CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Marisa Refe ("Plaintiff") and Defendants Stark 2, LLC, Synergy Training Centers LLC, Stark Mgt, LLC, Stark WEHO, LLC, and Todd Vande Hei (collectively, "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1 "**Action**" means the Plaintiff's lawsuit alleging wage and hour violations against Defendants captioned *Marisa Refe v. Stark 2, LLC, et al.* initiated on September 13, 2022, and pending in Superior Court of the State of California, County of Los Angeles.

1.2 "**Administrator**" means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

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

1.4 "**Aggrieved Employee**" means all non-exempt employees who worked either directly or via a staffing agency for any of the Corporate Defendants in California during the PAGA Period.

1.5 "**Class**" means all non-exempt employees who worked either directly or via a staffing agency for one or more of the Corporate Defendants in California during the Class Period.

1.6 "**Class Counsel**" means Shirin Forootan of Forootan Law Corporation and Miranda Mossavar of Mossavar Law, P.C.

1.7 "**Class Counsel Fees Payment**" and "**Class Counsel Litigation Expenses Payment**" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.8 "**Class Data**" means Class Member identifying information in the Corporate Defendants' possession including the Class Member's name, last-known mailing address, Social Security Number, email address (if available), and dates of employment.

1.9 "**Class Member**" or "**Settlement Class Member**" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

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

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

1.12 “**Class Period**” means the period from September 13, 2018, until the date of Preliminary Approval.

1.13 “**Class Representative**” means the named Plaintiff, Marisa Refe, in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

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

1.15 “**Corporate Defendants**” means named Defendants Stark 2, LLC, Synergy Training Centers LLC, Stark Mgt, LLC, and Stark WEHO, LLC.

1.16 “**Court**” means the Superior Court of California, County of Los Angeles.

1.17 “**Defendants**” means named Defendants Stark 2, LLC, Synergy Training Centers LLC, Stark Mgt, LLC, Stark WEHO, LLC, and Todd Vande Hei.

1.18 “**Defense Counsel**” means John P. Nordlund and Samantha S. McPherson of Littler Mendelson P.C.

1.19 “**Effective Date**” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members submits any objections to the Settlement that are not later withdrawn or denied, the later of the following events: (1) five (5) business days after the period for filing any appeal, writ, or other appellate proceeding in connection with the Final Approval Order and Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed; or (2) if any appeal, writ, or other appellate proceeding in connection with the Final Approval Order and Judgment has been filed, five (5) business days after any appeal, writ, or other appellate proceedings in connection with the Final Approval Order and Judgment has been finally and conclusively dismissed with no right to pursue further remedies or relief.

1.20 "**Final Approval**" or "**Final Approval Order**" means the Court's Order Granting Final Approval of the Settlement.

1.21 "**Final Approval Hearing**" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.22 "**Final Judgment**" means the Judgment entered by the Court upon granting Final Approval of the Settlement.

1.23 "**Gross Settlement Amount**" means Three Hundred Sixty-Seven Thousand Five Hundred Dollars and No Cents ($367,500.00), which is the total amount Defendants agree to pay under the Settlement, except as provided in Paragraph 8 below. The Corporate Defendants are also responsible for paying, separate and apart from the Gross Settlement Amount, the Corporate Defendants' share of payroll taxes on the wage portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the Administrator's Expenses.

1.24 "**Individual Class Payment**" means the Participating Class Member's *pro rata* share of the Net Settlement Amount calculated according to the number of Workweeks worked by each Participating Class Member during the Class Period.

1.25 "**Individual PAGA Payment**" means the Aggrieved Employee's *pro rata* share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period. The Administrator will calculate each Class Member's *pro rata* share of the PAGA Penalties by dividing the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period into the 25% of the PAGA Penalties allocated to Aggrieved Employees (*i.e.*, the "PAGA Pay Period Value"), and then multiplying the PAGA Pay Period Value by the number of PAGA Pay Periods actually worked by each Aggrieved Employee during the PAGA Period.

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

1.27 "**LWDA**" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.28 "**LWDA PAGA Payment**" means the seventy-five percent (75%) of the PAGA Penalties (equal to FIFTEEN THOUSAND DOLLARS AND ZERO CENTS ($15,000.00)) paid to the LWDA under Labor Code section 2699, subd. (i).

1.29 "**Net Settlement Amount**" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments; the LWDA PAGA 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.

1.30 "**Non-Participating Class Member**" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion. Class Members who are Aggrieved Employees cannot opt out of the settlement of the PAGA Claim.

1.31 "**Objection**" means a Class Member's written objection to the Settlement, as set forth in Section 7.11. Aggrieved Employees cannot object to the settlement of the PAGA Claim.

1.32 "**Operative Complaint**" means the Third Amended Complaint that Plaintiff will file in this Action pursuant to this Settlement to add Stark WEHO, LLC, as a named defendant and which will allege against all Defendants on behalf of herself and Class Members, the following causes of action: (1) failure to pay overtime compensation (Lab. Code §§ 510, 1198 and 1199); (2) failure to provide meal periods (Lab. Code §§ 226.7 and 512(a)); (3) failure to authorize and permit rest periods (Lab. Code §§ 226 and 226.7); (4) failure to pay minimum and regular rate (Lab. Code §§ 204, 1194, 1194.2, and 1197); (5) failure to timely pay final wages at termination (Lab. Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Lab. Code § 226); (7) failure to reimburse business expenses (Lab. Code §§ 2800 and 2802); (8) unfair business practices (Lab. Code §§ 17200 et seq.); and (9) the PAGA claim (Lab. Code §§ 2699 et seq.). If the Court does not grant the amendment of the Complaint and that Operative Complaint does not become effective for any reason, this Settlement shall become null and void.

