a right to receive a pro-rata share of the PAGA Settlement Payment if the Class Member is also PAGA Employee; (ii) shall not be entitled to receive any Settlement Payments under this Settlement other than as stated herein; and (iii) shall not be bound by this Settlement or the Court’s Order and Final Judgment other than as it applies to the PAGA Claim.

(z) Right of Settlement Class Member to Object to The Settlement: Any Settlement Class Member may object to the Settlement. To object, the Settlement Class Member may (1) appear at the Final Approval Hearing, remotely or in person, to explain any objection, (2) have an attorney object for the Settlement Class

1 Member, or (3) submit a simple written brief or statement of objection to the
2 Settlement Administrator. If any Settlement Class Member chooses to submit a
3 written objection, the written objection should contain sufficient information to
4 confirm the identity of the objector and the basis of the objection, including (1) the
5 full name of the Settlement Class Member; (2) the signature of the Settlement
6 Class Member; (3) the grounds for the objection; and (4) be postmarked within the
7 Response Deadline to permit adequate time for processing and review by the
8 Parties of the written statement or objection. Class Counsel shall ensure that any
9 written objections are transmitted to the Court for the Court's review (either by
10 Class Counsel or as an attachment to a declaration from the Settlement
11 Administrator). Regardless of the form, an objection alone will not satisfy the
12 requirement that a Settlement Class Member must either make a timely complaint
13 in intervention before final judgment or by filing a motion to set aside and vacate
14 the class judgment under Code of Civil Procedure §663, to have standing to appeal
15 entry of judgment approving this Settlement, as is required under the California
16 Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260
17 (2018). A Settlement Class Member who does not object prior to or at the Final
18 Approval Hearing, will be deemed to have waived any objections and will be
19 foreclosed from making any objections (whether at the Final Approval Hearing, by
20 appeal, or otherwise) to the Settlement. If the objecting Settlement Class Member
21 does not formally intervene in the action or move to set aside any judgment and/or
22 the Court rejects the Settlement Class Member's objection, the Settlement Class
23 Member will still be bound by the terms of this Agreement and the Settlement.
24 Class Counsel and Defendants' Counsel may, at least five (5) calendar days (or
25 some other number of days as the Court shall specify) before the final approval
26 hearing, file responses to any written objections submitted to the Court. Class
27 counsel will not represent any Class Members with respect to any objections to the
28 Settlement.

THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES

49. Subject to the Court's approval, and subject to reconsideration by the Parties after a competitive bidding process, the Parties have agreed to appoint ILYM Group, Inc. to perform the customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice, both in English and Spanish, to the Class Members.

50. The Settlement Administrator will independently review the Covered Workweeks and PAGA Workweeks attributed to each Class Member and PAGA Employee and will calculate the estimated amounts due to each Class Member and the actual amounts due to each Settlement Class Member and PAGA Employee in accordance with this Settlement. The Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The Settlement Administrator shall be granted reasonable access to Defendants' records in order to perform its duties. The Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report which certifies: (i) the number of Class Members who have submitted valid Requests for Exclusion; (ii) the number of any deficient Requests for Exclusion and (iii) whether a Class Member has submitted a challenge to information contained in their Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

51. In accordance with the terms of this Settlement, and upon receipt of Maximum Settlement Amount from Defendant, the Settlement Administrator will issue and send out the Settlement Payment checks to the Settlement Class Members and the PAGA Settlement Payments to the PAGA Employees. Tax treatment of the Class Settlement Payments and PAGA Settlement Payments will be as set forth herein, and in accordance with state and federal tax laws. The Settlement Administrator will also issue a payment to Class Counsel and itself for Court-approved services performed in connection with the settlement.

52. All disputes relating to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement until all payments and obligations contemplated by this Settlement have been fully carried out.

ATTORNEY'S FEES AND COSTS

53. In consideration for resolving this matter and in exchange for the release of all claims by the Settlement Class Members, including Plaintiff, and subject to approval by the Court, Defendants' will not object to Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Maximum Settlement Amount (\$51,666.66 of \$155,000.00) and litigation costs not to exceed \$20,000.00. The amounts set forth above will cover all work performed and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in connection with the approval by the Court of this Settlement and administration of the Settlement. Should Class Counsel request a lesser amount and/or the Court approve a lesser amount(s) of attorney's fees and/or attorneys' costs, the difference between the lesser amount(s) and the maximum amount set forth above shall be added to the Net Settlement Amount. The Parties agree that there is no prevailing party, and the Class and Class Counsel shall not be entitled to any fees or costs other than those awarded out of and deducted from the Maximum Settlement Amount. As with the Class Settlement Payments to the Settlement Class, the attorney's fees and costs approved by the Court shall be distributed by the Settlement Administrator to Class Counsel within fourteen (14) calendar days of the receipt of settlement funds by the Settlement Administrator. In the event that the Court awards less than 25% of the Maximum Settlement Amount for attorney's fees, Class Counsel shall retain the right to appeal that portion of any Final Approval Order and Judgment.

