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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**
12 **(UNLIMITED JURISDICTION)**

13 PARY AL ZAHAWI, on behalf of herself and all
14 others similarly situated, and as “aggrieved
15 employees” on behalf of other “aggrieved
Attorneys General Act of 2004,

16 *Plaintiff(s),*

17 vs.
18

19 THE KIND CENTER, INC., a California
20 corporation; KB COLLECTIVE FOR
COMPASSION AND CARE, INC., a California
21 corporation; ENDORS TOI, PBC D/B/A
WESTERN FLOWER COMPANY AND THE
22 FLOWER COMPANY, an entity of unknown
form; and DOES 1–50, inclusive,

23 *Defendant(s).*
24

Case No. 22STCV38571

**FIRST AMENDED CLASS ACTION
AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

Action filed: December 09, 2022
Dept: 11, The Honorable David S.
Cunningham

1 **ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)**

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ENDORS TOI, PBC D/B/A WESTERN FLOWER COMPANY

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Pary Al Zahawi and defendants The Kind Center, Inc., KB Collective For
3 Compassion And Care, Inc., (“KB Collective”) and Endors Toi, PBC d/b/a Western Flower
4 Company (“Western Flower Company”) (collectively “Defendants”). The Agreement refers to
Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

5 **1. DEFINITIONS.**

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
7 The Kind Center, Inc., KB Collective For Compassion And Care, Inc., and Endors Toi, PBC d/b/a
8 Western Flower Company captioned “Pary Al Zahawi, on behalf of herself, and all others
9 similarly situated, and as ‘aggrieved employees’ on behalf of other ‘aggrieved employees’ under
10 the Labor Code Private Attorneys General Act of 2004, *Plaintiff(s)*, vs. The Kind Center, Inc., a
11 California corporation, KB Collective For Compassion And Care, Inc., a California corporation,
12 Endors Toi, PBC d/b/a Western Flower Company and The Flower Company, an entity of
13 unknown form; and DOES 1 through 50, inclusive, *Defendant(s)*,” Case No. 22STCV38571
14 initiated on December 09, 2022 and pending in Superior Court of the State of California, County
of Los Angeles.

15 1.2. “Administrator” means ILYM, the neutral entity the Parties have agreed to appoint
16 to administer the Settlement.

17 1.3. “Administration Expenses Payment” means the amount the Administrator will be
18 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
19 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
with Preliminary Approval of the Settlement.

20 1.4. “PAGA Employee” means a Class Member who worked during the PAGA Period.

21 1.5. “Class” means all persons employed directly by KB Collective in California as
22 non-exempt, including but not limited to those individuals who worked as delivery drivers and
were allegedly jointly employed by KB Collective and Western Flower Company.

23 1.6. “Class Counsel” means David G. Spivak of The Spivak Law Firm and Benjamin
24 J. Smith of Smith Law.

25 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
26 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
27 expenses, respectively, incurred to prosecute the Action.
28

1 1.8. “Class Data” means Class Member identifying information in Defendant KB
2 Collective’s possession including the Class Member’s name, last-known mailing address, Social
3 Security number, and number of Class Period Work Weeks and PAGA Pay Periods.

4 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as
5 either a Participating Class Member or Non-Participating Class Member (including a Non-
6 Participating Class Member who qualifies as a PAGA Employee).

7 1.10. “Class Member Address Search” means the Administrator’s investigation and
8 search for current Class Member mailing addresses using all reasonably available sources,
9 methods and means including, but not limited to, the National Change of Address database, skip
10 traces, and direct contact by the Administrator with Class Members.

11 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
12 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
13 Class Members in English, without material variation, attached as **Exhibit A** and incorporated by
14 reference into this Agreement.

15 1.12. “Class Period” means the period from December 09, 2018 to February 2, 2024.

16 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the
17 Action seeking Court approval to serve as Class Representative.

18 1.14. “Class Representative Service Payment” means the payment to the Class
19 Representative for initiating the Action and providing services in support of the Action.

20 1.15. “Court” means the Superior Court of California, County of Los Angeles.

21 1.16. “Defendants” means named Defendants The Kind Center, Inc., KB Collective For
22 Compassion And Care, Inc., and Endors Toi, PBC d/b/a Western Flower Company.

23 1.17. “Defense Counsel” means David J. Fishman of Ballard Rosenberg Golper & Savitt
24 LLP (representing KB Collective) and Heather M. Sager and Brittany A. Sachs of Perkins Coie
25 LLP (representing Western Flower Company).

26 1.18. “Effective Date” means the date by when both of the following have occurred: (a)
27 the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
28 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 Judgment; (b) if
one or more Participating Class Members objects to the Settlement, the day after the deadline for
filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the

1 day after any appeal is dismissed or the appellate court affirms the Judgment and the final approval
2 order is not subject to further appeal and the court of appeal issues a remittitur.

3 1.19. “Final Approval” means the Court’s order granting final approval of the
4 Settlement.

5 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final
6 Approval of the Settlement.

7 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final
8 Approval of the Settlement. A proposed Final Judgment form is attached as **Exhibit F**.

9 1.22. “Gross Settlement Amount” means \$221,500.00 which is the total amount
10 Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross
11 Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments,
12 the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative
13 Service Payment and the Administrator’s Expenses.

14 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata
15 share of the Net Settlement Amount calculated according to the number of Work Weeks worked
16 during the Class Period.

17 1.24. “Individual PAGA Payment” means the PAGA Employee’s pro rata share of 25%
18 of the PAGA Penalties calculated according to the number of Work Weeks worked during the
19 PAGA Period.

20 1.25. “Judgment” means the judgment entered by the Court based upon the Final
21 Approval.

22 1.26. “LWDA” means the California Labor and Workforce Development Agency, the
23 agency entitled, under Labor Code section 2699, subd. (i).

24 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the
25 LWDA under Labor Code section 2699, subd. (i).

26 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
27 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
28 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be
paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the

1 Settlement by sending the Administrator a valid and timely Request for Exclusion.

2 1.30. “Notice Packet” means the Class Notice (Exhibit A), the Election Not to
3 Participate in Settlement form (Exhibit B), the Work Week Dispute form (Exhibit C), and the
4 Objection form (Exhibit D) in English.

5 1.31. “PAGA Pay Period” means any Pay Period during which a PAGA Employee was
6 employed directly by KB Collective in California as non-exempt, including but not limited to,
7 those individuals who worked as delivery drivers and were allegedly jointly employed by KB
8 Collective and Western Flower Company for at least one day during the PAGA Period.

9 1.32. “PAGA Period” means the period from November 18, 2021 to February 2, 2024,
10 or the date of preliminary approval of this Settlement, whichever is earlier.

11 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

12 1.34. “PAGA Notice” means Plaintiff’s November 18, 2022 letter to Defendants and
13 the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

14 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from
15 the Gross Settlement Amount, allocated 25% to the PAGA Employees (\$1,250.00) and the 75%
16 to LWDA (\$3,750.00) in settlement of PAGA claims.

17 1.36. “Participating Class Member” means a Class Member who does not submit a valid
18 and timely Request for Exclusion from the Settlement.

19 1.37. “Plaintiff” means Pary Al Zahawi, the named Plaintiff in the Action.

20 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval
21 of the Settlement.

22 1.39. “Preliminary Approval Order” means the Court’s Order Granting Preliminary
23 Approval and Approval of PAGA Settlement. A proposed Preliminary Approval Order form is
24 attached as **Exhibit E**.

25 1.40. “Released Class Claims” means the claims being released as described in
26 Paragraph 6.2 below.

27 1.41. “Released PAGA Claims” means the claims being released as described in
28 Paragraph 6.3 below.

1.42. “Released Parties” means Defendants KB Collective and Western Flower
Company, and each of their past, present, and future parent companies, subsidiaries, affiliates,
divisions, and agents and all of their respective employees, principals, managing agents,

1 members, attorneys, officers, directors, board members, investors, shareholders, owners, partners,
2 legal representatives, accountants, insurers, trustees, administrators, real or alleged alter egos, real
3 or alleged joint employers, predecessors, successors, transferees, assigns and insurers, including,
4 but not limited to, Endors Toi, PBC (d/b/a Western Flower Company), Prussian Sticks, LLC,
McDoestle Company, Inc. and Arthur Lichtenberger.

5 1.43. “Request for Exclusion” means a Class Member’s submission of a written request
6 to be excluded from the Class Settlement signed by the Class Member. An Election Not to
7 Participate in Settlement form is attached as **Exhibit B**.

8 1.44. “Response Deadline” means 60 days after the Administrator mails Notice to Class
9 Members and PAGA Employees, and shall be the last date on which Class Members may: (a) fax,
10 email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail their
11 Objection to the Settlement. Class Members to whom Notice Packets are resent after having been
12 returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the
Response Deadline has expired.

13 1.45. “Settlement” means the disposition of the Action effected by this Agreement and
14 the Judgment.

15 1.46. “Workweek” means any week during which a Class Member was employed directly
16 by KB Collective in California as non-exempt, including but not limited to, those individuals who
17 worked as delivery drivers and were allegedly jointly employed by KB Collective and Western
Flower Company for at least one day, during the Class Period.

18 1.47. A Work Week Dispute form is attached as **Exhibit C**.

19 **2. RECITALS.**

20 2.1. On December 09, 2022, Plaintiff commenced this Action by filing a Complaint
21 alleging causes of action against Defendants for failure to pay wages, including reporting time
22 pay and unauthorized and unlawful wage deductions; failure to provide meal periods; failure to
23 authorize and permit rest periods; failure to indemnify for business expenses; failure to issue
24 proper wage statements; failure to timely pay wages, including waiting time penalties; failure to
25 maintain required payroll records; Unfair Competition in violation of California Business &
26 Professions Code section 17200 *et seq.* and related claims. On February 21, 2023, Plaintiff filed
27 a First Amended Complaint alleging causes of action against Defendants for failure to pay wages,
including reporting time pay and unauthorized and unlawful wage deductions; failure to provide

1 meal periods; failure to authorize and permit rest periods; failure to indemnify for business
2 expenses; failure to issue proper wage statements; failure to timely pay wages, including waiting
3 time penalties; failure to maintain required payroll records; Unfair Competition in Violation of
4 California Business & Professions Code section 17200 *et seq*; Civil Penalties under the California
5 Private Attorneys' General Act ("PAGA") and related allegations. The First Amended Complaint
6 is the operative complaint in the Action (the "Operative Complaint.") Defendants deny the
7 allegations in the Operative Complaint, deny any failure to comply with the laws identified in in
8 the Operative Complaint and deny any and all liability for the causes of action alleged.

8 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written
9 notice to Defendants and the LWDA by sending the PAGA Notice.

10 2.3. On December 04, 2023, the Parties participated in an all-day mediation presided
11 over by Brandon McKelvey Esq. which led to this Agreement to settle the Action.

12 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, the number of
13 comparable employees, the number of pay periods, average rates of pay, sample time records,
14 sample payroll records, written policies, financial records, and related information. Plaintiff's
15 investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot*
16 *Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008)
17 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

18 2.5. The Court has not granted class certification.

19 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware
20 of any other pending matter or action asserting claims that will be extinguished or affected by the
21 Settlement other than as set forth in Paragraph 6.1.1.

22 3. MONETARY TERMS.

23 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
24 Defendants promise to pay \$221,500.00 and no more as the Gross Settlement Amount and to
25 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
26 Class Payments. For avoidance of doubt, the maximum of the Gross Settlement Amount that
27 Defendants will jointly pay is \$221,500.00, except as otherwise provided by Paragraph 9.
28 Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior
to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the
entire Gross Settlement Amount without asking or requiring Participating Class Members or

1 PAGA Employees to submit any claim as a condition of payment. None of the Gross Settlement
2 Amount will revert to Defendants.

3 3.2. Payments from the Gross Settlement Amount. The Administrator will make and
4 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
the Court in the Final Approval:

5 3.2.1. To Plaintiff: Class Representative Service Payment to the Class
6 Representative of not more than \$5,000.00 (in addition to any Individual Class Payment and any
7 Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class
8 Member). Defendants will not oppose Plaintiff's request for a Class Representative Service
9 Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment
10 and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
11 Representative Service Payment no later than 16 court days prior to the Final Approval Hearing.
12 If the Court approves a Class Representative Service Payment less than the amount requested, the
Administrator will retain the remainder in the Net Settlement Amount. The Administrator will
13 pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full
14 responsibility and liability for employee taxes owed on the Class Representative Service Payment
15 and holds Defendants and Defendants' Counsel harmless, and indemnifies Defendants and
16 Defendants' Counsel, from any tax liability, including penalties and interest, arising out of or
17 relating to Plaintiff's failure to pay taxes on any amounts paid and/or any dispute or controversy
regarding this Payment.

18 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
19 33.33%, which is currently estimated to be \$73,833.33 and a Class Counsel Litigation Expenses
20 Payment of not more than \$15,000.00. Defendants will not oppose requests for these payments
21 provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion
22 for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court
23 days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment
24 and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the
Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall
25 have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any
26 portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The
27 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment
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1 using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for
2 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses
3 Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or
4 controversy regarding any division or sharing of any of these Payments.

5 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
6 \$12,000.00 except for a showing of good cause and as approved by the Court. To the extent the
7 Administration Expenses are less or the Court approves payment less than \$12,000.00, the
8 Administrator will retain the remainder in the Net Settlement Amount.