1.33 "**PAGA**" means the Labor Code Private Attorneys General Act of 2004 (Labor Code sections 2698, *et seq*.)

1.34 "**PAGA Pay Period**" means any Pay Period during which an Aggrieved Employee worked for one or more of the Corporate Defendants for at least one day during the PAGA Period.

1.35 "**PAGA Period**" means the period from December 15, 2021, until the date of Preliminary Approval.

1.36 "**PAGA Notice**" means Plaintiff's December 15, 2022, letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a). Pursuant to this Agreement, Plaintiff shall amend the PAGA notice to include claims asserted against Stark WEHO, LLC, which, for the purposes of this Settlement only, the Parties agree shall relate back to the December 15, 2022, initial PAGA Notice.

1.37 "**PAGA Penalties**" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount equal to TWENTY THOUSAND DOLLARS AND ZERO CENTS ($20,000.00), allocated twenty-five (25%) to the Aggrieved

Employees (equal to FIVE THOUSAND DOLLARS AND ZERO CENTS ($5,000.00)) and seventy-five percent (75%) to the LWDA (equal to FIFTEEN THOUSAND DOLLARS AND ZERO CENTS ($15,000)) in settlement of the PAGA Claim.

1.38 "**Participating Class Member**" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.39 "**Plaintiff**" means Marisa Refe, the named plaintiff in the Action.

1.40 "**Preliminary Approval**" means the Court's Order Granting Preliminary Approval of the Settlement.

1.41 "**Preliminary Approval Order**" means the proposed Order Granting Preliminary Approval of the Settlement.

1.42 "**Released Class Claims**" means the claims being released as described in Paragraph 5.3below.

1.43 "**Released PAGA Claims**" means the claims being released as described in Paragraph 5.6below.

1.44 "**Released Parties**" means: Defendants, including their respective parent corporations, affiliates, subsidiaries, divisions, predecessors, insurers, reinsurers, successors, and assigns, and their current and former employees, attorneys, officers, directors, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities.

1.45 "**Request for Exclusion**" means a Class Member's written request to be excluded from the Class Settlement, as set forth in Section 7.9. Class Members who are Aggrieved Employees cannot opt out of the settlement of the PAGA Claim.

1.46 "**Response Deadline**" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.

1.47 "**Settlement**" means the disposition of the Action effected by this Agreement and the Judgment.

1.48 "**Wage Portion**" means the ten percent (10%) portion of Individual Class Member Payments the Parties have agreed will be allocated as wages as set forth in Paragraph 3.2.4.1.

1.49 "**Workweek**" means any week during which a Class Member worked for one of the Corporate Defendants for at least one day, during the Class Period. Workweeks shall be calculated by the Administrator by dividing the total days Class Members were employed by one of the Corporate Defendants during the Class Period, based upon the Corporate Defendants' employee history data, by seven (7). Partial Workweeks shall be rounded up to the nearest whole number.

2. RECITALS.

2.1 On September 13, 2022, Plaintiff commenced this Action by filing a class action Complaint on behalf of herself and Class Members alleging causes of action for: (1) failure to pay overtime compensation (Lab. Code §§ 510, 1198 and 1199); (2) failure to provide meal periods (Lab. Code §§ 226.7 and 512(a)); (3) failure to authorize and permit rest periods (Lab. Code §§ 226 and 226.7); (4) failure to pay minimum and regular rate wages (Lab. Code §§ 204, 1194, 1194.2, and 1197); (5) failure to timely pay wages at termination (Lab. Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Lab. Code § 226); (7) failure to reimburse business expenses (Lab. Code §§ 2800 and 2802); and (8) unfair business practices (Lab. Code §§ 17200 et seq.). Thereafter, on March 1, 2023, Plaintiff filed a First Amended Complaint adding a cause of action for civil penalties under PAGA, but omitting Defendants Synergy Training Centers, LLC, and Stark MGT, LLC. On April 6, 2023, Plaintiff filed a Second Amended Complaint ("Operative Complaint") to include all originally-named Defendants. Pursuant to this Settlement, Plaintiff shall file the Operative Complaint and amend the PAGA Notice to add Defendant Stark WEHO, LLC. If, for any reason, Plaintiff does not amend the PAGA Notice and/or the Court does not allow the filing of the Operative Complaint or the Operative Complaint is not filed for any reason, this Settlement shall become null and void.

2.2 Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in in the Operative Complaint, and deny any and all wrongdoing or liability for the causes of action alleged.

2.3 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to the LWDA by sending the PAGA Notice. For the purposes of this Settlement only, the Parties agree that the amendment to the PAGA Notice as contemplated by this Agreement shall relate back to the date of the initial filing of the PAGA Notice.

2.4 On September 7, 2023, the Parties participated in an all-day mediation presided over by Steven G. Mehta, Esq. of Mediation Offices of Steven G. Mehta, Esq., after which the Parties accepted a mediator's proposal contingent upon a review of Defendants' financial records.

2.5 After the mediation, Plaintiff retained a forensic accountant to evaluate the financial condition of the Corporate Defendants. On January 12, 2023, the Parties, with their counsel and financial representatives—including Plaintiff's retained forensic accountant—engaged in a second mediation session with Mr. Mehta, after which Plaintiff rescinded the settlement agreement due to disagreement regarding Defendants' financial condition.