THE NOTICE PROCESS

54. A Notice in approximately the form attached hereto as Exhibit "A," and as approved by the Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The Notice shall be translated into Spanish so that Spanish and English language versions of the Notice are included in the mailing.

- (a) **Class Data.** Within twenty-one (21) calendar days from the date of Preliminary Approval of this Settlement by the Court, Defendants shall provide to the Settlement Administrator a class database containing the following information for each Class Member: (1) name; (2) last known address; (3) their social security number or individual taxpayer information number; and (4) the number of Covered Workweeks and, if applicable, number of qualified PAGA Pay Periods. This

1 database shall be based on Defendants' payroll and other business records and shall
2 be provided in a reasonable format, such as Excel, or other easily useable format to
3 the Settlement Administrator. Defendants agree to consult with the Settlement
4 Administrator prior to the production date to ensure that the format will be
5 acceptable to the Settlement Administrator.

6 (b) The Settlement Administrator will run a check of the Class Members' addresses
7 against those on file with the U.S. Postal Service's National Change of Address
8 List; this check will be performed only once per Class Member by the Settlement
9 Administrator. Absent mutual written agreement of counsel for the Parties or
10 Court order, the Settlement Administrator will keep this database confidential and
11 secure and use it only for the purposes described herein and will return this
12 database to Defendants upon final approval of the settlement or destroy electronic
13 records containing the database after the Settlement is final and all payments are
14 distributed as required under this Agreement.

15 (c) Within seven (7) calendar days after the Class database is provided to the
16 Settlement Administrator, the Settlement Administrator will mail the Notices to the
17 Class Members by First Class United States mail.

18 (d) Notices returned to the Settlement Administrator as non-deliverable on or before
19 the initial Response Deadline shall be resent to the forwarding address, if any, on
20 the returned envelope. A returned Notice will be forwarded by the Settlement
21 Administrator any time that a forwarding address is provided with the returned
22 mail. If there is no forwarding address, the Settlement Administrator will do a
23 computer search for a new address using the last four digits of the Class Member's
24 social security number or other information. In any instance where a Notice is re-
25 mailed, that Class Member will have until the extended Response Deadline as
26 described above to submit objections or request exclusion. A letter prepared by the
27 Settlement Administrator will be included in the re-mailed Notice in that instance,
28 stating the extended Response Deadline. Upon completion of these steps by the

1 Settlement Administrator, Defendants and the Settlement Administrator shall be
2 deemed to have satisfied their obligations, respectively, to provide the Notice to the
3 affected Class Member. The affected Class Member shall remain a member of the
4 Settlement Class and shall be bound by all the terms of the Settlement and the
5 Court's Order and Final Judgment.

6 (e) Class Counsel shall provide to the Court, at least five (5) calendar days prior to the
7 final approval hearing, or such other date as set by the Court, a declaration by the
8 Settlement Administrator of due diligence and confirming mailing of the Notices.

9 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

10 55. As set forth above, each Settlement Class Member will have until the expiration of the
11 applicable Response Deadline to submit to the Settlement Administrator any challenge or dispute to the
12 Settlement Class Member's Covered Workweek information on the Notice. No disputes will be honored
13 if they are submitted after the Response Deadline unless the Parties mutually agree to accept the untimely
14 dispute. Each Settlement Class Member is responsible to maintain a copy of any documents sent to the
15 Settlement Administrator and a record of proof of mailing.

16 56. The Settlement Administrator shall cause the Settlement Payments to be mailed to the
17 Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and
18 PAGA Settlement Payments may be combined into one check. Settlement Payment checks shall remain
19 valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks
20 will automatically be cancelled by the Settlement Administrator if they are not cashed by the Settlement
21 Class Member within that time, and the Settlement Class Member's relevant claims will remain released
22 by the Settlement. Settlement Payment checks which have expired will not be reissued.

23 57. Funds from uncashed or abandoned Settlement Class Payment checks or PAGA Settlement
24 Checks, based on a 180-day void date, shall be transmitted by the Settlement Administrator to the
25 California State Controller's Office for Unclaimed Property in the name of each Settlement Class Member
26 and/or PAGA Employee who failed to cash their Settlement Payment check prior to the void date.