9 3.2.4. To Each Participating Class Member: An Individual Class Payment
10 calculated by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
11 by all Participating Class Members during the Class Period and (b) multiplying the result by each
12 Participating Class Member's Work Weeks.

13 3.2.4.1. Tax Allocation of Individual Class Payments. 20.00% of
14 each Participating Class Member's Individual Class Payment will be allocated to settlement of
15 wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be
16 reported on an IRS W-2 Form. The 80.00% of each Participating Class Member's Individual
17 Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage
18 Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on
19 IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any
20 employee taxes owed on their Individual Class Payment. Participating Class Members also agree
21 to hold harmless Defendants and Defendants' Counsel for any tax liability, including penalties
22 and interest, arising out of or relating to the Participating Class Members' failure to pay taxes on
23 any amounts paid pursuant to this Settlement. For tax purposes, the Settlement Administrator
24 shall report everything under KB Collective's tax identification number.

25 3.2.4.2. Effect of Non-Participating Class Members on Calculation
26 of Individual Class Payments. Non-Participating Class Members will not receive any Individual
27 Class Payments. The Administrator will retain amounts equal to their Individual Class Payments
28 in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and PAGA Employees: PAGA Penalties in the
amount of \$5,000.00 to be paid from the Gross Settlement Amount, with 75% (\$3,750.00)
allocated to the LWDA PAGA Payment and 25% (\$1,250.00) allocated to the Individual PAGA

1 Payments.

2 3.2.5.1. The Administrator will calculate each Individual PAGA Payment
3 by (a) dividing the amount of the PAGA Employees' 25% share of PAGA Penalties \$1,250.00 by
4 the total number of PAGA Period Pay Periods worked by all PAGA Employees during the PAGA
5 Period and (b) multiplying the result by each PAGA Employee's PAGA Period Pay Periods.
6 PAGA Employees assume full responsibility and liability for any taxes owed on their Individual
PAGA Payment.

7 3.2.5.2. If the Court approves PAGA Penalties of less than the amount
8 requested, the Administrator will allocate the remainder to the Net Settlement Amount. The
9 Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

10 3.2.5.3. For the avoidance of doubt, if a PAGA Employee is also a Non-
11 Participating Class Member, the individual will receive the PAGA Employee's Individual PAGA
Payment.

12 **4. SETTLEMENT FUNDING AND PAYMENTS.**

13 4.1. Class Work Weeks and PAGA Employee Pay Periods. Based on a review of their
14 records to date, Defendant KB Collective estimates there are 191 Class Members who collectively
15 worked a total of 7,412 Work Weeks, and 113 PAGA Employees who worked a total 1,446 of
16 PAGA Pay Periods.

17 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval
18 of the Settlement, Defendant KB Collective will simultaneously deliver the Class Data to the
19 Administrator, in the form of a password protected Microsoft Excel spreadsheet. To protect Class
20 Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the
21 Class Data only for purposes of this Settlement and for no other purpose, and restrict access to
22 the Class Data to Administrator employees who need access to the Class Data to effect and
23 perform under this Agreement. Defendants have a continuing duty to immediately notify Class
24 Counsel if they discover that the Class Data omitted class member identifying information and to
25 provide corrected or updated Class Data as soon as reasonably feasible. Without any extension
26 of the deadline by which KB Collective must send the Class Data to the Administrator, the Parties
and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise
resolve any issues related to missing or omitted Class Data.

27 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross
28

1 Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll
2 taxes by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

3 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants
4 fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
5 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
6 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
7 Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees
8 Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service
9 Payment shall not precede disbursement of Individual Class Payments and Individual PAGA
10 Payments.

11 4.4.1. The Administrator will issue checks for the Individual Class Payments
12 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail,
13 postage prepaid. The face of each check shall prominently state the date (not less than 180 days
14 after the date of mailing) when the check will be voided. The Administrator will cancel all checks
15 not cashed by the void date. The Administrator will send checks for Individual Settlement
16 Payments to all Participating Class Members (including those for whom Notice Packet was
17 returned undelivered). The Administrator will send checks for Individual PAGA Payments to all
18 PAGA Employees including Non-Participating Class Members who qualify as PAGA Employees
19 (including those for whom Notice Packet was returned undelivered). The Administrator may send
20 Participating Class Members a single check combining the Individual Class Payment and the
21 Individual PAGA Payment. Before mailing any checks, the Administrator must update the
22 recipients' mailing addresses using the National Change of Address Database.

23 4.4.2. The Administrator must conduct a Class Member Address Search for all
24 other Class Members whose checks are returned undelivered without USPS forwarding address.
25 Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS
26 forwarding address provided or to an address ascertained through the Class Member Address
27 Search. The Administrator need not take further steps to deliver checks to Class Members whose
28 re-mailed checks are returned as undelivered. The Administrator shall promptly send a
replacement check to any Class Member whose original check was lost or misplaced, requested
by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or

1 Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator
2 shall transmit the funds represented by such checks to the California Controller's Unclaimed
3 Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to
4 the requirements of California Code of Civil Procedure Section 384, subd. (b). Any Participating
5 Class Member who fails to cash a check shall remain bound by the Settlement and the Released
6 Class Claims.

6 4.4.4. The payment of Individual Class Payments and Individual PAGA
7 Payments shall not obligate Defendants to confer any additional benefits or make any additional
8 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
9 this Agreement.

10 **5. [OMITTED]**

11 **6. RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire
12 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the
13 Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims
14 against all Released Parties as follows:

14 6.1 Plaintiff's Release. Plaintiff and her respective former and present spouses,
15 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
16 and discharge Released Parties from all claims, transactions, or occurrences that occurred during
17 the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have
18 been, alleged, based on the facts contained, in the Operative Complaint; (b) all PAGA claims that
19 were, or reasonably could have been, alleged based on facts contained in the Operative Complaint,
20 Plaintiff's PAGA Notice, or ascertained during the Action and released under Paragraph 6.2 and
21 6.3, below; (c) any and all claims, demands, rights, liabilities and causes of action of every nature
22 and description whatsoever, known or unknown, in federal, state or local statutory or common
23 law, including ordinances, regulations, and wage orders, relating to, or in connection with
24 Plaintiff's relationship with any Released Party, including, but not limited to, her employment
25 and alleged joint employment with any Defendant, her separation from such alleged employment,
26 including, without limitation, claims for any form of harassment, discrimination, wrongful
27 termination; claims under all state and federal equal employment opportunity laws; claims under
28 all federal and state labor statutes and regulations; the Americans with Disabilities Act; Title VII
of the Civil Rights Act; the Civil Rights Act of 1991; the Older Workers Benefit Protection Act

(OWBPA); the Age Discrimination in Employment Act (ADEA); the Family and Medical Leave Act; the Employee Retirement Income Security Act; the National Labor Relations Act; the Rehabilitation Act of 1973, as amended; the Worker Adjustment Retraining and Notification Act of 1988, as amended; the Uniformed Services Employment and Reemployment Rights Act; the Fair Credit Reporting Act; the California Family Rights Act; the California Fair Employment and Housing Act; the California Pregnancy Disability Leave law; the California Labor Code, including, without limitation, Sections 132(a) and 1102.5; any California Industrial Welfare Commission Wage Order; the Fair Labor Standards Act; the Equal Pay Act; the California Government Code; the California Civil Code, as amended; the California Penal Code, as amended; the California Business and Professions Code; the Families First Coronavirus Response Act; any state and local employment laws regarding COVID-19; the California Privacy Rights Act; the United States Constitution; the California Constitution; and any and all claims for wages, damages, restitution, equitable relief, civil and statutory penalties, liquidated damages and/or punitive damages; and (d) any and all claims for attorneys' fees and/or costs, and claims relating to any other legal limitation on the alleged employment relationship Plaintiff had, now has or hereinafter may have, up to and including the date of Plaintiff's execution of this Agreement, including without limitation, any and all claims, costs and expenses arising out of or in any way related to Plaintiff's employment or alleged joint employment with KB Collective and Western Flower Company. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. The Parties declare and represent that they intend this Agreement to be complete and not subject to any claim of mistake, and that the releases herein express full and complete releases, and that they intend that the releases herein shall be final and complete.

6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

1
2 **A general release does not extend to claims that the creditor or releasing party does**
3 **not know or suspect to exist in his or her favor at the time of executing the release,**
4 **and that if known by him or her would have materially affected his or her settlement**
5 **with the debtor or Released Party.**

6 *However, Plaintiff's release does not include any claims or prayer for relief in Los Angeles*
7 *County Superior Court Case number 23VECV05310. Plaintiff and Defendants have entered into*
8 *a separate individual Settlement Agreement and General Release of All Claims related to Los*
9 *Angeles County Superior Court Case Number 23VECV05310 ("Individual Settlement*
10 *Agreement.").* Defendants shall not be obligated to fund the Gross Settlement Fund until Plaintiff
11 files a dismissal with prejudice of Case Number 23VECV05310. The Parties agree that this
12 individual Settlement Agreement and General Release of All Claims does not prevent Plaintiff
13 from serving as the Class Representative in this Action. The Parties also agree that nothing in the
14 individual Settlement Agreement and General Release of All Claims prevents Plaintiff from or
15 waives Plaintiff's right to recover her Individual Class Payment, Individual PAGA Payment or
Class Representative Service Payment in this Action.

16 6.2 Release by Participating Class Members: All Participating Class Members, on
17 behalf of themselves and their respective former and present representatives, agents, attorneys,
18 heirs, administrators, successors, and assigns, release Defendants and the Released Parties from
19 all rights, demands, liabilities, damages, penalties, suits, debts, obligations, claims and causes of
20 action, whether known or unknown, that were stated or that could have been stated in the
21 Operative Complaint and those based upon the facts alleged in the Operative Complaint, which
22 includes, but is not limited to Labor Code sections 1194, 1198, 226.7, 512, 226, 201, 202, 203,
23 204, 210, 2802, 2698 *et seq.*, all applicable Wage Orders and any and all claims for unpaid wages
24 (including reporting time wages, payment at the correct regular rate of pay and unauthorized
25 deductions); failure to authorize and permit rest periods (including payment of rest break
26 penalties); failure to provide meal periods (including payment of meal period penalties); failure
27 to indemnify business-related expenses; failure to provide accurate itemized wage statements
28 (including wage statement penalties); failure to maintain required payroll records; failure to
timely pay wages (including waiting time penalties); all derivative claims; and the California

1 Business & Professions Code section 17200 as it pertains to the underlying Labor Code Claims.
2 Except as set forth in Paragraph 6.3 of this Agreement, Participating Class Members do not
3 release any other claims, including claims for vested benefits, wrongful termination, violation of
4 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
5 workers' compensation, or claims based on facts occurring outside the Class Period.

6 **6.3 Release by All PAGA Employees (including Non-Participating Class Members).**

7 All PAGA Employees are deemed to release, on behalf of themselves and their respective former
8 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the
9 Released Parties from any and all claims for PAGA penalties that were alleged, or reasonably
10 could have been alleged, based on the PAGA Period facts stated in the Operative Complaint
11 and/or the PAGA Notice, including, but not limited to, Labor Code Sections 1194, 1198, 226.7,
12 512, 226, 201, 202, 203, 204, 210, 2802, 2698 and all applicable Wage Orders ("Released PAGA
13 Claims"). Even if a PAGA Employee chooses to opt out of the Settlement, they will still be bound
14 by the Release of PAGA Claims herein.

15 **6.4 Release by Class Counsel:** As of the date the Defendants fully fund the Gross
16 Settlement Amount, and except as otherwise provided by this Agreement and the Judgment, Class
17 Counsel and any counsel associated with Class Counsel wave any claim to costs and attorneys'
18 fees and expenses against any of the Released Parties arising from or related to this Action.

19 **7. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and
20 file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with
21 the Court's current checklist for Preliminary Approvals. A Preliminary Approval Order form is
22 attached as **Exhibit E**.

23 **7.1 Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel
24 all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice,
25 and memorandum in support, of the Motion for Preliminary Approval that includes an analysis
26 of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under
27 Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval
28 and Approval of PAGA Settlement; (iii) a draft proposed Notice Packet; (iv) a signed declaration
from the Administrator attaching its "not to exceed" bid for administering the Settlement and
attesting to its willingness to serve; competency; operative procedures for protecting the security
of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other

1 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
2 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
3 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
4 and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,
5 and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its
6 competency to represent the Class Members; its timely transmission to the LWDA of all necessary
7 PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
8 Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699,
9 subd. (1)(2)); (vii) a redlined version of the Parties' Agreement showing all modifications made
10 to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual
11 or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres
12 Recipient. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of
any other pending matter or action asserting claims that will be extinguished or adversely affected
by the Settlement other than as set forth in Paragraph 6.1.1.

13 7.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
14 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later
15 than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the
16 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion
17 for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
Approval to the Administrator.

18 7.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
19 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
20 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
21 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
22 Preliminary Approval or conditions Preliminary Approval on any material change to this
23 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
24 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and
25 otherwise satisfy the Court's concerns noting that Defendants' obligation to make payments under
this Settlement will remain limited by the Gross Settlement Amount.