2.6 Thereafter, the Parties continued settlement discussions with the assistance of Mr. Mehta and, thereafter, directly between counsel. Eventually, both Parties retained bankruptcy counsel and had an additional meeting, including bankruptcy counsel, to further discuss potential settlement. The Parties finally reached a settlement in principle for the Gross Settlement Amount—the value of Mr. Mehta's initial mediator's proposal—on May 10, 2024.

2.7 Prior to mediation Plaintiff obtained, through informal discovery, Plaintiff's personnel file, including time and payroll records, the employee handbooks in effect during the Class Period, including policies and procedures regarding the payment of wages, the provision of meal and rest breaks, timekeeping policies (including recording hours), issuance of wage statements, and termination wages, 100% of the payroll and time records for the Class Members, the number of putative Class Members, the estimated number of workweeks, the average shift length, and the average hourly rate, among other information. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 *and Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.8 The Court has not yet granted class certification.

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

3. MONETARY TERMS.

3.1 **Gross Settlement Amount**. Except as otherwise provided by Section 8below, Defendants promise to pay THREE HUNDERED SIXTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS ($367,500.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.4 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1 **To Plaintiff**: A Class Representative Service Payment to the Class Representative of not more than TEN THOUSAND DOLLARS AND ZERO CENTS ($10,000.00) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for the Class Representative Service Payment that does not exceed this amount. As part of the Final Approval motion, Plaintiff will seek Court approval for any Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. 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 pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 **To Class Counsel**: A Class Counsel Fees Payment of not more than thirty-three and one-third percent (33.3%) of the Gross Settlement Amount, which is currently estimated to be ONE HUNDRED AND TWENTY-TWO THOUSAND THREE HUNDRED AND SEVENTY-SEVEN DOLLARS AND FIFTY CENTS ($122,377.50) and a Class Counsel Litigation Expenses Payment of not more than TWENTY-FIVE THOUSAND FIVE HUNDRED SEVENTY-FOUR DOLLARS AND FIFTY-SIX CENTS ($25,574.56.) Defendants will not oppose requests for these payments provided that do not exceed these amounts. As part of the Final Approval motion, Plaintiff and/or Class Counsel will request approval of the Class Counsel Fees Payment and Class Litigation Expenses Payment. If the Court approves a Class Counsel Fees Payment 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 have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants from any dispute or controversy regarding any division or sharing of any of these payments.

3.2.3 **To the Administrator**: An Administrator Expenses Payment not to exceed FOUR THOUSAND NINE HUNDRED AND FIFTY DOLLARS AND ZERO CENTS ($4,950.00), except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than the requested amount, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 **To Each Participating Class Member**: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. All Participating Class Members will be credited with at least one Workweek.

3.2.4.1 **Tax Allocation of Individual Class Payments**. Ten percent (10%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining ninety percent (90%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for [e.g., interest and penalties] (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5 **To the LWDA and Aggrieved Employees**: PAGA Penalties in the amount of TWENTY THOUSAND DOLLARS AND ZERO CENTS ($20,000.00) to be paid from the Gross Settlement Amount, with seventy-five percent (75%) (equal to FIFTEEN THOUSAND DOLLARS AND ZERO CENTS ($15,000.00) allocated to the LWDA PAGA Payment and twenty-five percent (25%) (equal to FIVE THOUSAND DOLLARS AND ZERO CENTS ($5,000.00)) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the total allocated amount for the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties (equal to FIVE THOUSAND DOLLARS AND ZERO CENTS

($5,000.00)) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period; and (b) multiplying the result by each Aggrieved Employee's individual PAGA Pay Periods.

3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.5.3 Individual PAGA Payments shall be treated as payment of penalties for tax purposes. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. All Aggrieved Employees will be credited with at least one PAGA Period Pay Period.

3.2.5.4 The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 **Class Workweeks and PAGA Pay Periods**. Based on a review of its records to date, Defendants estimate there were eighty-nine (89) Class Members who collectively worked a total of 6,532 Workweeks, and approximately sixty-eight (68) Aggrieved Employees who worked a total of approximately 1,832 PAGA Pay Periods through the date of mediation.

4.2 **Class Data**. Not later than thirty (30) days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants 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. If an extension of any timing of Class Notice or Response Deadlines set forth in this Agreement are necessary, the Parties shall meet and confer to informally resolve any issues without Court approval if Final Approval deadlines and requirements are not impacted. The Parties shall seek Court approval for any modifications to this Agreement and any Court orders as necessary.

4.3 **Notification of Payroll Taxes**. The Administrator shall provide Defendants an accounting of the amount of their portion of payroll taxes no later than seven (7) days after the Effective Date.

4.4 **Funding of Gross Settlement Amount**. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

4.5 **Payments from the Gross Settlement Amount**. Within fourteen (14) days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.5.1 The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The envelope transmitting a settlement payment to a Participating Class Member or Aggrieved Employee shall bear the notation, "YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED." The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.5.2 The Administrator must conduct a Class Member Address Search for all other Participating Class Members and Aggrieved Employees whose checks are retuned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member and/or Aggrieved Employee whose original check was lost or misplaced, requested by the Participating Class Member and/or Aggrieved Employee prior to the void date.