27 58. Upon completion of its calculation of Settlement Class Payments and PAGA Settlement
28 Payments, the Settlement Administrator shall provide Class Counsel and Defendants' Counsel with a

report listing the amounts of all payments to be made to Class Members (to be identified anonymously by employee number or other identifier). A Declaration attesting to completion of all payment obligations will be provided to Class Counsel and Defendants' Counsel and filed with the Court by Class Counsel.

RELEASE BY THE PLAINTIFF AND BY THE CLASS AND PAGA EMPLOYEES

59. Release by Class Members. Upon the Effective Date of this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to the Settlement, on behalf of themselves and their respective and their heirs, executors, attorneys, successors, and assigns, fully and forever, releases Defendants and their agents, officers, employees, directors, owners, subsidiaries, DBA's, affiliates and parent companies (collectively "Released Parties") from all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, suspected or unsuspected, that each participating class member had, now has, or may hereafter claim to have against the Released Parties and that were asserted in the Action, or that arise from or could have been asserted based on any of the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in Plaintiff's operative Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law ("the Released Claims"). The Released Claims specifically include, but are not limited to Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, and 2802 and the related IWC Wage Order No. 1-2001 and Business & Professions Code §§ 17200, et seq. claims based on alleged violations of these Labor Code and Wage Order provisions and all other claims, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law, that could have been pleaded based on the facts asserted in the Action, including: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to authorize and permit rest breaks, (5) failure to indemnify necessary business expenses, (6) failure to timely pay wages at separation, (7) failure to provide accurate itemized wage statements, (8) unfair business practices, (9) civil penalties pursuant to the Private Attorneys General Act; and (10) interest, fees, and costs ("Released Claims").

60. PAGA Release by the LWDA. Pursuant to the Labor Code §§ 2698, et seq., Plaintiff is the

designated agent of the California LWDA, and is proceeding as a private attorney general, by bringing this enforcement action to recover civil penalties pursuant to Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, and 2802 and the related IWC Wage Order No. 1-2001. The Parties agree, and Plaintiff agrees, that upon the Effective Date, the LWDA shall be deemed to have, and by operation of the Final Approval Order and Judgment, shall have, released the Released Parties from any claim for civil penalties arising out of the Released Claims or specifically set forth herein. As consideration for this release, the LWDA shall receive 75% of the PAGA Payment, consistent with the requirements of the Labor Code §§ 2698 *et seq.*

61. PAGA Release by the Class Members and Aggrieved Employees. Upon the Effective Date of this Settlement, the Released Parties shall be entitled to a release from the Aggrieved Employees of all claims for Civil Penalties pursuant to Labor Code section 2698 *et seq.* (PAGA), that were pled or reasonably could have been pled based on the factual allegations in operative Complaint in the Action and the LWDA letter, including specifically, claims for PAGA penalties arising out of or based on alleged: failure to pay minimum wages, failure to pay overtime wages, failure to pay for off-the-clock work, failure to provide compliant meal periods, failure to provide compliant rest periods, failure to provide timely wages, failure to provide timely wages upon separation, failure to provide accurate itemized wage statements, failure to reimburse for business expenses, and/or failure to maintain accurate payroll records. This release includes all claims for civil penalties arising under the California Labor Code, including but not limited to Labor Code sections 200, 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 432, 510, 512, 558, 1102.5, 1174, 1174(3), 1174.5, 1194, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 2802 and the applicable Wage Orders of the Industrial Welfare Commission. The Aggrieved Employees shall receive 25% of the PAGA payment in consideration of the PAGA Release consistent with the Labor Code §§ 2698 *et seq.*

62. The Class Members and PAGA Employees, including Plaintiff and Class Representative, acknowledge and agree that: (1) Class Claims for overtime compensation, minimum wages, wages for all hours worked, statutory and civil penalties, and/or any other payments and/or penalties in the Action are disputed; and (2) the payments set forth herein constitute full payment of any amounts allegedly due. The Class and PAGA Employees, including Plaintiff and Class Representative, thus shall be deemed to have

acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Parties hereto. That section provides in pertinent part as follows: An employer shall not require the execution of any release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.

63. Scope of Release by Plaintiff and Class Representative. Upon the Effective Date, and except as to such rights or claims as may be created by this Settlement, the Plaintiff and Class Representative, will release claims as follows:

(a) The Plaintiff and Class Representative hereby fully and finally releases and discharges the Released Parties (defined above) from any and all of the Released Claims (defined above) and from any and all other claims, charges, complaints, liens, demands, agreements, contracts, covenants, actions, suits, causes of action, penalties, wages, obligations, debts, expenses, damages, attorneys' fees, costs, judgments, orders, and liabilities of whatever kind or nature in law, equity, or otherwise, known or unknown, suspected or unsuspected, that the Plaintiff and Class Representative had, now has, or may hereafter claim to have against the Released Parties arising out of, or relating in any way to, the Plaintiff and Class Representative's hiring by, employment with, separation of employment with, or any other transactions, occurrences, acts or omissions or any loss, damage or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the part of any Released Party (the "Class Representative's Released Claims"), arising or accruing from the beginning of time up through the Effective Date.