26 **8. SETTLEMENT ADMINISTRATION.**

27 8.1 Selection of Administrator. The Parties have jointly selected ILYM to serve as
28

1 the Administrator and verified that, as a condition of appointment, ILYM agrees to be bound by
2 this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
3 for payment of Administration Expenses. The Parties and their Counsel represent that they have
4 no interest or relationship, financial or otherwise, with the Administrator other than a professional
relationship arising out of prior experiences administering settlements.

5 8.2 Employer Identification Number. The Administrator shall have and use its own
6 Employer Identification Number for purposes of calculating payroll tax withholdings and
7 providing reports state and federal tax authorities.

8 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund
9 that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury
10 Regulation section 468B-1.

11 8.4 Notice to Class Members.

12 8.4.1 No later than three (3) business days after receipt of the Class Data, the
13 Administrator shall notify Class Counsel that the list has been received and state the number of
Class Members, PAGA Members, Work Weeks, and Pay Periods in the Class Data.

14 8.4.2 Using best efforts to perform as soon as possible, and in no event later than
15 14 days after receiving the Class Data, the Administrator will send to all Class Members identified
16 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet,
17 if applicable substantially in the forms attached to this Agreement as Exhibits A, B, C, and D.
18 The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual
19 Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of
20 Work Weeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing
21 Notice Packets, the Administrator shall update Class Member addresses using the National Change
22 of Address database. KB Collective represents that all Class Members are fluent in English, and
therefore, the Notice Packets will be mailed in English only. Western Flower Company is
agreeable to sending Notice Packets in English only.

23 8.4.3 Not later than 3 business days after the Administrator’s receipt of any
24 Notice Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice
25 Packet using any forwarding address provided by the USPS. If the USPS does not provide a
26 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail
27 the Notice Packet to the most current address obtained. The Administrator has no obligation to
28

1 make further attempts to locate or send Notice Packet to Class Members whose Notice Packet is
2 returned by the USPS a second time.

3 8.4.4 The deadlines for Class Members' written objections, Challenges to Work
4 Weeks and/or Pay Periods (disputes), and Requests for Exclusion will be extended an additional
5 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose
6 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline
with the re-mailed Notice Packet.

7 8.4.5 If the Administrator, Defendants or Class Counsel is contacted by or
8 otherwise discovers any persons who believe they should have been included in the Class Data
9 and should have received Notice Packet, the Parties will expeditiously meet and confer in person
10 or by telephone, and in good faith, in an effort to agree on whether to include them as Class
11 Members. If the Parties agree, such persons will be Class Members entitled to the same rights as
12 other Class Members, and the Administrator will send, via email or overnight delivery, a Class
13 Notice requiring them to exercise options under this Agreement not later than 14 days after receipt
of Class Notice, or the deadline dates in the Class Notice, which ever are later.

14 8.5 Requests for Exclusion (Opt-Outs).

15 8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class
16 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
17 Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus an
18 additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
19 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
20 the Class Member's election to be excluded from the Settlement and includes the Class Member's
21 name, address and email address or telephone number. To be valid, a Request for Exclusion must
22 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
in Settlement form, attached as Exhibit B, may be used for this purpose but is not required.

23 8.5.2 The Administrator may not reject a Request for Exclusion as invalid
24 because it fails to contain all the information specified in the Class Notice. The Administrator
25 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
26 identity of the person as a Class Member and the Class Member's desire to be excluded. The
27 Administrator's determination shall be final and not appealable or otherwise susceptible to
28 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,

1 the Administrator may demand additional proof of the Class Member's identity. The
2 Administrator's determination of authenticity shall be final and not appealable or otherwise
3 susceptible to challenge.

4 8.5.3 Every Class Member who does not submit a timely and valid Request for
5 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
6 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
7 Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the
8 Participating Class Member actually receives the Class Notice or objects to the Settlement.

9 8.5.4 Every Class Member who submits a valid and timely Request for
10 Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment
11 or have the right to object to the class action components of the Settlement. Because future PAGA
12 claims are subject to claim preclusion upon entry of Judgment, Non-Participating Class Members
13 who are PAGA Employees are deemed to release the claims identified in Paragraph 6.3 of this
14 Agreement, may not opt-out of the Settlement and are eligible for an Individual PAGA Payment.

15 8.6 Challenges to Calculation of Work Weeks. Each Class Member shall have 60
16 days after the Administrator mails the Notice Packet (plus an additional 14 days for Class
17 Members whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and
18 PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. This is also known
19 as a dispute. A Work Week Dispute form, attached as Exhibit C, may be used for this purpose
20 but is not required. The Class Member may challenge the allocation by communicating with the
21 Administrator via fax, email or mail. The Administrator must encourage the challenging Class
22 Member to submit supporting documentation. In the absence of any contrary documentation, the
23 Administrator is entitled to presume that the Work Weeks contained in the Class Notice are
24 correct so long as they are consistent with the Class Data. The Administrator's determination of
25 each Class Member's allocation of Work Weeks and/or Pay Periods shall be final and not
26 appealable or otherwise susceptible to challenge. The Administrator shall promptly provide
27 copies of all challenges to calculation of Work Weeks and/or Pay Periods to Defense Counsel and
28 Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action
components of the Settlement and/or this Agreement, including contesting the fairness of the

1 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
2 Litigation Expenses Payment and/or Class Representative Service Payment.

3 8.7.2 Participating Class Members may send written objections to the
4 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear
5 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
6 Hearing. A Participating Class Member who elects to send a written objection to the
7 Administrator must do so not later than 60 days after the Administrator's mailing of the Notice
8 Packet (plus an additional 14 days for Class Members whose Notice Packet was re-mailed). An
9 The Objection form attached as Exhibit D may be used for this purpose but is not required.

10 8.7.3 Non-Participating Class Members have no right to object to any of the class
11 action components of the Settlement.

12 8.8 Administrator Duties. The Administrator has a duty to perform or observe all
13 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

14 8.8.1 Email Address and Toll-Free Number. The Administrator will maintain
15 and monitor an email address and a toll-free telephone number to receive Class Member calls,
16 faxes and emails.

17 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
18 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
19 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
20 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
21 and other identifying information of Class Members who have timely submitted valid Requests
22 for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class
23 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
24 Exclusion from Settlement submitted (whether valid or invalid).

25 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide
26 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
27 of: Notice Packets mailed or re-mailed, Notice Packets returned undelivered, Requests for
28 Exclusion (whether valid or invalid) received, objections received, challenges to Work Weeks
and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments
and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the
Administrator's assessment of the validity of Requests for Exclusion and attach copies of all

1 Requests for Exclusion and objections received.

2 8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the
3 authority to address and make final decisions consistent with the terms of this Agreement on all
4 Class Member challenges over the calculation of Work Weeks and/or Pay Periods. The
5 Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

6 8.8.5 Administrator's Declaration. Not later than 14 days before the date by
7 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
8 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
9 for filing in Court attesting to its due diligence and compliance with all of its obligations under
10 this Agreement, including, but not limited to, its mailing of the Notice Packets, the Notice Packets
11 returned as undelivered, the re-mailing of Notice Packets, attempts to locate Class Members, the
12 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
13 number of written objections and attach the Exclusion List. The Administrator will supplement
14 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible
15 for filing the Administrator's declaration(s) in Court.

16 8.8.6 Final Report by Administrator. Within 10 days after the Administrator
17 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel
18 and Defense Counsel with a final report detailing its disbursements by employee identification
19 number only of all payments made under this Agreement. At least 15 days before any deadline
20 set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense
21 Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all
22 payments required under this Agreement. Class Counsel is responsible for filing the
23 Administrator's declaration in Court.

24 8.8.7 Notice of Final Judgment. The Administrator will post the Final Approval
25 Order and Judgment on ILYM's website (www.ilymgroup.com) and will include a notice on the
26 detachable portion of the Class Members' checks advising them of the Final Approval Order and
27 Judgment being posed on ILYM's website.

28 **9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on their records,
Defendant KB Collective estimates that, as of the date of this Settlement Agreement, (1) there
are 191 Class Members and 7,412 Total Work Weeks during the Class period and (2) there were
113 PAGA Employees who worked 1,446 Pay Periods during the PAGA Period. If the total Work

Weeks as of 60 days after mediation or the date the Court approves the settlement, whichever comes first, exceeds 10% of KB Collective's estimate, the Gross Settlement Amount will increase proportionally according to the number of additional Work Weeks (*i.e.*, if there is an 11% increase in the number of Work Weeks during the Class Period, Defendants agree to increase the Gross Settlement Amount by 1%); or the Parties may elect to end the Class Period on the date the number of Class Work Weeks reaches 8,153. If the Court denies Preliminary Approval for any reason, the Court's decision will not impact the calculation of the escalator clause. Based on the Administrator's initial review of the Class Data and the number of Work Weeks provided by KB Collective, the escalator clause is not triggered.

10. DEFENDANTS' RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5.00% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement, provided Defendants (1) meet and confer in advance about the election to withdraw and both Defendants must agree to withdraw for the election to withdraw to be effective; and (2) provide written notice to the Plaintiff within seven (7) calendar days of the Administrator's report that more than five percent (5%) of the settlement Class Members opted out. The Parties agree that, if both Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement. Defendants must notify Class Counsel and the Court of their election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court

1 no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
2 by the Court.

3 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
4 Approval on any material change to the Settlement (including, but not limited to, the scope of
5 release to be granted by Class Members), the Parties will expeditiously work together in good
6 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
7 Approval. The Court's decision to award less than the amounts requested for the Class
8 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
9 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
modification to the Agreement within the meaning of this Paragraph.

10 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
11 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
12 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

13 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
14 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
15 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
16 respective counsel, and all Participating Class Members who did not object to the Settlement as
17 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
18 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
19 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
20 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
21 Parties' obligations to perform under this Agreement will be suspended until such time as the
22 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
the amount of the Net Settlement Amount.

23 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
24 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
25 material modification of this Agreement (including, but not limited to, the scope of release to be
26 granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
27 expeditiously work together in good faith to address the appellate court's concerns and to obtain
28 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration

1 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
2 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
3 shall not constitute a material modification of the Judgment within the meaning of this Paragraph,
4 as long as the Gross Settlement Amount remains unchanged.

5 **12. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
6 Procedure section 384, the Parties will work together in good faith to jointly submit a proposed
7 amended judgment.

8
9 **13. ADDITIONAL PROVISIONS.**

10 13.1 No Admission of Liability, Class Certification or Representative Manageability
11 for Other Purposes. This Agreement represents a compromise and settlement of highly disputed
12 claims. Nothing in this Agreement is intended or should be construed as an admission by
13 Defendants that any of the allegations in the Operative Complaint and/or the PAGA Notice have
14 merit or that Defendants have any liability for any claims asserted; nor should it be intended or
15 construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The
16 Parties agree that class certification and representative treatment is for purposes of this Settlement
17 only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter
18 Judgment, Defendants reserve the right to contest certification of any class for any reasons, and
19 Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the
20 right to move for class certification on any grounds available and to contest Defendants' defenses.
21 The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing
22 on, and will not be admissible in connection with, any litigation (except for proceedings to enforce
23 or effectuate the Settlement and this Agreement). Further, nothing in this Agreement is intended
24 to convert, admit or imply that Western Flower Company served as the W-2 employer with respect
25 to the Class Members and PAGA Employees.

26 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel,
27 Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval
28 of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or
cause or permit another person to disclose, disseminate or publicize, any of the terms of the
Agreement directly or indirectly, specifically or generally, to any person, corporation, association,

1 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses,
2 all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter;
3 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a
4 court order or subpoena; (5) in response to an inquiry or subpoena issued by a state or federal
5 government agency; or (6) with respect to Defendants, to provide information with respect to
6 resolution to employees/managers/board members regarding the status and fact of settlement.

7 Each Party agrees to immediately notify each other Party of any judicial or agency
8 order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and
9 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
10 communication, before the filing of the Motion for Preliminary Approval, any with third party
11 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
12 "the matter was resolved," or words to that effect. This Paragraph does not restrict Class
13 Counsel's communications with Class Members in accordance with Class Counsel's ethical
14 obligations owed to Class Members. The Parties and their attorneys shall not make any public
15 announcements (including press releases, press interviews, internet postings, or social media
16 postings) concerning the Settlement other than seeking the Court's approval of settlement through
17 a Motion for Preliminary Approval and Final Approval and any related court filings, except that
18 Class Counsel may include publicly available information about the case in their declarations
19 establishing their qualifications as counsel in other cases.

20 13.3 No Solicitation. The Parties separately agree that they and their respective
21 counsel and employees will not solicit any Class Member to opt out of or object to the Settlement,
22 or 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 Counsel's ethical
24 obligations owed to Class Members.

25 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this
26 Agreement together with its attached exhibits shall constitute the entire agreement between the
27 Parties relating to the Settlement, superseding any and all oral representations, warranties,
28 covenants, or inducements made to or by any Party.

13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
and represent that they are authorized by Plaintiff and Defendants, respectively, to take all
appropriate action required or permitted to be taken by such Parties pursuant to this Agreement

1 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
2 terms of this Agreement including any amendments to this Agreement.

3 13.6 Cooperation. The Parties and their counsel will cooperate with each other and
4 use their best efforts, in good faith, to implement the Settlement by, among other things,
5 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
6 points and authorities as requested by the Court. In the event the Parties are unable to agree upon
7 the form or content of any document necessary to implement the Settlement, or on any
8 modification of the Agreement that may become necessary to implement the Settlement, the
9 Parties will seek the assistance of a mediator and/or the Court for resolution.