4.5.3 **Undeliverable Checks to Current Employees**. If any settlement checks returned as undeliverable belong to Participating Class Members or Aggrieved Employees who are current employees of one of the Corporate Defendants, and the Administrator is unable to locate a valid mailing address for the employees, the Administrator shall arrange with the Defendants to have those settlement checks delivered to the employees at their place of employment.

4.5.4 **Reminder Postcard.** The Administrator shall mail a reminder postcard to any Participating Class and/or Aggrieved Employee whose settlement check has not been negotiated within sixty (60) days after the date of mailing.

4.5.5 For any Participating Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure section 384, subd. (b).

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

5. RELEASES OF CLAIMS. Upon Final Approval and entry of Judgment, Plaintiff and Class Members will release claims against all Released Parties as follows:

5.1 **Plaintiff's Release**. In addition to the release of the Released Class Claims against the Released Parties made by all Participating Class Members and the release of the PAGA Claim made by all Aggrieved Employees, as set forth below, Plaintiff, in her individual capacity, further agrees that, in exchange for Defendants' payment to Plaintiff of the Court-approved Class Representative Service Payment, to release the Released Parties from any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, arising as of the date of execution of this Agreement, including, but not limited to, claims arising from or related to her employment with Defendants and their compensation while an employee of Defendants ("Plaintiff's Released Claims"). Plaintiff's Released Claims include, but are not limited to, all of the Released Claims and any other claims arising under the California Labor Code; any claim arising out of the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. section 201 et seq., and federal common law; all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination, including, but not limited to, 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract and tort. This release excludes the release of claims not permitted by law including, without limitation, any claims for workers' compensation benefits.

5.2 **Plaintiff's Waiver of Section 1542.** Plaintiff's Released Claims include all claims, whether known or unknown. Even if Plaintiff discovers facts in addition to or different from those that he now knows or believes to be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain released and forever barred. To effect a full and complete general release as described above, Plaintiff expressly waives and relinquishes all rights and benefits of Section 1542 of the Civil Code of the State of California, and does so understanding and acknowledging the significance and consequence of specifically waiving Section 1542. Section 1542 of the Civil Code of the State of California states as follows:

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

Thus, notwithstanding the provisions of Section 1542, and to implement a full and complete release and discharge of Released Parties, Plaintiff expressly acknowledges this Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Agreement, and that this Settlement contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this Agreement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing regarding this Agreement and specifically about the waiver of Section 1542, and that Plaintiff understands this Agreement and the Section 1542 waiver, and so Plaintiff freely and knowingly enter into this Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement, and even so Plaintiff agrees that the releases and agreements contained in this Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

5.3 **Release by Participating Class Members ("Class Release")**: As of the Effective Date, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from any and all claims that were alleged, or reasonably could have been alleged, arising, accruing, or existing during the Class period based on the facts stated in the Operative Complaint, regardless of legal theory asserted, including any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, liquidated damages, penalties, actions, or causes of action of any nature under state, federal, or local law, whether statutory, common law or administrative law arising from any and all allegations that Defendants: (1) failed to pay overtime compensation; (2) failed to provide meal periods; (3) failed to authorize and permit rest periods; (4) failed to pay minimum and regular rate wages; (5) failed to timely pay wages at termination; (6) failed to provide accurate itemized wage statements; (7) failed to reimburse business expenses; and (8) engaged in unfair business practices. ("Released Claims") This Release also covers all claims for interest, attorneys' fees and costs related to the Action. In addition, any Class Member who has not timely and appropriately opted out of this Settlement in accordance with the Request for Exclusion process set forth in Section 7.9 shall be a Participating Class Member and forever agrees that he or she shall not institute a claim, nor accept back pay, unpaid wages, liquidated damages, penalties of any nature, attorneys' fees and costs, or any other relief from any other suit, class, collective action, or representative or administrative claim, or other claim of any sort or nature whatsoever against the Released Parties containing Released Claims. Notwithstanding, no Class Member is permitted to submit a Request for Exclusion from or object to the settlement of the PAGA Claim and all Aggrieved Employees shall be bound by the release of the PAGA Claim regardless of whether the Aggrieved Employee timely submits a valid Request for Exclusion.

5.4 Participating Class Members only release these claims for the duration of the Class Period. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.5 **Effective Dates of Class Release.** The Class Release set forth in Paragraph 5.3shall cover all claims held by Class Released Claims held by Participating Class Members during the Class Period.

5.6 **PAGA Release**: All Class Members who are Aggrieved 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 all claims for PAGA penalties that were alleged, or reasonably could have been alleged, arising, accruing, or existing during the PAGA Period based on the facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1 **Plaintiff's Responsibilities**. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice, including Objection and Request for Exclusion forms; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; whether the fee listed in the bid is (1) fixed, (2) hourly, or (3) hourly with a cap, along with an explanation of how the fee was calculated; experience; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator. In their Declarations, Plaintiff and Class Counsel shall disclose or 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. Class Counsel's Declaration will also disclose whether settlement administration bids were sought from multiple potential administrators and, if so, the results of that competitive bidding. Plaintiff's

Counsel will provide Defense Counsel for review and consideration the drafts set forth in this Paragraph at least seven (7) calendar days prior to the filing of the Motion for Preliminary Approval.

6.2 **Responsibilities of Counsel**. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than forty-five (45) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator.