(b) The Class Representative's Released Claims include, but are not limited to, claims arising from or dependent on the California Labor Code; the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200 et seq.; the California Fair Employment and Housing Act, Cal. Gov't Code § 12900 et seq.; the California Healthy Workplaces, Healthy Families Act, Cal. Labor Code § 245 et seq., the California common law of contract and

tort; Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.; the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., the Portal to Portal Act, 29 U.S.C. § 251 et seq., and the Families First Coronavirus Response Act.

(c) The Plaintiff and Class Representative also acknowledges that he has read Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

64. The Plaintiff and Class Representative further warrants that he understands that Section 1542 gives him the right not to release existing claims of which he is not now aware unless he voluntarily chooses to waive this right. Having been so apprised, Plaintiff and Class Representative shall nevertheless voluntarily waive the rights described in Section 1542 and elects to assume all risks and to release the claims set forth herein, that now exist in his favor, whether known or unknown.

EMPLOYMENT BY DEFENDANT

65. Employment of Plaintiff by Defendants is not consideration for, or a condition of, this Settlement.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

66. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in support of Plaintiff's unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class Action and PAGA Settlement, the Parties shall apply to the Court for the entry of an order:

(a) Scheduling a preliminary approval hearing and later final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney's fees and costs, and the Class Representatives' Service Payment, should be finally approved as fair, reasonable, and adequate as to the members of the

Class;

- (b) Conditionally certifying a Class for settlement purposes only;
- (c) Approving as to form and content of the proposed Notice;
- (d) Directing the mailing of the Notice by the Settlement Administrator;
- (e) Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;
- (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the proposed Class Members; and,
- (g) Appointing ILYM Group, Inc. as the Settlement Administrator.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

67. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application for an award of attorney's fees and costs;
- (c) Approving the Class Representative Service Payment;
- (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement.
- (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;
- (f) Entering a final judgment in the action;
- (g) Adjudging that notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirming that the State's claims for civil penalties pursuant to PAGA are also extinguished;

NULLIFICATION AND TERMINATION

68. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify a Class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than adjustments made to the attorney's fees and costs or granting of Service Payments or other modification ordered by the Court and mutually agreed upon to by the Parties in writing; (c) the Court should for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or rendered void; or (e) the Settlement does not become final for any other reason.

69. If Defendants' current or former non-exempt employees in the Class Period, representing more than 10 percent of the total workweeks in the Class Period, submit exclusion forms of any kind, Defendants may exercise the option to withdraw from the settlement. The Settlement Administrator shall provide Defendants' Counsel with the information necessary to effectuate this provision on a regular basis, but no less frequently than on a weekly basis. To terminate this Settlement under this paragraph, Defendants' Counsel must give Plaintiff's Counsel written notice, by facsimile, e-mail, or mail, no later than 30 calendar days after the Response Deadline. If this option is exercised by Defendants, Defendants shall be solely responsible for the costs incurred by the Settlement Administrator for the settlement administration.

70. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or proceedings shall have any force or effect and no Party shall be bound by any of its terms, and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court.

PARTIES' AUTHORITY

71. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions thereof.

MUTUAL FULL COOPERATION

72. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement including, but not limited to, execution of such documents and taking such other action as reasonably may

1 be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best
2 efforts, including all efforts contemplated by this Settlement and any other efforts that may become
3 necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein.
4 As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and
5 cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the Court's
6 preliminary and final approval of this Settlement.

7 **NO PRIOR ASSIGNMENTS**

8 73. The Parties and their respective counsel represent, covenant, and warrant that they have not
9 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
10 any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
11 released and discharged except as set forth herein, and that they are not on notice of any liens as to the
12 Maximum Settlement Amount or any right to attorneys' fees or costs.