10 13.7 No Prior Assignments. The Parties separately represent and warrant that they
11 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
12 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of
13 action, or right released and discharged by the Party in this Settlement.

14 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense
15 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
16 Settlement be relied upon as such within the meaning of United States Treasury Department
17 Circular 230 (31 CFR Part 10, as amended) or otherwise.

18 13.9 Modification of Agreement. This Agreement, and all parts of it, may be
19 amended, modified, changed, or waived only by an express written instrument signed by all
20 Parties or their representatives, and approved by the Court.

21 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and
22 inure to the benefit of, the successors of each of the Parties.

23 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will
24 be governed by and interpreted according to the internal laws of the state of California, without
25 regard to conflict of law principles.

26 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and
27 preparation of this Agreement. This Agreement will not be construed against any Party on the
28 basis that the Party was the drafter or participated in the drafting.

13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
entered during Action and in this Agreement relating to the confidentiality of information shall
survive the execution of this Agreement.

1 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant
2 to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class
3 Counsel by Defendants in connection with the mediation, other settlement negotiations, or in
4 connection with the Settlement, may be used only with respect to this Settlement, and no other
5 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
6 or rule of court. Not later than 90 days after the date when the Court discharges the
7 Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement
8 funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from
9 Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants
10 make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

11 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement
12 is inserted for convenience of reference only and does not constitute a part of this Agreement.

13 13.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
14 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
15 weekend or federal legal holiday, such date or deadline shall be on the first business day
16 thereafter.

17 13.17 Notice. All notices, demands or other communications between the Parties in
18 connection with this Agreement will be in writing and deemed to have been duly given as of the
19 third business day after mailing by United States mail, or the day sent by email or messenger,
20 addressed as follows:

21 To Plaintiff:
22 David G. Spivak, Esq.
23 The Spivak Law Firm
24 8605 Santa Monica Bl
25 PMB 42554
26 West Hollywood, CA 90069
27 david@spivaklaw.com

28 To Defendants:
29 David J. Fishman, Esq.
30 Ballard Rosenberg Golper & Savitt LLP
31 15760 Ventura Blvd.
32 18th Floor
33 Encino, Ca 91436
34 dfishman@brgslaw.com

1 Heather M. Sager, Bar No. 186566
2 Perkins Coie LLP
3 505 Howard Street
4 Suite 1000
5 San Francisco, California 94105
6 HSager@perkinscoie.com

7 13.18 Execution in Counterparts. This Agreement may be executed in one or more
8 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this
9 Agreement shall be accepted as an original. All executed counterparts and each of them will be
10 deemed to be one and the same instrument if counsel for the Parties will exchange between
11 themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove
12 the existence and contents of this Agreement.

13 13.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement
14 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
15 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
16 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
17 process.

18 10 / 08 / 2024

19 Dated: October ____, 2024

20 By: 

21 PARY AL ZAHAWI

22 Dated: October ____, 2024

23 By: _____

24 ENDORS TOI, PBC D/B/A WESTERN
25 FLOWER COMPANY

26 Dated: October ____, 2024

27 By: _____

28 The Kind Center, Inc., and KB
COLLECTIVE FOR COMPASSION
AND CARE, INC.

1 Heather M. Sager, Bar No. 186566
2 Perkins Coie LLP
3 505 Howard Street
4 Suite 1000
5 San Francisco, California 94105
6 HSager@perkinscoie.com

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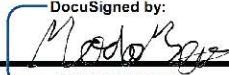
18 Dated: October ____, 2024

By: _____

PARY AL ZAHAWI

19 Dated: October ¹¹__, 2024

By: _____

DocuSigned by:

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ENDORS TOI, PBC D/B/A WESTERN
FLOWER COMPANY

22 Dated: October ____, 2024

By: _____

The Kind Center, Inc., and KB
COLLECTIVE FOR COMPASSION
AND CARE, INC.

1 Heather M. Sager, Bar No. 186566
2 Perkins Coie LLP
3 505 Howard Street
4 Suite 1000
5 San Francisco, California 94105
6 HSager@perkinscoie.com

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16 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
17 process.

18 Dated: October ____, 2024

By: _____

PARY AL ZAHAWI

19 Dated: October ____, 2024

By: _____

20 ENDORS TOI, PBC D/B/A WESTERN
21 FLOWER COMPANY

22 Dated: October Lc, 2024

By: _____

23 
24 [Lisa crockett \(Oct 9, 2024 13:22 PDT\)](#)

25 The Kind Center, Inc., and KB
26 COLLECTIVE FOR COMPASSION
27 AND CARE, INC.

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10 / 08 / 2024
Dated: October ____, 2024

THE SPIVAK LAW FIRM

By: 
DAVID G. SPIVAK, Attorneys for
Plaintiff(s), PARY AL ZAHAWI, and
all others similarly situated

10 / 08 / 2024
Dated: October ____, 2024

SMITH LAW

By: 
BENJAMIN J. SMITH, Attorneys for
Plaintiff(s), PARY AL ZAHAWI, and
all others similarly situated

BALLARD ROSENBERG GOLPER &
SAVITT LLP

Dated: October ____, 2024

By: _____
DAVID J. FISHMAN, Attorneys for
Defendant(s), THE KIND CENTER,
INC., and KB COLLECTIVE FOR
COMPASSION AND CARE, INC.

PERKINS COIE LLP

Dated: October ____, 2024

By: _____
HEATHER M. SAGER, Attorneys for
Defendant(s), ENDORS TOI, PBC
D/B/A WESTERN FLOWER
COMPANY

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THE SPIVAK LAW FIRM

Dated: October ____, 2024

By: _____
DAVID G. SPIVAK, Attorneys for
Plaintiff(s), PARY AL ZAHAWI, and
all others similarly situated

SMITH LAW

Dated: October ____, 2024

By: _____
BENJAMIN J. SMITH, Attorneys for
Plaintiff(s), PARY AL ZAHAWI, and
all others similarly situated

BALLARD ROSENBERG GOLPER &
SAVITT LLP

Dated: October 10, 2024

By:  _____
DAVID J. FISHMAN, Attorneys for
Defendant(s), THE KIND CENTER,
INC., and KB COLLECTIVE FOR
COMPASSION AND CARE, INC.

PERKINS COIE LLP

Dated: October ____, 2024

By: _____
HEATHER M. SAGER, Attorneys for
Defendant(s), ENDORS TOI, PBC
D/B/A WESTERN FLOWER
COMPANY

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THE SPIVAK LAW FIRM

Dated: October ____, 2024

By: _____
DAVID G. SPIVAK, Attorneys for
Plaintiff(s), PARY AL ZAHAWI, and
all others similarly situated

SMITH LAW

Dated: October ____, 2024

By: _____
BENJAMIN J. SMITH, Attorneys for
Plaintiff(s), PARY AL ZAHAWI, and
all others similarly situated

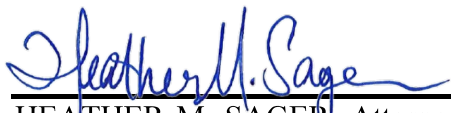
BALLARD ROSENBERG GOLPER &
SAVITT LLP

Dated: October ____, 2024

By: _____
DAVID J. FISHMAN, Attorneys for
Defendant(s), THE KIND CENTER,
INC., and KB COLLECTIVE FOR
COMPASSION AND CARE, INC.

PERKINS COIE LLP

Dated: October 11, 2024

By:  _____
HEATHER M. SAGER, Attorneys for
Defendant(s), ENDORS TOI, PBC
D/B/A WESTERN FLOWER
COMPANY

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EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL**

(case name: *Pary Al Zahawi v. The Kind Center, Inc.* and number 22STCV38571)

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against The Kind Center, Inc., KB Collective For Compassion And Care, Inc., (“KB Collective”) and Endors Toi, PBC d/b/a Western Flower Company (“Western Flower Company”) (collectively, “Defendants”) for alleged violations of California’s labor laws. The Action was filed by Defendants’ employee Pary Al Zahawi (“Plaintiff”) and seeks payment of (1) wages and other relief for a class of all persons employed directly by KB Collective in California as non-exempt, including but not limited to those individuals who worked as delivery drivers and were allegedly jointly employed by KB Collective and Western Flower Company (“Class Members”) during the Class Period (December 09, 2018 to February 2, 2024); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all Class Members who worked for Defendants during the PAGA Period (November 18, 2021 to February 2, 2024) (“PAGA Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$<<IndividualClassPaymentAmount>> (less withholding) and your Individual PAGA Payment is estimated to be \$<<IndividualPAGAPaymentAmount>>.** The estimated dollar value of a Work Week is <<\$increment type value>> and a Pay Period is <<@PayPeriodValue>>. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendant KB Collective’s records showing that **you worked <<__>> Work Weeks** during the Class Period and **you worked <<__>> Pay Periods** during the PAGA Period. If you believe that you worked more Work Weeks during the Class Period and/or Pay Periods during the PAGA Period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues

will be made at the Final Approval Hearing. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and PAGA Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Class Period, you have three basic options under the Settlement:

(1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment if you are a PAGA Employee. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting a written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period claims for California labor law violations against Defendants, and, if you are a PAGA Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

(3) **Object to the Settlement.** All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. See Section 7 of this Notice for more information.

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. You can use the enclosed Election Not To Participate In Settlement form for this purpose. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.
The Opt-out Deadline is <<RESPONSE DEADLINE>>	

		You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all PAGA Employees and you release Defendants from civil penalties they may owe to the you.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by <<RESPONSE DEADLINE>>		All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. You can use the enclosed Objection form for this purpose. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the <<FinalApprovalHearingDate>> Final Approval Hearing		The Court’s Final Approval Hearing is scheduled to take place on <<FinalApprovalHearingDate>>. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing whether or not they submitted a written objection. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Work Week / Pay Periods Written Challenges Must be Submitted by <<RESPONSE DEADLINE>>		The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Work Weeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Work Weeks and number of PAGA Period Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <<RESPONSE DEADLINE>>. See Section 4 of this Notice. You can use the enclosed Work Weeks Dispute form for this purpose.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former delivery driver who alleges KB Collective and Western Flower Company jointly employed her. The Action alleges that Defendants violated California labor laws by failing to pay wages, making unauthorized and unlawful wage deductions, failing to provide meal periods, failing to authorize and permit rest periods, failing to indemnify for business expenses, failing to issue proper wage statements, failing to timely pay wages, failing to maintain required payroll records, and engaging in related violations of the Labor Code. Based on the same claims,

1 Plaintiff has also asserted a claim for civil penalties under the PAGA (Labor Code section 2698
2 and sections that follow) (“PAGA”). Plaintiff is represented by attorneys in the Action: David G.
3 Spivak of The Spivak Law Firm and Benjamin J. Smith of Smith Law (“Class Counsel.”)

4 Defendants strongly deny violating any laws or failing to pay any wages and contend they
5 complied with all applicable laws and that they do not owe any wages or penalties.

6 **2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

7 So far, the Court has made no determination whether Defendants or Plaintiff is correct on the
8 merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an
9 effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather
10 than continuing the expensive and time-consuming process of litigation. The negotiations were
11 successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to
12 jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff
13 and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final
14 Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By
15 agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

16 Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they
17 believe that: (1) Defendants have agreed to pay a fair, reasonable, and adequate amount
18 considering the strength of the claims and the risks and uncertainties of continued litigation; and
19 (2) Settlement is in the best interests of the Class Members and PAGA Employees. The Court
20 preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this
21 Notice, and scheduled a hearing to determine Final Approval.

22 **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

23 A. Gross Settlement Amount. Defendants will pay \$221,500.00 as the Gross
24 Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement
25 into an account controlled by the Administrator of the Settlement. The Administrator will use the
26 Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class
27 Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the
28 Administrator’s expenses, and penalties to be paid to the California Labor and Workforce
Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will
fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes
final. The Judgment will be final on the date the Court enters Judgment, or a later date if
Participating Class Members object to the proposed Settlement or the Judgment is appealed.

B. Court Approved Deductions from Gross Settlement. At the Final Approval
Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions
from the Gross Settlement, the amounts of which will be decided by the Court at the Final
Approval Hearing:

1. Attorney Fees and Costs. Up to \$73,833.33 (33.33% of the Gross
Settlement to Class Counsel for attorneys’ fees and up to \$15,000.00 for their litigation expenses.

To date, Class Counsel have worked and incurred expenses on the Action without payment.

2. Class Representative Service Payment. Up to \$5,000.00 as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payments and any Individual PAGA Payments.

3. Administration Expenses. Up to \$12,000.00 to the Administrator for services administering the Settlement.

4. PAGA Penalties. Up to \$5000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the PAGA Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

Based on their records, Defendants estimate that, as of the date of this Settlement Agreement, (1) there are 191 Class Members and 7,412 Total Work Weeks during the Class period and (2) there were 113 PAGA Employees who worked 1,446 Pay Periods during the PAGA Period.

C. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Work Weeks.

D. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 20.00% of each Individual Class Payment to taxable wages ("Wage Portion") and 80.00% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

E. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically

1 cancelled, and the monies will be deposited with the California Controller's Unclaimed Property
2 Fund (https://www.sco.ca.gov/search_upd.html) in your name.