6.3 **Duty to Cooperate**. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

6.4 **Proposed Preliminary Approval Order**. In connection with the Motion for Preliminary Approval, the Parties shall apply for a Preliminary Approval Order that contains the following provisions:

(a) Conditionally certifying the Class for purposes of this Settlement only;

(b) Appointing Class Counsel;

(c) Appointing Plaintiff as Class Representative;

(d) Preliminarily approving this Settlement under the legal standards relating to the preliminary approval of class action settlements;

(e) Approving the form of the Class Notice and finding that the proposed method of disseminating the Class Notice meets the requirements of California Code of Civil Procedure section 382 and due process, and is the best notice practicable under the circumstances;

(f) Preliminarily approving the settlement of the PAGA Claim and the PAGA Payment;

(g) Approving ILYM Group as the Settlement Administrator;

(h) Establishing the procedures and the deadline by which Class Members may assert Objections to or submit Requests for Exclusion from the Settlement;

(i) Directing the mailing of the Class Notice by first class mail to the Class;

(j) Setting a date for the Final Fairness Hearing;

(k) Setting a date that is approximately five (5) court days before the date of the Final Fairness Hearing by which the Parties must file their respective responses to any Objections to the Joint Stipulation of Settlement that were filed by Class Members on or before the Response Deadline; and

(l) Providing that, pending the Court's final determination of whether the proposed Settlement will be approved, and in aid of the Court's jurisdiction and to prevent a multiplicity of lawsuits, Class Representative and all other Class Members, and anyone acting on their behalf (including, but not limited to, attorneys, representatives, and agents of any Class Member), who have actual knowledge of this Settlement, are barred and enjoined from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of himself or herself, or in any other capacity of any kind whatsoever, any action in this Court, any other state or federal court, or any arbitration or mediation proceeding or any other similar proceeding, against any Released Party that asserts any claims that are Released Claims that would be released and discharged upon final approval of this Settlement, except as the Court may further order upon application of a Class Member and notice to all Parties, and unless and until any such Class Members have timely and appropriately opted-out of this Settlement.

7. SETTLEMENT ADMINISTRATION.

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

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

7.3 **Qualified Settlement Fund**. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 The Administrator shall pay the Corporate Defendants' share of payroll taxes and withholdings on that portion of Individual Class Payments to Participating Class Members that is allocated to wages to the relevant state and federal taxing agencies in accordance with applicable law and regulations on behalf of the Corporate Defendants. The Administrator will also be responsible for issuing any required state and federal reporting documents (such as IRS Forms W-2s and 1099s) to Participating Class Members, Class Counsel, and Plaintiff on behalf of the Corporate Defendants. The Administrator shall provide Defendants an accounting of their share of employer taxes to be paid in addition to the Gross Settlement Amount within seven (7) days of the Effective Date.

7.5 The Administrator shall withhold appropriate federal, state, and local income taxes and Class Members' share of FICA and Medicare taxes in accordance with the Settlement.

7.6 For all purposes, Individual Class Payments and/or Individual PAGA Payments shall be deemed to be paid to Class Members solely in the year in which payment of such Individual Class Payments and/or Individual PAGA Payments are actually received by the Class Members. It is expressly understood and agreed that the receipt of such Individual Class Payments and Individual PAGA Payments will not entitle any Class Member to additional compensation or benefits under any company bonus, contest, or other compensation, or benefit plan or agreement in place during the Class Period, nor will it entitle any Class Member to any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement that Individual Class Payments and Individual PAGA Payments are the sole payments to be made by Defendants to Class Members, and that Class Members are not entitled to any new or additional compensation or benefits as a result of having received the Individual Class Payments and/or Individual PAGA Payments.

7.7 **Privacy of Class Data.** Any production of information to Class Counsel from the Class Data must be made in redacted form so that only the dates of employment, calculation of Workweeks and/or PAGA Pay Periods, and calculation of Individual Class Payments and/or Individual PAGA Payments will be provided. Other private information, including name, address, phone number, email address, social security number, or other identifying information shall not be provided to Class Counsel.

7.8 **Notice to Class Members**.

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

7.8.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class

Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

7.8.4 Unless the Administrator receives a Class Notice returned from the United States Postal Service for reasons discussed in this Section, that Class Notice shall be deemed mailed and received by the Class Member on the date it was sent.

7.8.5 The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

7.9 Requests for Exclusion (Opt-Outs).

7.9.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

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

7.9.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Non-Participating Class Members who are Aggrieved Employees will remain eligible for an Individual PAGA Payment.

7.10 **Challenges to Calculation of Workweeks or PAGA Pay Periods**. Each Class Member shall have forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail. The Corporate Defendants' employment history data will be presumed correct unless the Class Member otherwise proves to the Administrator by providing written documentation to support the correction. In the absence of any contrary documentation, the Administrator must presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods the Administrator's determination the challenges to Defense Counsel. The

Administrator shall notify Class Counsel, ***in redacted format*** to safeguard the identity and contact information of any Class Members, that a Workweek and/or PAGA Pay Period dispute has been received, the determination of the dispute, and the impact on the total class Workweek and/or PAGA Pay Period calculations and settlement payment calculations.

7.11 Objections to Settlement.

7.11.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class Representative Service Payment. Class Members cannot object to the Settlement if they submit a valid Request for Exclusion.

7.11.2 Participating Class Members may send written objections to the Administrator by fax, email, or mail. The information required to be provided by an objecting Class member shall not exceed the minimum information necessary to (i) identify the objector as a person entitled to object to the Settlement, (ii) describe the nature of and basis for the objection, and (iii) contact the objector to clarify any uncertainties. Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

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

7.11.4 Neither Plaintiff, Class Counsel, Defendants, Defense Counsel, nor the Class shall be responsible for fees, costs, or expenses related to any Class Members who submit objections to the Settlement or any appeal by an objector arising from the Action for attorneys' fees, costs, or expenses of any kind.