13 **NO ADMISSION OF LIABILITY**

14 74. Nothing contained herein, nor the consummation of this Settlement, is to be construed or
15 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants.
16 Defendants deny all the claims and contentions alleged by the Plaintiff in this case. Defendants do not
17 admit, and specifically deny, that it has violated any federal, state, or local law; violated any regulations or
18 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
19 requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or
20 deception; or engaged in any other unlawful conduct with respect to its current or former employees.
21 Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations
22 connected with it, will be construed as an admission or concession by Defendants of any such violations or
23 failures to comply with any applicable law. Defendants have entered into this Settlement solely with the
24 intention to avoid further disputes and litigation with the attendant inconvenience and expenses. Except as
25 necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement
26 and its terms and provisions will not be offered or received as evidence in any action or proceeding to
27 establish any liability or admission on the part of Defendants or to establish the existence of any condition
28 constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

ENFORCEMENT ACTIONS

75. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

76. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

Class Counsel:

Kane Moon (SBN 249834)
 kmoon@moonlawgroup.com
 Enzo Nabiev (SBN 332118)
 E-mail: enabiev@moonlawgroup.com
MOON LAW GROUP, PC
 1055 W. Seventh St., Suite 1880
 Los Angeles, California 90017
 Telephone: (213) 232-3128
 Facsimile: (213) 232-3125

Counsel for Defendants:

Mark Posard (SBN 208790)
mposard@grsm.com
 Annette Rose (SBN 311274)
arose@grsm.com
 Gordon Rees Scully Mansukhani
 3 Parkcenter Drive, Suite 200
 Sacramento, CA 95825
 Telephone: (916) 565-2900
 Fax: (916) 920-4402

CONSTRUCTION

77. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, including, but not limited to, an all-day mediation on October 18, 2023, with experienced neutral mediator Steve Rottman, Esq., and this Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

78. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision

hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

79. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

CONFIDENTIALITY

80. Confidentiality Agreement. The Parties and their counsel agree that none of them will issue any marketing materials, press release, social media post, internet or website announcement, or otherwise initiate any contact with the press, respond to any press inquiry or have any communication with the press regarding the Settlement or the terms of this settlement. Class Counsel will not communicate with other wage-hour plaintiffs' counsel about this settlement, nor utilize it in any way in their marketing or advertising materials or website, prior to Preliminary Approval. Plaintiff will not discuss the Settlement with anyone other than his counsel, tax advisors or spouses, except as required or authorized by law. Additionally, Class Counsel agree that the fact that the Actions were filed and/or settled will not be included in any filing or court submission in any other case or controversy unless required to do so by applicable law or done in submissions to courts or arbitrators in connection with establishing adequacy as class counsel or relevant experience in wage and hour lawsuits.

INTEGRATION CLAUSE

81. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties expressly recognize California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Agreement.

1 **AMENDMENT**

2 82. Amendment or Modification. This Settlement Agreement may be amended or modified only
3 by a written instrument mutually signed by counsel for all Parties or their successors-in-interest.

4 **WAIVER OF APPEALS**

5 83. The Parties agree to waive appeals and to stipulate to class certification for purposes of
6 implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the
7 amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the
8 Maximum Settlement Amount as attorney's fees.

9 **BINDING ON ASSIGNS**

10 84. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their
11 respective heirs, trustees, executors, administrators, successors and assigns.

12 **CLASS COUNSEL SIGNATORIES**

13 85. It is agreed that because the members of the Class are so numerous, it is impossible or
14 impractical to have each member of the Class execute this Settlement. The Notice will advise all Class
15 Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall
16 have the same force and effect as if this Settlement were executed by each member of the Class.

17 **COUNTERPARTS**

18 86. This Settlement may be executed in counterparts and by electronic or facsimile signatures, and
19 when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed
20 an original, and, when taken together with other signed counterparts, shall constitute one Settlement,
21 which shall be binding upon and effective as to all Parties.

22 **FINAL JUDGMENT**

23 87. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will
24 be made and entered in its entirety at or following the final approval hearing. The final judgment may be
25 included in the Order granting Final Approval of the Settlement.

26 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
27 Stipulation of Class Action Settlement between Plaintiff and Defendants as set forth below:

28 IT IS SO STIPULATED.

Plaintiff & Class Representative:

Dated: 3/19/2024

DocuSigned by:
Yoselin Antonio-Ruiz
2903274D606C428...
Yoselin Antonio-Ruiz

Plaintiff's Counsel:

Dated: 3/20/2024

MOON LAW GROUP, PC

By: Kane Moon
Enzo Nabiev

Attorneys for Plaintiff

Defendant:

Dated: March 20, 2024 | 9:43 PM PDT FROILAN 284, INC.

DocuSigned by:
Lai Saechao
A987E09660AB4CA...
Its: Designated Representative

Defendant:

Dated: March 21, 2024 | 5:38 AM PDT HARMAN MANAGEMENT CORPORATION

DocuSigned by:
Ron Patterson
992382B5A53F4E7...
Ron Patterson

Its: Designated Representative