3 If the money represented by your check is sent to the Controller's Unclaimed Property Fund, you
4 should consult the rules of the Fund for instructions on how to retrieve your money. You can
contact the Unclaimed Property Fund at (800) 992-4647.

5 F. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
6 as a Participating Class Member, participating fully in the Class Settlement, unless you notify the
Administrator in writing, not later than <<RESPONSE DEADLINE>>, that you wish to opt-out.
7 The easiest way to notify the Administrator is to email, fax, or mail a written and signed Request
8 for Exclusion by the <<RESPONSE DEADLINE>> Response Deadline. The Request for
Exclusion should be a letter from a Class Member or his/her representative setting forth a Class
9 Member's name, present address, telephone number, and a simple statement electing to be
10 excluded from the Settlement. You may use the enclosed Election Not To Participate In
Settlement form for this purpose. Excluded Class Members (i.e., Non-Participating Class
11 Members) will not receive Individual Class Payments, but will preserve their rights to personally
pursue claims against Defendants for violations of California's labor laws.

12 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
13 themselves from the Class Settlement (Non-Participating Class Members) remain eligible for
Individual PAGA Payments and you give up your right to assert PAGA claims against Defendants
14 for claims asserted during the PAGA Period and you also release Defendants from civil penalties
they may owe to the you.

15 G. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
16 possible the Court will decline to grant Final Approval of the Settlement or decline to enter a
Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff
17 and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not
18 pay any money and Class Members will not release any claims against Defendants.

19 H. Administrator. The Court has appointed a neutral company, ILYM Group, Inc.
20 (the "Administrator") to send this Notice, calculate and make payments, and process Class
Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges
21 over Work Weeks, mail and re-mail settlement checks and tax forms, and perform other tasks
22 necessary to administer the Settlement. The Administrator's contact information is contained in
Section 9 of this Notice.

23 I. Participating Class Members' Release. After the Judgment is final and Defendants
24 have fully funded the Gross Settlement (and separately paid all employer payroll taxes),
Participating Class Members will be legally barred from asserting any of the claims released under
25 the Settlement. This means that unless you opted out by validly excluding yourself from the Class
Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or
26 Released Parties for wages based on the Class Period facts and PAGA penalties based on PAGA
Period facts, as alleged in the Action and resolved by this Settlement.

1 The Participating Class Members will be bound by the following release:

2 All Participating Class Members, on behalf of themselves and their respective
3 former and present representatives, agents, attorneys, heirs, administrators,
4 successors, and assigns, release Defendants and the Released Parties from all
5 rights, demands, liabilities, damages, penalties, suits, debts, obligations, claims
6 and causes of action, whether known or unknown, that were stated or that could
7 have been stated in the Operative Complaint and those based upon the facts alleged
8 in the Operative Complaint, which includes, but is not limited to: Labor Code
9 sections 1194, 1198, 226.7, 512, 226, 201, 202, 203, 204, 210, 2802, 2698 *et seq.*,
10 all applicable Wage Orders and all claims for unpaid wages (including reporting
11 time wages, payment at the correct regular rate of pay and unauthorized
12 deductions); failure to authorize and permit rest periods (including payment of rest
13 break penalties); failure to provide meal periods (including payment of meal
14 period penalties); failure to indemnify business-related expenses; failure to
15 provide accurate itemized wage statements (including wage statement penalties);
16 failure to timely pay wages (including wage statement penalties); all derivative
17 claims; and California Business & Professions Code section 17200 as it pertains
18 to the underlying Labor Code Claims. Except as set forth in Section 6.3 of the
19 Settlement Agreement, Participating Class Members do not release any other
20 claims, including claims for vested benefits, wrongful termination, violation of the
21 Fair Employment and Housing Act, unemployment insurance, disability, social
22 security, workers' compensation, or claims based on facts occurring outside the
23 Class Period.

24 J. PAGA Employees' (including Non-Participating Class Members) Release. After
25 the Court's judgment is final, and Defendants have paid the Gross Settlement, PAGA Employees
26 will be legally barred from asserting any of the claims released under the PAGA Settlement. This
27 means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or
28 the Released Parties for PAGA penalties based on PAGA Period facts, as alleged in the Action
and resolved by this Settlement.

PAGA Employees' (including Non-Participating Class Members) will be bound
by the following release:

All PAGA Employees are deemed to release, on behalf of themselves and their
respective former and present representatives, agents, attorneys, heirs,
administrators, successors, and assigns, the Released Parties from any and all
claims for PAGA penalties that were alleged, or reasonably could have been
alleged, based on the PAGA Period facts stated in the Operative Complaint and/or
the PAGA Notice, including, but not limited to, Labor Code Sections 1194, 1198,
226.7, 512, 226, 201, 202, 203, 204, 210, 2802, 2698 and all applicable Wage
Orders ("Released PAGA Claims"). Even if an PAGA Employee chooses to opt
out of the Settlement, they will still be bound by the Release of PAGA Claims
herein.

1 “Released Parties” means Defendants KB Collective and Western Flower Company, and each of
2 their past, present and future parent companies, subsidiaries, affiliates, divisions, and agents and
3 all of their respective employees, principals, managing agents, members, attorneys, officers,
4 directors, board members, investors, shareholders, partners, legal representatives, accountants,
5 insurers, trustees, administrators, real or alleged alter egos, real or alleged joint employers,
predecessors, successors, transferees, assigns and insurers, including, but not limited to, Endors
Toi, PBC (d/b/a Western Flower Company), Prussian Sticks, LLC, McDoestle Company, Inc. and
Arthur Lichtenberger.

6 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

7 A. Individual Class Payments. The Administrator will calculate Individual Class
8 Payments by (a) dividing the Net Settlement Amount by the total number of Work Week worked
9 by all Participating Class Members, and (b) multiplying the result by the number of Work Week
worked by each individual Participating Class Member.

10 B. Individual PAGA Payments. The Administrator will calculate Individual PAGA
11 Payments by (a) dividing \$1,250.00 by the total number of PAGA Pay Periods worked by all
12 PAGA Employees and (b) multiplying the result by the number of PAGA Period Pay Periods
worked by each individual PAGA Employee.

13 C. Workweek/Pay Period Challenges. The number of Class Work Weeks you worked
14 during the Class Period and the number of PAGA Pay Periods you worked during the PAGA
Period, as recorded in Defendants’ records, are stated in the first page of this Notice. You have
15 until <<RESPONSE DEADLINE>> to challenge the number of Work Weeks and/or Pay Periods
16 credited to you. You can submit your challenge by signing and sending a letter to the
Administrator by email, fax or regular U.S. mail. You can use the enclosed Dispute form for this
purpose. Section 9 of this Notice has the Administrator’s contact information.

17 You need to support your challenge by submitting copies of pay stubs or other records.
18 The Administrator will accept Defendants’ calculation of Work Weeks and/or Pay Periods based
19 on Defendants’ records as accurate unless you send copies of records containing contrary
information. You should send copies rather than originals because the documents will not be
20 returned to you. The Administrator will resolve Work Week and/or Pay Period challenges based
21 on your submission and on input from Class Counsel (who will advocate on behalf of
Participating Class Members) and Defendants’ Counsel. The Administrator’s decision is final.
22 You can’t appeal or otherwise challenge its final decision.

23 **5. HOW WILL I GET PAID?**

24 A. Participating Class Members. The Administrator will send, by U.S. mail, a single
25 check to every Participating Class Member (i.e., every Class Member who doesn’t opt-out)
including those who also qualify as PAGA Employees. The single check will combine the
26 Individual Class Payment and the Individual PAGA Payment.

27 B. Non-Participating Class Members. The Administrator will send, by U.S. mail, a
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single Individual PAGA Payment check to every PAGA Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Email, fax, or mail a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. You may use the enclosed Election Not To Participate In Settlement form for this purpose. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Pary Al Zahawi vs. The Kind Center, Inc.*, Case No. 22STCV38571, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. You should send your Request for Exclusion to the Administrator by email, fax, or send by regular U.S. mail. **The Administrator must be sent your request to be excluded by <<RESPONSE DEADLINE>>, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information. If you are a PAGA Employee, you will still receive an Individual PAGA Payment.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to approve. At least 16 days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff is too high or too low. **The deadline for sending written objections to the Administrator is <<RESPONSE DEADLINE>>.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Pary Al Zahawi vs. The Kind Center, Inc.*, case no. 22STCV38571, and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information. You may use the enclosed Objection form for this purpose. You should send your objection to the Administrator by email, fax, or send by regular U.S. mail.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on <<FINAL APPROVAL HEARING DATE>> at <<FINAL APPROVAL HEARING TIME>> in Department 11 of the Los Angeles Superior Court, located at Spring Street Courthouse, 312 N. Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually by <<CourtConnect/CourtCall/MicrosoftTeams>> (<https://www.<<CourtVirtualAppearanceLink>>>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website <<ADMINISTRATOR WEBSITE>> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

The Final Approval Order and Judgment will be posted on the Administrator's website (www.ilymgroup.com)

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. You can telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.<<COURT'S WEBSITE>>.aspx>) and entering the Case Number for the Action, Case No. 22STCV38571. You can also make an appointment to personally review court documents in the Clerk's Office at the Spring Street Courthouse by calling <<CLERK OF COURT'S PHONE NUMBER>>.

DO NOT TELEPHONE THE SUPERIOR COURT OR DEFENDANTS' COUNSEL TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorney:	David G. Spivak
Email Address:	david@spivaklaw.com
Name of Firm:	The Spivak Law Firm
Mailing Address:	8605 Santa Monica Bl

1 PMB 42554
2 Telephone: West Hollywood, CA 90069
(213) 725-9094

3 Administrator:

4 Name of Company: ILYM Group, Inc.

5 Email Address: _____

6 Mailing Address: _____

7 Telephone: _____

8 Fax Number: _____

9 **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

10 If you lose or misplace your settlement check before cashing it, the Administrator will replace it
11 as long as you request a replacement before the void date on the face of the original check. If
12 your check is already void, you should consult the Unclaimed Property Fund
(https://www.sco.ca.gov/search_upd.html) for instructions on how to retrieve the funds. You can
13 contact the Unclaimedx Property Fund at (800) 992-4647.

14 **11. WHAT IF I CHANGE MY ADDRESS?**

15 To receive your check, you should immediately notify the Administrator if you move or otherwise
16 change your mailing address.
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EXHIBIT B

1 *Al Zahawi v. The Kind Center, Inc.*
2 **Superior Court of the State of California, County of Los Angeles**
3 Case No. 22STCV38571

4 **ELECTION NOT TO PARTICIPATE IN SETTLEMENT FORM**

5 **IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND BE ELIGIBLE FOR**
6 **A SHARE OF THE SETTLEMENT PROCEEDS,**
7 **DO NOT FILL OUT THIS FORM.**

8 **IF YOU DO NOT WANT TO BE INCLUDED IN THE SETTLEMENT, YOU MUST COMPLETE AND**
9 **SIGN THIS DOCUMENT AND SEND IT TO THE ADDRESS BELOW VIA U.S. MAIL, EMAIL, OR**
10 **FAX, WITH A POSTMARK NOT LATER THAN <<RESPONSE DEADLINE>>:**

11 *Al Zahawi v. The Kind Center, Inc.* Class Action Administrator
12 c/o ____
13 ____ OR
14 ____

15 I declare as follows: I have received notice of the proposed settlement in this action, and I wish to be
16 excluded from the class and ***not*** to participate in the proposed settlement. I understand this means that I will not be
17 bound by the Settlement and also will not share in the settlement proceeds. I understand that exclusion from the
18 Class Settlement will not result in exclusion from the PAGA portion of the Settlement. If I am a PAGA Employee
19 under the Settlement, I will still receive an Individual PAGA Payment and release Defendants for the PAGA Claims.

20 (Typed or Printed Name)

21 (Address)

22 (City, State, Zip Code)

23 (Telephone Number, Including Area Code)

24 (Identification Number)

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
26 correct and was executed on ____.

27 Dated: ____.
28 (Signature)

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EXHIBIT C

1 **WORK WEEK DISPUTE FORM**

2 Superior Court of The State of California
3 For The County of Los Angeles
4 *Pary Al Zahawi v. The Kind Center, Inc.*, Case No. 22STCV38571

5 Indicate Name/Address Changes, if any:

6 <<Name>>

7 <<Address>>

8 <<City>>, <<State>> <<Zip Code>>

9 XX - XX -

10 TO FROM DECEMBER 9, 2018 THROUGH <<FEBRUARY 2, 2024, OR THE DATE OF
11 PRELIMINARY APPROVAL OF THIS SETTLEMENT, WHICHEVER IS EARLIER>>.

12 The amount of your estimated Settlement Award is based upon the number of Eligible Work
13 Weeks you worked between December 09, 2018 and <<February 2, 2024, or the date of
14 preliminary approval of this settlement, whichever is earlier>> and Eligible Work Weeks you
15 worked between November 18, 2021 and <<February 2, 2024, or the date of preliminary approval
16 of this settlement, whichever is earlier>>. "Individual Class Work Weeks" are defined as any
17 Work Weeks in which you worked at least one (1) day as a person employed directly by KB
18 Collective for Compassion and Care, Inc. (dba The Kind Center, Inc.) in California as non-
19 exempt and were allegedly jointly employed by KB Collective for Compassionate Care (dba The
20 Kind Center, Inc.) and Endors Toi, PBC (dba Western Flower Company) ("Defendants") in
21 California during the calendar week. A "Workweek" means any week in which you worked at
22 least one (1) day as a Class Member during the period of November 18, 2021 through <<February
23 2, 2024, or the date of preliminary approval of this settlement, whichever is earlier>>. The
24 number of Class and PAGA Work Weeks applicable to your claim are set forth below.