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

7.12.1 **Website, E-Mail Address, and Toll-Free Number**. The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator will post the Court's final judgment on its website, for which the Class Notice will direct Class Members to check, following the hearing on Plaintiff's Motion for Final Approval. The posting of the final judgment on the Administrator's website will satisfy the requirements of Cal. Rules of Court, rule 3.771(b).

7.12.2 **Requests for Exclusion (Opt-Outs) and Exclusion List**. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Defense Counsel containing (a) the names, the dates of employment and Workweek and/or PAGA Pay Period calculations, and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid). The Administrator shall contemporaneously provide to Class Counsel a ***redacted*** version of the Exclusion List with names and contact information of Class Members excluded, but containing the number of Workweeks and/or PAGA Pay Periods at issue in the Request(s) for Exclusion.

7.12.3 **Weekly Reports**. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks 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 provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

7.12.5 **Administrator's Declaration**. Not later than fourteen (14) days after the Response Deadline, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to: (a) a description of both the Administrator's distribution of the Class Notice, Objection Form, Exclusion

Form, and the results thereof, distinguishing between valid forms and any invalid forms that are untimely, incomplete, or otherwise invalid; (b) attaching and authenticating copies of the final versions of the Class Notice, Objection form, and Request for Exclusion form; (c) attaching and authenticating copies of every Objection form and Request for Exclusion form received with names redacted; (d) an English translation of any Objection form or Request for Exclusion from received that is not in English; (d) a description of the services performed by the Administrator to the date of the declaration, including the time and expense incurred to perform those services and the fee charged for the services; (e) a description of the services to be performed by the Administrator after the date of the declaration, including an estimate of the time and expenses needed to perform those services and the estimated fee for those services; and (f) an estimate of the Corporate Defendants' payroll taxes that will need to be paid in addition to the Gross Settlement Amount. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.12.6 **Final Report by Settlement Administrator**. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to (i) the date the checks were mailed, (ii) the total number of checks mailed to Class Members, (iii) the average amount of those checks, (iv) the number of checks that remain uncashed, (v) the total value of those uncashed checks, (vi) the average amount of the uncashed checks, and (vii) the nature and date of the disposition of the uncashed funds.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

8.1 Based on its records, Defendants estimate that, as of the date of mediation, there were eighty-nine (89) Class Members and 6,532 Total Workweeks during the Class Period.

8.2 The Gross Settlement Amount was agreed upon based on Defendants' representations of its financial condition and the total number of Workweeks in the Class Period. If the number of Workweeks during the Class Period exceeds 6,532 by more than fifteen percent (15%) (*i.e.* more than 979 more Workweeks or more than 7,511 Workweeks total), Defendant shall have the option to either: (a) increase the Gross Settlement Amount on a *pro rata* basis by each one percent (1%) the fifteen percent (15%) threshold (*e.g.* if the total Workweeks exceed 6,532 by sixteen percent (16%), the Gross Settlement Agreement will increase by one percent (1%)); or (b) cut off the Class Period as of the date the total Workweeks exceed 6,532 by more than fifteen (15%) without increasing the Gross Settlement Agreement. The Parties agree that this escalator clause is fair and reasonable under the circumstances of this case given the prolonged arm's length negotiations and discussions of Defendants' financial condition, including lengthy discussions with the Parties' respective bankruptcy counsel.

8.3 Defendants shall notify the Administrator and Class Counsel of its election pursuant to Section 8.2 within fourteen (14) from which Defendants receive from the Administrator notice that the escalator clause has been triggered, the accounting of estimated Workweeks, and estimate of increase in the Gross Settlement Amount.

9. DEFENDANTS' RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total of all Class Members or consists of Class Members who worked more than ten percent (10%) of total Workweeks, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if 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; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its 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.

10. MOTION FOR FINAL APPROVAL. Not later than sixteen (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 as soon as practicable prior, and no later than seven (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.

10.1 **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 no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

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

10.3 **Proposed Final Approval Order.** With the Motion for Final Approval, the Parties shall submit a proposed Final Approval Order that shall include the following provisions:

(a) Finding that the dissemination of the Class Notice in the form and manner ordered by the Court was accomplished as directed, met the requirements of due process, was the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons entitled thereto;

(b) Finding that the Class Representatives and Class Counsel herein have fairly and adequately represented and protected the interests of the Class at all times in the Action;

(c) Finally approving the Settlement as fair, reasonable, and adequate, and directing consummation of the Joint Stipulation of Settlement in accordance with its terms and provisions;

(d) Finally approving the settlement of the PAGA Claim; and

(e) Entering judgment pursuant to California Rule of Court 3.769 as set forth in Paragraph **Error! Reference source not found.**.

10.4 **Judgment.** The Judgment shall include the following provisions:

(a) Definition of the Class and Aggrieved Employees;

(b) Direction to the Parties to implement the terms of the Settlement, including, without limitation, the provisions regarding the payment of the Individual Settlement Payments to Participating Class Members, Individual PAGA Payments to Aggrieved Employees, and the portion of the PAGA Payment to the LWDA, as set forth in Paragraphs 3.2.4 through 3.2.5.4;

(c) Entering judgment and permanently barring and enjoining all Aggrieved Employees from prosecuting any future PAGA Claim released by this Settlement and permanently barring and enjoining all Participating Class Members from prosecuting against any of the

Released Parties, any individual, class, representative, or collective claims based on any of the Released Claims released herein;

(d) Awarding reasonable attorneys' fees, costs, and expenses to Class Counsel and the Administrator as provided in Paragraphs 3.2.2 and 3.2.3, and subject to the limitations set forth therein, or reserving jurisdiction with respect thereto;

(e) Awarding enhancements to the Class Representative as provided in Paragraph 3.2.1, and subject to the limitations set forth therein, or reserving jurisdiction with respect thereto; and

(f) Pursuant to Code of Civil Procedure section 664.6, reserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Settlement, over the enforcement, construction and interpretation of this Settlement, over the enforcement, construction, and interpretation of the Judgment, including, but not limited to, the provisions therein enjoining any further litigation of Released Claims, and over Plaintiff and all Class Members (and their attorneys and law firms) in connection therewith.

10.5 **Continuing Jurisdiction of the Court**. The Parties agree that, after entry of Judgment, the Court, pursuant to Code of Civil Procedure section 664.6, will retain jurisdiction over the Parties, Action, and the Settlement solely for 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.

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

Administrator shall have no right to appeal any reduction of or denial of any increase of the Administration Expenses Payment.

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

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

12. FINALITY; EFFECT OF THE AGREEMENT NOT BEING FINAL.

12.1 Finality. The approval of the Agreement shall be considered final on the Effective Date. Except as expressly stated herein, none of the obligations of Defendants pursuant to the Agreement shall become effective until the Settlement becomes final, but Defendants may waive this condition in writing.

12.2 Settlement Not Final. In the event that the Settlement does not become final, or does not become effective for any reason other than the failure of any Party to perform such Party's obligations hereunder (except as to the Settlement not becoming final because of any appeal, which circumstance can be waived by Defendants), then the Agreement shall become null and void and of no further force and effect, and all negotiations, proceedings, and statements relating thereto shall be without prejudice as to the rights of any and all Parties hereto and their respective predecessors and successors, and all Parties and their respective predecessors and successors shall be deemed to have reverted to their respective positions in the Action as of the date and time immediately prior to the execution of this Agreement, and except as otherwise expressly provided, the effect shall be the same as if the Agreement was terminated pursuant to Paragraphs 12.21 and 12.22 .

13. TERMINATION OF SETTLEMENT

13.1 **Terminating Events**. This Settlement shall be void, the class certification order shall be nullified, and the Preliminary Approval Order and the Final Approval Order and Judgment shall be vacated upon application to the Court in the event that: (a) Defendants exercises its rights under Section 9 (subject to the terms and conditions set forth therein); (b) the Court declines to enter Preliminary Approval of this Settlement or declines to enter the Final Approval Order or Judgment or any part thereof as provided for herein, or the Parties hereto fail to consent to the entry of alternative forms of Judgment, in lieu thereof, or after such consent the Court declines to enter such alternate form of Judgment; or (c) the Court approves this Settlement, including any amendments hereto, but any such Judgment and Final Approval Order is finally reversed on appeal.

13.2 **Effect of Termination.** Upon any such occurrence set forth above in Paragraph 13.1: (a) this Agreement (with the exception of Paragraphs 12.2, 14.1, 14.2, and 14.6) shall be terminated and become void and of no effect, except for the obligation of the Parties to pay, on an equal basis (except that Defendants will be responsible for the Settlement Administrator's fees if Defendants exercise their right to rescind the Settlement pursuant to Section 9), for any and all expenses incurred in connection with the notice and administration of the Settlement on or before the date on which the Settlement is terminated; (b) any actions taken or to be taken in connection with this Agreement and the Settlement shall become null and void and of no effect; (c) this Settlement and any hearings or proceedings thereunder shall not be referred to or used as evidence for or against any Party or Class Member in this or any other action or proceeding; and (d) all pretrial proceedings, including discovery, shall resume thirty (30) calendar days thereafter as if this Agreement had not been submitted for approval of the Court.

14. ADDITIONAL PROVISIONS.

14.1 No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval, or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. Moreover, Defendants reserve the right to challenge whether the amendment to the PAGA Notice relates back to its initial filing if this Settlement does not become final for any reason.

14.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants, and Defense Counsel separately agree that, until the Motion for Preliminary Approval 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, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect.

14.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment.

14.4 No Public Comment. Plaintiff and Class Counsel agree they will not issue any press releases, publish any information relating to the Settlement on their website, or have any communications with the media, other than to direct the media to the public records of the Action on file with the Court or to respond with statements that have been previously agreed upon in writing by the Parties. Class Counsel will take reasonable steps to ensure Plaintiff is aware of, and will adhere to, the restriction against any media comment on the Settlement and its terms. Further, Class Counsel will not include, reference, or use this Settlement for any marketing or promotional purposes, or for attempting to influence business relationships of Defendants, either before or after the Motion for Preliminary Approval is filed. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, the settlement amounts, and a general description of the Action, to a court in a declaration by Class Counsel.

14.5 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibit(s) shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

14.6 Severability. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way affect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties and the Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

14.7 **Attorney Authorization**. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

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

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

14.10 **No Tax Advice**. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. Class Members and Class Counsel understand and agree that Class Members shall be responsible for the payment of all of their taxes and penalties assessed on the payments specified herein, and shall hold the Parties, Class Counsel, and Defense Counsel free and harmless from and against any claims resulting from their treatment of such payments as non-taxable, including the treatment of such payments as not subject to withholding or deduction for payroll and employment taxes.