25 **YOUR ELIGIBLE WORK WEEKS**

26 KB Collective's records indicate that you worked <<number of Workweeks>> Work Weeks
27 between December 09, 2018 and <<February 2, 2024, or the date of preliminary approval of this
28 settlement, whichever is earlier>> and <<number of Work Weeks>> Work Weeks between
November 18, 2021 through <<February 2, 2024, or the date of preliminary approval of this
settlement, whichever is earlier>>.

29 **YOUR ESTIMATED SETTLEMENT AWARD AND DISPUTE PROCEDURE**

30 Under the terms of the Class Action Settlement, you are entitled to receive a settlement payment
31 in the approximate estimated amount of <<\$Settlement Share Amount>>, minus all applicable
32 payroll and tax deductions, after the Court approves the Settlement and it goes into effect. This
33 process may take six months or more. You will receive a Form W-2 and a Form 1099 reflecting
34 the payment to you. Your Settlement Share reflected on this Notice is only an estimate. The exact
35 amount of the payment could vary, up or down.

1 If you wish to dispute the number of Work Weeks credited to you, you must complete and return
2 this form by indicating what you believe is incorrect on the blank lines below and return it on or
3 before <<RESPONSE DEADLINE>> to the Administrator by email, fax, or regular U.S. Mail
4 with proof of the submission date (such as a postmark or delivery service date stamp). You may
5 use this Work Weeks Dispute form for this purpose. You must also send any documents or other
6 information that you contend supports your belief that the information set forth above is incorrect.
7 The Administrator will resolve any dispute based upon Defendants' records and any information
8 you provide. Please be advised that the information on this Work Weeks Dispute Form is
9 presumed to be correct unless the documents you submit are company records from Defendants.

10 **UNLESS YOU ARE FILING A DISPUTE REGARDING THE NUMBER OF WORK**
11 **WEEKS, YOU DO NOT NEED TO COMPLETE THIS FORM**

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EXHIBIT D

1 **OBJECTION FORM**

2 ***Pary Al Zahawi v. The Kind Center, Inc.***
3 **Superior Court of the State California, County of Los Angeles**
4 **Case No. 22STCV38571**

5 Please verify and/or complete any missing identifying information:

6 CPT ID: <<CPT ID>>

7 <<Name>>

8 <<Address1>>

<<Address2>>

<<City>>, <<State>> <<Zip>>

CORRECT NAME AND ADDRESS HERE:

Telephone Number: (_____) _____ - _____

10 **THIS FORM IS TO BE USED ONLY IF YOU WANT TO PARTICIPATE IN THE**
11 **SETTLEMENT, BUT YOU OBJECT TO THE TERMS OF THE SETTLEMENT. IF**
12 **YOU OBJECT TO THE SETTLEMENT, YOU SHOULD SIGN AND COMPLETE THIS**
13 **FORM ACCURATELY AND IN ITS ENTIRETY (OR ONE LIKE IT), AND YOU**
14 **SHOULD EMAIL IT TO <<_____@_____.COM>>, FAX IT TO <<XXX-XXX-**
15 **XXXX>>, OR MAIL IT BY FIRST CLASS U.S. MAIL TO THE ADMINISTRATOR SO**
16 **THAT IT IS POSTMARKED ON OR BEFORE <<RESPONSE DEADLINE>>. THE**
17 **ADDRESS FOR THE ADMINISTRATOR IS NOTED ON PAGE TWO OF THIS FORM.**

18 **IF YOU DO NOT OBJECT TO THE SETTLEMENT, DO NOT SUBMIT THIS FORM.**
19 **THE ADMINISTRATOR WILL SEND THIS OBJECTION AND ANY SUPPORTING**
20 **DOCUMENTS TO THE ATTORNEYS FOR THE PARTIES. THE ATTORNEYS FOR**
21 **THE PARTIES WILL FILE THE OBJECTION WITH THE COURT.**

22 The Court will consider your objection at the Final Approval Hearing if you timely submit it.
23 Include any and all evidence and supporting papers (including, without limitation, all briefs,
24 written evidence, and declarations) that you would like the Court to consider. However, you may
25 speak to the Court at the final approval hearing whether or not you submit a timely objection.

26 [] I OBJECT to the *Pary Al Zahawi v. The Kind Center, Inc.* Settlement on the following
27 grounds (if additional space necessary, please include additional sheets of paper):
28 _____

1 [] I am or will be represented by an attorney (provide name and address of attorney on lines
2 below if applicable):

3 _____
4 _____
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7 _____

8
9 Executed on _____, 2023

10 _____
(Signature)

11 <<Name>>

12 _____
(Printed Name)

13
14 EMAIL TO THE ADMINISTRATOR: << _____@_____.COM>>

15 FAX TO THE ADMINITRATOR: <<(XXX) XXX-XXXX>>

16
17 MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL
18 POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:

19 *Pary Al Zahawi* v. *The Kind Center, Inc.* Administrator
[ADDRESS]

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EXHIBIT E

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10 **(UNLIMITED JURISDICTION)**

11 PARY AL ZAHAWI, on behalf of herself and all
12 others similarly situated, and as “aggrieved
13 employees” on behalf of other “aggrieved
14 employees” under the Labor Code Private
Attorneys General Act of 2004,

15 *Plaintiff(s),*

16 vs.

17 THE KIND CENTER, INC., a California
18 corporation; KB COLLECTIVE FOR
19 COMPASSION AND CARE, INC., a California
20 corporation; ENDORS TOI, PBC D/B/A
21 WESTERN FLOWER COMPANY AND THE
22 FLOWER COMPANY, an entity of unknown
form; and DOES 1–50, inclusive,

23 *Defendant(s).*

Case No. 22STCV38571

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

Action filed: December 09, 2022
Dept: 11, The Honorable David
S. Cunningham

24
25 The Motion of Plaintiff Pary Al Zahawi, KB Collective For Compassion And Care, Inc.,
26 and KB Collective For Compassion And Care, Inc. (hereafter referred to as “Plaintiff”) for
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1 Preliminary Approval of a Class Action Settlement (the “Motion”) was considered by the Court,
2 The Honorable David S. Cunningham presiding. The Court having considered the Motion, the
3 Class Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement
4 Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

5 1. The Court grants preliminary approval of the Settlement and the Settlement Class
6 based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary
7 Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court
8 has determined only that there is sufficient evidence to suggest that the proposed settlement might
9 be fair, adequate, and reasonable, and that any final determination of those issues will be made at
10 the final hearing. The Court will make a determination at the hearing on the motion for final
11 approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement
12 is fair, adequate and reasonable to the Settlement Class.
13

14 2. For purposes of this Preliminary Approval Order, the “Settlement Class” means
15 (collectively “Class Members”), all persons employed directly by KB Collective in California as
16 non-exempt, including but not limited to those individuals who worked as delivery drivers and
17 were allegedly jointly employed by KB Collective and Western Flower Company during the Class
18 Period. The “Class Period” shall mean the period of time from December 09, 2018, through
19 February 2, 2024.
20

21 3. The “Gross Settlement Amount” means \$221,500.00 which is the total amount
22 Defendants agree to pay under the Settlement except as provided in Paragraph 9 of the Settlement
23 Agreement. The Gross Settlement Amount will be used to pay Individual Class Payments,
24 Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel
25 Expenses, Class Representative Service Payment and the Administrator’s Expenses.
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1 4. Based on its records, Defendant KB Collective estimates that, at the time of
2 mediation, (1) there were 191 Class Members who collectively worked a total of 7,412 Work
3 Weeks during the Class period and (2) there were 113 PAGA Employees who worked 1,446 Pay
4 Periods during the PAGA Period. If the Work Weeks as of February 2, 2024 exceeds the
5 referenced 7,412 Work Weeks by more than 10.00%, the Gross Settlement Amount, including
6 the Class Counsel Fees Payment, the Class Representative Service Payment, and the LWDA
7 payment, will increase proportionally according to the number of additional Work Weeks, or the
8 Defendants may elect to end the Class Period on the date the number of Class Work Weeks
9 reaches 8,153. Based on the Administrator’s initial review of the Class Data and the number of
10 Work Weeks provided by KB Collective, the escalator clause is not triggered.

12 5. “Effective Date” means the date by when both of the following have occurred: (a)
13 the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
14 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
15 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
16 one or more Participating Class Members objects to the Settlement, the day after the deadline for
17 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the
18 day after the appellate court affirms the Judgment and issues a remittitur.

20 6. The Court recognizes that Plaintiff and Defendants stipulate and agree to
21 certification of a class for settlement purposes only. This stipulation will not be deemed
22 admissible in this, or any other proceeding should this Settlement not become final. Moreover,
23 neither the stipulation nor this Order should be used in this or any other matter as evidence of
24 Defendant’s liability. Accordingly, the findings in this Order are for settlement purposes only
25 and do not represent a finding by this Court on the merits of this case, that Defendants are liable
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1 for any of the conduct alleged or that Plaintiff would succeed in certifying a class or proceeding
2 on a representative basis absent the Parties' stipulation to settle. Accordingly, this action is
3 provisionally certified pursuant to section 382 of the California Code of Civil Procedure and Rule
4 3.760, et seq. of the California Rules of Court as a class action for purposes of settlement only
5 with respect to the proposed Settlement Class.
6

7 7. Not later than 15 days after the Court grants Preliminary Approval of the
8 Settlement, Defendant KB Collective will simultaneously deliver the Class Data to the
9 Administrator, in the form of a password protected Microsoft Excel spreadsheet. To protect Class
10 Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the
11 Class Data only for purposes of the Settlement and for no other purpose, and restrict access to the
12 Class Data to Administrator employees who need access to the Class Data to effect and perform
13 under the Settlement Agreement. Defendants have a continuing duty to immediately notify Class
14 Counsel if they discover that the Class Data omitted class member identifying information and to
15 provide corrected or updated Class Data as soon as reasonably feasible. Without any extension
16 of the deadline by which Defendants must send the Class Data to the Administrator, the Parties
17 and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise
18 resolve any issues related to missing or omitted Class Data.
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20 8. No later than three (3) business days after receipt of the Class Data, the
21 Administrator shall notify Class Counsel that the list has been received and state the number of
22 Class Members, PAGA Members, Work Weeks, and Pay Periods in the Class Data.
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24 9. Using best efforts to perform as soon as possible, and in no event later than 14
25 days after receiving the Class Data, the Administrator will send to all Class Members identified
26 in the Class Data, via first-class United States Postal Service ("USPS") mail, the Notice Packet,
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1 substantially in the forms attached to this order as **Exhibits A, B, C, and D**. The first page of the
2 Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or
3 Individual PAGA Payment payable to the Class Member, and the number of Work Weeks and
4 PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Notice Packets,
5 the Administrator shall update Class Member addresses using the National Change of Address
6 database.

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8 10. Not later than 3 business days after the Administrator's receipt of any Notice
9 Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice Packet
10 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
11 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Notice
12 Packet to the most current address obtained. The Administrator has no obligation to make further
13 attempts to locate or send Notice Packet to Class Members whose Notice Packet is returned by
14 the USPS a second time.

15
16 11. Class Counsel's contact information is David G. Spivak, Esq., The Spivak Law
17 Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069. Defense Counsel's
18 contact information is David J. Fishman, Esq., Ballard Rosenberg Golper & Savitt LLP, 15760
19 Ventura Blvd., 18th Floor, Encino, Ca, 91436 (representing KB Collective) and Heather M. Sager,
20 Esq., Perkins Coie LLP, 505 Howard Street, Suite 1000, San Francisco, California, 94105 and
21 Brittany A. Sachs, Esq., 1888 Perkins Coie LLP, 1888 Century Park East, Suite 1700, Los
22 Angeles, California, 90067 (representing Western Flower Company).

23
24 12. The deadlines for Class Members' written objections, Challenges to Work Weeks
25 and/or Pay Periods (disputes), and Requests for Exclusion will be extended an additional 14 days
26 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is
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1 re-mailed. The Administrator will inform the Class Member of the extended deadline with the
2 re-mailed Notice Packet.

3 13. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
4 discovers any persons who believe they should have been included in the Class Data and should
5 have received Notice Packet, the Parties will expeditiously meet and confer in person or by
6 telephone, and in good faith, in an effort to agree on whether to include them as Class Members.
7 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
8 Members, and the Administrator will send, via email or overnight delivery, a Notice Packet
9 requiring them to exercise options under the Settlement Agreement not later than 14 days after
10 receipt of Notice Packet, or the deadline dates in the Notice Packet, which ever are later.

12 14. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out
13 of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written
14 Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus
15 an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
16 Exclusion is a letter from a Class Member or their representative that reasonably communicates
17 the Class Member's election to be excluded from the Settlement and includes the Class Member's
18 name, address and email address or telephone number. To be valid, a Request for Exclusion must
19 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
20 in Settlement form, attached as Exhibit B, may be used for this purpose but is not required.

22 15. The Administrator may not reject a Request for Exclusion as invalid because it
23 fails to contain all the information specified in the Class Notice. The Administrator shall accept
24 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of
25 the person as a Class Member and the Class Member's desire to be excluded. The Administrator's
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1 determination shall be final and not appealable or otherwise susceptible to challenge. If the
2 Administrator has reason to question the authenticity of a Request for Exclusion, the
3 Administrator may demand additional proof of the Class Member's identity. The Administrator's
4 determination of authenticity shall be final and not appealable or otherwise susceptible to
5 challenge.

6
7 16. Every Class Member who does not submit a timely and valid Request for Exclusion
8 is deemed to be a Participating Class Member under the Settlement Agreement, entitled to all
9 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
10 Members' Releases under Paragraphs 6.2 and 6.3 of the Settlement, regardless whether the
11 Participating Class Member actually receives the Class Notice or objects to the Settlement.

12
13 17. Every Class Member who submits a valid and timely Request for Exclusion is a
14 Non-Participating Class Member and shall not receive an Individual Class Payment or have the
15 right to object to the class action components of the Settlement. Because future PAGA claims
16 are subject to claim preclusion upon entry of Judgment, Non-Participating Class Members who
17 are PAGA Employees are deemed to release the claims identified in Paragraph 6.3 of the
18 Agreement, may not opt-out of the Settlement and are eligible for an Individual PAGA Payment.

19
20 18. Challenges to Calculation of Work Weeks. Each Class Member shall have 60 days
21 after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members
22 whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and PAGA Pay
23 Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a dispute.
24 A Work Week Dispute form, attached as Exhibit C, may be used for this purpose but is not
25 required. The Class Member may challenge the allocation by communicating with the
26 Administrator via fax, email or mail. The Administrator must encourage the challenging Class
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1 Member to submit supporting documentation. In the absence of any contrary documentation, the
2 Administrator is entitled to presume that the Work Weeks contained in the Class Notice are
3 correct so long as they are consistent with the Class Data. The Administrator's determination of
4 each Class Member's allocation of Work Weeks and/or Pay Periods shall be final and not
5 appealable or otherwise susceptible to challenge. The Administrator shall promptly provide
6 copies of all challenges to calculation of Work Weeks and/or Pay Periods to Defense Counsel and
7 Class Counsel and the Administrator's determination the challenges.
8

9 19. Objections to Settlement. Only Participating Class Members may object to the
10 class action components of the Settlement and/or the Settlement Agreement, including contesting
11 the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment,
12 Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
13

14 20. Participating Class Members may send written objections to the Administrator, by
15 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire
16 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
17 Participating Class Member who elects to send a written objection to the Administrator must do
18 so not later than 60 days after the Administrator's mailing of the Notice Packet (plus an additional
19 14 days for Class Members whose Notice Packet was re-mailed). An The Objection form attached
20 as Exhibit D may be used for this purpose but is not required.
21

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

24 22. Not later than 14 days before the date by which Plaintiff is required to file the
25 Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and
26 Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and
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1 compliance with all of its obligations under the Settlement Agreement, including, but not limited
2 to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-mailing
3 of Notice Packets, attempts to locate Class Members, the total number of Requests for Exclusion
4 from Settlement it received (both valid or invalid), the number of written objections and attach
5 the Exclusion List. The Administrator will supplement its declaration as needed or requested by
6 the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's
7 declaration(s) in Court.
8

9 23. The Court approves, as to form and content, the Class Notice in substantially the
10 form attached as Exhibit A to this Order, the Election Not to Participate in Settlement form in
11 substantially the form attached as Exhibit B to this Order, the Work Weeks Dispute form in
12 substantially the form attached as Exhibit C to this Order, and the Objection form in substantially
13 the form attached as Exhibit D to this Order. By making this order, the Court finds that the Class
14 Notice appears to fully and accurately inform the Class Members of all material elements of the
15 proposed Settlement. The Court further finds that the distribution of the Class Notice
16 substantially in the manner and form set forth in the Settlement and this Order meets the
17 requirements of due process, is the best notice practicable under the circumstances, and shall
18 constitute due and sufficient notice to all persons entitled thereto. The form and method of giving
19 notice complies fully with the requirements of California Code of Civil Procedure § 382,
20 California Rules of Court §§ 3.766 and 3.769, the California and United States Constitutions, and
21 other applicable law. The Court orders the mailing of the Class Notice by first class mail, pursuant
22 to the terms set forth in the Settlement.
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25 24. The Court approves, for settlement purposes only, David G. Spivak of The Spivak
26 Law Firm and Benjamin J. Smith of Smith Law as Class Counsel.
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1 25. The Court approves, for settlement purposes only, Pary Al Zahawi as the Class
2 Representative.

3 26. The Court approves ILYM Group, Inc. as the Administrator.

4 27. The Court preliminarily approves Class Counsel's request for attorneys' fees and
5 costs subject to final review by the Court.

6 28. The Court preliminarily approves the estimated Administrator costs payable to the
7 Administrator subject to final review by the Court.

8 29. The Court preliminarily approves Plaintiff's Class Representative Service
9 Payment subject to final review by the Court.

10 30. A Final Approval Hearing shall be held on ____ at .m. in Department 11 of the
11 Superior Court for the State of California, County of Los Angeles, located at the Spring Street
12 Courthouse, 312 N. Spring Street, Los Angeles, CA 90012 to consider the fairness, adequacy and
13 reasonableness of the proposed Settlement preliminarily approved by this Preliminary Approval
14 Order, and to consider the application of Class Counsel for attorneys' fees and costs and the Class
15 Representative Service Payment to the Class Representative. The notice of motion and all briefs
16 and materials in support of the motion for final approval of class action settlement and motion for
17 attorneys' fees and litigation costs shall be served and filed with this Court on or before ____.
18 Plaintiff's counsel must give notice to any objecting party of any continuance of the hearing of
19 the motion for final approval.

20 31. 14. Neither the Settlement nor any exhibit, document, or instrument delivered
21 thereunder shall be construed as a concession or admission by Defendants in any way that the
22 claims asserted have any merit or that this Action was properly brought as a class or representative
23 action, and shall not be used as evidence of, or used against Defendants as, an admission or
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1 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
2 omission by Defendants or with respect to the truth of any allegation asserted by any person.
3 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
4 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
5 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
6 deemed to be evidence for any purpose adverse to the Defendants, including, but not limited to,
7 evidence of a presumption, concession, indication or admission by Defendants of any liability,
8 fault, wrongdoing, omission, concession or damage. Finally, neither the Settlement nor any
9 exhibit, document or instrument delivered thereunder shall be used to argue in this Action or any
10 other matter that Defendants have waived any defense they may have to a class and/or
11 representative action. Nothing herein precludes Defendants from filing the Settlement
12 Agreement, the Court's orders and/or Judgment in any other matter to enforce the terms of the
13 Settlement (assuming it is finally approved by the Court), against a Class Member or PAGA
14 Employee, including, for example, for *res judicata* or estoppel purposes.

17 32. If for any reason the Court does not execute and file a Final Approval Order and
18 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
19 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
20 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
21 litigation, as more specifically set forth in the Settlement. The Parties expressly reserve their
22 respective rights regarding the prosecution and defense of this Action, including all available
23 defenses and affirmative defenses, and arguments that any claim in the Action could not be
24 certified as a class action and/or managed as a representative action. In such an event, the Court's
25 orders regarding the Settlement, including this Order, shall not be used or referred to in litigation
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1 for any purpose. Nothing in this paragraph is intended to alter the terms of the Settlement with
2 respect to the effect of the Settlement if it is not approved.

3 33. The Court expressly reserves the right to adjourn or continue the Final Approval
4 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
5 prompt notice of any continuance to Settlement Class Members who object to the Settlement.
6

7 34. Pending the Final Approval Hearing, all proceedings in this action other than
8 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and the
9 Order, are stayed and all trial and related pre-trial dates are vacated, subject to further orders of
10 the Court at the Final Approval Hearing.

11 **IT IS SO ORDERED.**

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14 **DATE**

14 **THE HONORABLE DAVID S.**
15 **CUNNINGHAM**
16 **SUPERIOR COURT JUDGE**

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EXHIBIT F

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
(UNLIMITED JURISDICTION)

PARY AL ZAHAWI, on behalf of herself and all others similarly situated, and as “aggrieved employees” on behalf of other “aggrieved employees” under the Labor Code Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

THE KIND CENTER, INC., a California corporation; KB COLLECTIVE FOR COMPASSION AND CARE, INC., a California corporation; ENDORS TOI, PBC D/B/A WESTERN FLOWER COMPANY AND THE FLOWER COMPANY, an entity of unknown form; and DOES 1–50, inclusive,

Defendant(s).

Case No. 22STCV38571

[PROPOSED] FINAL ORDER AND JUDGMENT APPROVING CLASS ACTION SETTLEMENT

Action filed: December 09, 2022
Dept: 11, The Honorable David S. Cunningham

This matter came on for hearing on ____ at ____ .m. in Department 11 of the above-captioned court on Plaintiff’s Motion for Final Approval of a Class Action Settlement pursuant to California Rules of Court, Rule 3.769, as set forth in the Joint Stipulation of Class Action Settlement and Release of Claims (the “Settlement”) filed herewith which provides for a Gross Settlement Amount (“GSA”) of up to \$221,500.00 in compromise of all disputed claims on behalf of during

1 the period of December 09, 2018 to February 2, 2024 (“Settlement Class Period”). All capitalized
2 terms used herein shall have the same meaning as defined in the Settlement.

3 In accordance with the Court’s prior Order Granting Preliminary Approval of Class
4 Action Settlement, Class Members have been given notice of the terms of the Settlement and the
5 opportunity to submit a claim, request exclusion, comment upon or object to it or to any of its
6 terms. Having received and considered the Settlement, the supporting papers filed by the Parties,
7 and the evidence and argument received by the Court in conjunction with the motions for
8 preliminary and final approval of the Settlement, the Court grants final approval of the Settlement
9 and HEREBY ORDERS, ADJUDGES, DECREES AND MAKES THE FOLLOWING
10 DETERMINATIONS¹:

11
12 1. The Court has jurisdiction over the subject matter of the Action and over all Parties
13 to the Action, including all Class Members. Pursuant to this Court’s Order Granting Preliminary
14 Approval of Class Action Settlement of ___, the Notice Packet was sent to each Class Member
15 by First Class U.S. mail. The Notice Packet informed Class Members of the terms of the
16 Settlement, their right to receive their proportional share of the Settlement, their right to request
17 exclusion, their right to comment upon or object to the Settlement, and their right to appear in
18 person or by counsel at the Final Approval Hearing and be heard regarding Final Approval of the
19 Settlement. Adequate periods of time were provided by each of these procedures. No member of
20 the Settlement Class presented written objections to the proposed Settlement as part of this notice
21 process, stated an intention to appear, or actually appeared at the final approval hearing.
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25 _____
26 ¹ A true and correct copy of the Court’s ruling on the Motion for Final Approval of Class Action
27 Settlement entered on [REDACTED] is attached hereto as **Exhibit A** and incorporated by reference. A true
28 and correct copy of the Court’s Minute Order dated [REDACTED] is attached hereto as **Exhibit B** and
incorporated by reference.

1 2. For purposes of this Final Order and Judgment, the Class Members means all
2 persons employed directly by KB Collective in California as non-exempt, including but not
3 limited to those individuals who worked as delivery drivers and were allegedly jointly employed
4 by KB Collective and Western Flower Company during the Class Period. The “Class Period” is
5 any time during the period of December 09, 2018 to February 2, 2024 (“Settlement Class Period”).
6

7 3. The Court finds and determines that the notice procedure afforded adequate
8 protections to Class Members and provides the basis for the Court to make an informed decision
9 regarding final approval of the Settlement based on the responses of Class Members. The Court
10 finds and determines that the notice provided in this case was the best notice practicable, which
11 satisfied the requirements of law and due process as to all persons entitled to such notice.
12

13 4. **Release by Plaintiff and Class Members.** The Parties agree that it is their intent
14 that the resolution set forth in this Settlement will release and discharge Plaintiff, the Released
15 PAGA Claims and the Released Class Claims by way of any further attempt, by lawsuit,
16 administrative claim or action, arbitration, demand, or other action of any kind by each and all of
17 the Settlement Class Members (including participation to any extent in any representative or
18 collective action) against the Released Parties. This release will not take effect until Defendants
19 have paid the Gross Settlement Amount in full per the Settlement Agreement.
20

21 **Plaintiff’s Release** shall mean Plaintiff and her respective former and present spouses,
22 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
23 and discharge Released Parties from all claims, transactions, or occurrences that occurred during
24 the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have
25 been, alleged, based on the facts contained, in the Operative Complaint; (b) all PAGA claims that
26 were, or reasonably could have been, alleged based on facts contained in the Operative Complaint,
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1 Plaintiff's PAGA Notice, or ascertained during the Action and released under Paragraph 6.2,
2 below; (c) any and all claims, demands, rights, liabilities and causes of action of every nature and
3 description whatsoever, known or unknown, in federal, state or local statutory or common law,
4 including ordinances, regulations, and wage orders, relating to, or in connection with Plaintiff's
5 relationship with any Released Party, including, but not limited to, her employment and alleged
6 joint employment with any Defendant, her separation from such alleged employment, including,
7 without limitation, claims for any form of harassment, discrimination, wrongful termination;
8 claims under all state and federal equal employment opportunity laws; claims under all federal
9 and state labor statutes and regulations; the Americans with Disabilities Act; Title VII of the Civil
10 Rights Act; the Civil Rights Act of 1991; the Older Workers Benefit Protection Act (OWBPA);
11 the Age Discrimination in Employment Act (ADEA); the Family and Medical Leave Act; the
12 Employee Retirement Income Security Act; the National Labor Relations Act; the Rehabilitation
13 Act of 1973, as amended; the Worker Adjustment Retraining and Notification Act of 1988, as
14 amended; the Uniformed Services Employment and Reemployment Rights Act; the Fair Credit
15 Reporting Act; the California Family Rights Act; the California Fair Employment and Housing
16 Act; the California Pregnancy Disability Leave law; the California Labor Code, including,
17 without limitation, Sections 132(a) and 1102.5; any California Industrial Welfare Commission
18 Wage Order; the Fair Labor Standards Act; the Equal Pay Act; the California Government Code;
19 the California Civil Code, as amended; the California Penal Code, as amended; the California
20 Business and Professions Code; the Families First Coronavirus Response Act; any state and local
21 employment laws regarding COVID-19; the California Privacy Rights Act; the United States
22 Constitution; the California Constitution; and any and all claims for wages, damages, restitution,
23 equitable relief, civil and statutory penalties, liquidated damages and/or punitive damages; and
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1 (d) any and all claims for attorneys' fees and/or costs, and claims relating to any other legal
2 limitation on the alleged employment relationship Plaintiff had, now has or hereinafter may have,
3 up to and including the date of Plaintiff's execution of this Agreement, including without
4 limitation, any and all claims, costs and expenses arising out of or in any way related to Plaintiff's
5 employment or alleged joint employment with KB Collective and Western Flower Company.
6 Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any
7 claims for vested benefits, unemployment benefits, disability benefits, social security benefits,
8 workers' compensation benefits that arose at any time, or based on occurrences outside the Class
9 Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in
10 addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,
11 that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different
12 or additional facts or Plaintiff's discovery of them. The Parties declare and represent that they
13 intend this Agreement to be complete and not subject to any claim of mistake, and that the releases
14 herein express full and complete releases, and that they intend that the releases herein shall be
15 final and complete. However, Plaintiff's release does not include any claims or prayer for relief
16 in Los Angeles County Superior Court Case number 23VECV05310. Defendants shall not be
17 obligated to fund the Gross Settlement Fund until Plaintiff files a dismissal with prejudice of Case
18 Number 23VECV05310.
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21 **Released PAGA Claims** shall mean that all PAGA Employees are deemed to release, on
22 behalf of themselves and their respective former and present representatives, agents, attorneys,
23 heirs, administrators, successors, and assigns, the Released Parties from any and all claims for
24 PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA
25 Period facts stated in the Operative Complaint and/or the PAGA Notice, including, but not limited
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1 to, Labor Code Sections 1194, 1198, 226.7, 512, 226, 201, 202, 203, 204, 210, 2802, 2698 and
2 all applicable Wage Orders (“Released PAGA Claims”). Even if a PAGA Employee chooses to
3 opt out of the Settlement, they will still be bound by the Release of PAGA Claims herein.

4 **“Released Class Claims”** shall mean that all Participating Class Members, on behalf of
5 themselves and their respective former and present representatives, agents, attorneys, heirs,
6 administrators, successors, and assigns, release Defendants and the Released Parties from all
7 rights, demands, liabilities, damages, penalties, suits, debts, obligations, claims and causes of
8 action, whether known or unknown, that were stated or that could have been stated in the
9 Operative Complaint and those based upon the facts alleged in the Operative Complaint, which
10 includes, but is not limited to Labor Code sections 1194, 1198, 226.7, 512, 226, 201, 202, 203,
11 204, 210, 2802, 2698 et seq., all applicable Wage Orders and any and all claims for unpaid wages
12 (including reporting time wages, payment at the correct regular rate of pay and unauthorized
13 deductions); failure to authorize and permit rest periods (including payment of rest break
14 penalties); failure to provide meal periods (including payment of meal period penalties); failure
15 to indemnify business-related expenses; failure to provide accurate itemized wage statements
16 (including wage statement penalties); failure to maintain required payroll records; failure to
17 timely pay wages (including waiting time penalties); all derivative claims; and the California
18 Business & Professions Code section 17200 as it pertains to the underlying Labor Code Claims.
19 Except as set forth in Paragraph 6.3 of this Agreement, Participating Class Members do not
20 release any other claims, including claims for vested benefits, wrongful termination, violation of
21 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
22 workers’ compensation, or claims based on facts occurring outside the Class Period.

26 **“Released Parties”** shall mean Defendants KB Collective and Western Flower Company,
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1 and each of their past, present, and future parent companies, subsidiaries, affiliates, divisions, and
2 agents and all of their respective employees, principals, managing agents, members, attorneys,
3 officers, directors, board members, investors, shareholders, owners, partners, legal
4 representatives, accountants, insurers, trustees, administrators, real or alleged alter egos, real or
5 alleged joint employers, predecessors, successors, transferees, assigns and insurers, including, but
6 not limited to, Endors Toi, PBC (d/b/a Western Flower Company), Prussian Sticks, LLC,
7 McDoestle Company, Inc. and Arthur Lichtenberger.

9 2. The Court further finds and determines that the terms of the Settlement (including
10 the consideration to be paid) are fair, reasonable and adequate, that the Settlement is ordered
11 finally approved, and that all terms and provisions of the Settlement, including the release of
12 claims contained therein, should be and hereby are ordered to be consummated, and directs the
13 Parties to effectuate the Settlement according to its terms. As of the Effective Date of Settlement,
14 and for the duration of the Settlement Class Period, all Class Members are hereby deemed to have
15 waived and released all Released Claims and are forever barred and enjoined from prosecuting
16 the Released Claims against the Released Parties as fully set forth in the Settlement. No objections
17 were received by the Parties or the Court through the date of this Final Order and Judgment. The
18 Court finds ____ Class Member(s) - ____ - submitted a request for exclusion from the Settlement
19 as determined by the Administrator and therefore is/are not in the Settlement Class.

21 3. The Private Attorney Generals Act (“PAGA”) Payment from the Settlement
22 Agreement is for \$5,000 of the Gross Settlement Amount, which is to be allocated \$3,750.00 to
23 the California Labor and Workforce Development Agency (“LWDA”) and \$1,250.00 will be
24 distributed to the PAGA Employees based on their respective PAGA Pay Periods during the
25 PAGA Period. The PAGA Penalties from the Settlement Agreement shall be allocated to all
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1 PAGA Employees regardless of whether they request exclusion from the Class. These PAGA
2 Payments are fair, reasonable and adequate. The Court also finds and determines that the notice
3 Plaintiffs submitted to the LWDA of the Settlement complied with the statutory requirements of
4 PAGA.

5 4. The Court finds and determines that (a) the Settlement Shares to be paid to
6 Participating Class Members and (b) the LWDA PAGA Payment as civil penalties under the
7 California Labor Code Private Attorneys General Act of 2004, as amended, California Labor
8 Code sections 2699 *et seq.*, as provided for by the Settlement are fair and reasonable. The Court
9 hereby grants final approval to, and orders the payment of, those amounts be made to the PAGA
10 Employees and to the California Labor & Workforce Development Agency (“LWDA”), in
11 accordance with the terms of the Settlement.
12

13 5. The Court further grants final approval to and orders that the following payments
14 be made in accordance with the terms of the Settlement:
15

16 a. Class Counsel fees & costs of \$73,833.33 in attorneys’ fees and \$15,000.00
17 in litigation costs to Class Counsel;

18 b. \$5,000.00 as a Class Representative Service Payment award payable to
19 Plaintiff for her services as Class Representative;

20 c. \$12,000.00 in costs of the Administrator payable to ILYM Group, Inc. for
21 its services as the Administrator; and
22

23 d. Payment of \$3,750.00 (75% of the (\$5,000.00 PAGA Penalty) to the
24 LWDA.

25 7. The settlement shall proceed as directed in the Settlement, and no payments
26 pursuant to the Settlement shall be distributed until after the Effective Date of Settlement. Without
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1 affecting the finality of this Final Order and Judgment in any way, the Court retains jurisdiction
2 of all matters relating to the interpretation, administration, implementation, effectuation and
3 enforcement of this Final Order and Judgment and the Settlement pursuant to California Rule of
4 Court 3.769(h) and California Code of Civil Procedure section 664.6.

5 8. Within 30 calendar days of the Effective Date of Settlement, Defendants shall
6 deposit the Settlement proceeds in an account designated by the Administrator: (i) the total
7 amount of all Individual Class Payments to Participating Class Members, (ii) the Court approved
8 Class Counsel fees & costs, (iii) the Court-approved Class Representative Service Payment, (iv)
9 the Court-approved costs of the Administrator, (v) the payment to the LWDA, and (vi) the total
10 amount of all Individual PAGA Payments to PAGA Employees.

11 9. Other than their employer side payroll taxes, Defendants' payment of such sums
12 shall be the sole financial obligation of Defendants under the Settlement, and shall be in full
13 satisfaction of all claims released herein, including, without limitation, all claims for wages,
14 penalties, interest, attorneys' fees, costs and expenses.

15 10. Pursuant to CCP 384 and the Settlement, Participating Class Members shall have
16 one hundred and eighty (180) days from the date of the check's issuance to cash their Settlement
17 Share check. After the expiration of the 180-day period, on Defendants' behalf, the Administrator
18 shall remit any amounts from voided settlement checks and otherwise unclaimed, plus interest on
19 the Residue at the legal rate of interest from the date of entry of the initial judgement to the
20 California Unclaimed Property Fund.

21 11. The Parties shall file a final accounting report by _____. A non-appearance case
22 review re submission of a final report is scheduled for ____ at _____.m. in **Department 11**. The
23 Parties shall also prepare and file a stipulation and proposed order and proposed Amended Final
24

1 Order and Judgment by ____ which includes the amount of distribution of unpaid cash Residue,
2 and unclaimed or abandoned funds to the non-party, the accrued interest on that sum. The
3 stipulation shall be signed by counsel for the class and defense counsel in accord with the
4 proposed Amended Final Order and Judgment. If there are objections by any party or non-party,
5 class counsel shall immediately notify the Court and the matter will be set for further hearing. A
6 non-appearance hearing for the lodging of the stipulation and proposed order and separate
7 amended judgment is scheduled for ____ at ____m. in Department 11.

9 12. Nothing in this Final Order and Judgment shall preclude any action to enforce the
10 Parties' obligations under the Settlement or hereunder, including the requirement that Defendants
11 deposit funds for distribution by the Administrator to Participating Class Members in accordance
12 with the Settlement.

13 13. The Court hereby enters final judgment in this case in accordance with the terms
14 of the Settlement, Order Granting Preliminary Approval of Class Action Settlement, and this Final
15 Order and Judgment.

16 14. The Parties are hereby ordered to comply with the terms of the Settlement.

17 15. The Parties shall bear their own costs and attorneys' fees except as otherwise
18 provided by the Settlement and this Final Order and Judgment.

19 16. The Settlement is not an admission by Defendants nor is this Final Order and
20 Judgment a finding of the validity of any claims in the Action or of any wrongdoing by
21 Defendants. Furthermore, the Settlement is not a concession by Defendants and shall not be used
22 as an admission of any fault, omission, or wrongdoing by Defendants. Neither this Final Order
23 and Judgment, the Settlement, any document referred to herein, any exhibit to any document
24 referred to herein, any action taken to carry out the Settlement, nor any negotiations or
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1 proceedings related to the Settlement are to be construed as, or deemed to be evidence of, or an
2 admission or concession with regard to, the denials or defenses of Defendants, and shall not be
3 offered in evidence in any proceeding against the Parties hereto in any Court, administrative
4 agency, or other tribunal for any purpose whatsoever other than to enforce the provisions of this
5 Final Order and Judgment. This Final Order and Judgment, the Settlement and exhibits thereto,
6 and any other papers and records on file in the Action may be filed in this Court or in any other
7 litigation as evidence of the settlement by Defendants to support a defense of res judicata,
8 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to
9 the Released Class Claims, Released PAGA Claims and Plaintiff's Release.
10

11 17. If the Settlement does not become final and effective in accordance with the terms
12 of the Settlement, then this Final Approval Order and Judgment, and all orders entered in
13 connection herewith (including the Preliminary Approval Order), shall be rendered null and void
14 and shall be vacated, and the Parties shall revert to their respective positions as of immediately
15 prior to December 4, 2023, and expressly reserve their respective rights regarding the prosecution
16 and defense of their respective actions, including all available defenses and affirmative defenses,
17 and arguments that any claim in the Action(s) could not be certified as a class action and/or
18 managed as a representative action.
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20 18. This document shall constitute a Judgment for purposes of California Rule of
21 Court 3.769(h).
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23 **IT IS SO ORDERED, ADJUDGED AND DECREED.**
24

25 _____
26 **DATE**

27 **THE HONORABLE DAVID S.**
CUNNINGHAM
28 **SUPERIOR COURT JUDGE**