14.11 **Circular 230 Disclaimer:**

EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT: (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR

DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

14.12 **Modification of Agreement**. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court. Without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of this Settlement if such extension does not materially impact prior orders of the Court.

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

14.14 **Applicable Law**. All terms and conditions of this Agreement and its exhibit(s) will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

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

14.16 **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.

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

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

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

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

To Plaintiff:

Shirin Forootan
shirin@forootanlaw.com
Forootan Law Corp.
3334 E. Coast Hwy, No. 307
Corona del Mar, CA 92625

Miranda Mossavar
miranda@mossavarlaw.com
Mossavar Law, P.C.
8350 Wilshire Blvd., 3rd Fl.
Beverly Hills, CA 90211

To Defendants:

John P. Nordlund
Samantha S. McPherson

Littler Mendelson P.C.
501 W. Broadway, Suite 900
San Diego, CA 92101
JNordlund@littler.com
SMcPherson@littler.com

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

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

[Signatures on Next Page]

Dated: 10/17/2024

Plaintiff Marisa Refe

Dated: 10/18/24

Name: Todd Vande Hei

On behalf of Defendants Stark 2, LLC, Synergy Training Centers LLC, Stark Mgt, LLC, Stark WEHO, LLC, and Todd Vande Hei

Dated: 10/17/2024

FOROOTAN LAW CORP

Shirin Forootan, Esq.
Attorneys for Plaintiff and the Class

Dated: 10/17/24

MOSSAVAR LAW, P.C.

Miranda Mossavar
Attorneys for Plaintiff and the Class

Dated: 10/18/2024

LITTLER MENDELSON P.C.

John P. Nordlund
Samantha S. McPherson
Attorneys for Defendants Stark 2, LLC, Synergy Training Centers LLC, Stark Mgt, LLC, Stark WEHO, and Todd Vande Hei

4887-6773-1649, v. 1

EXHIBIT A

CALIFORNIA SUPERIOR COURT, COUNTY OF LOS ANGELES
Marisa Refe v. Stark 2, LLC, Synergy Training Centers LLC, Stark MGT, LLC, Stark WEHO LLC, and Todd Vande Hei
Case No. 22STCV29855

NOTICE OF CLASS ACTION SETTLEMENT

A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don't act.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT.
READ CAREFULLY – THIS NOTICE INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

You have received this Notice because records indicate that you are a member of the settlement class settled in this action. The settlement class is comprised of all current and former non-exempt employees who worked either directly or via a staffing agency for Defendants ***Stark 2, LLC, Synergy Training Centers LLC, Stark MGT, LLC, Stark WEHO, LLC, and Todd Vande Hei*** ("Defendants") in California at any time during the Class Period, defined as September 13, 2018 to Preliminary Approval ("Class Members").

On September 13, 2022, Plaintiff Marisa Refe filed this lawsuit against Defendants in the Superior Court of the State of California for the County of Los Angeles, Case No. 22STCV29855. Thereafter, on March 1, 2023, Plaintiff Marisa Refe filed a First Amended Complaint (the "Operative Complaint") alleging causes of action against Defendant for (1) failure to pay overtime compensation; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to pay minimum and regular rate wages; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse business expenses; (8) unfair business practices ("UCL") ;and (9) civil penalties under the private attorneys general act of 2004, Cal. Lab. Code § 2698 *et seq* ("PAGA").

The Parties attended mediation on September 7, 2023, and subsequently reached a Settlement through a mediator subject to Court approval. Class Counsel believes that the Settlement is fair, reasonable, and adequate, and that it is in the best interests of Class Members. Defendant has decided that settlement is favorable because it avoids the time, risk, and expense of a lengthy lawsuit, and settlement immediately resolves, finally and completely, the pending and potential claims. By settling this lawsuit, Defendant does not admit, concede, or imply that it has done anything wrong or legally actionable.

The Court has not made any determination as to whether the claims advanced by Plaintiff Marisa Refe ("Plaintiff") have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendants; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties seek to avoid the risks and cost of a trial.

This Notice tells you of your rights to share in the proposed settlement of the Class Action ("Settlement"). There was a Preliminary Approval Hearing on May 7, 2025, at 10:00 a.m., in the Los Angeles County Superior Court. Judge Samantha P. Jessner determined only that the proposed settlement might be fair, adequate and reasonable and that a final determination of the issues will be made at the final approval hearing. Judge Samantha P. Jessner also ordered that you receive this Notice.

The Court must approve the terms of the Settlement described herein as fair, adequate, and reasonable to the Class Members. The Settlement will affect all members of the class. Because your rights may be affected by this Settlement, it is important that you read this Notice carefully. This Notice will explain the terms of the Settlement and the amount of money you may receive under the Settlement.

TABLE OF CONTENTS

1. Why Have I Received This Notice?

A Preliminary Approval Hearing was held on May 7, 2025 at 10:00 a.m., in Department 7 of the California Superior Court, County of Los Angeles. A Preliminary Approval Hearing is a hearing at which the Court determines whether to preliminarily approve the settlement as fair, reasonable, and adequate. The Court conditionally certified the following class for settlement purposes and directed that you receive this Notice:

> All non-exempt employees who worked either directly or via a staffing agency for Defendants in the State of California at any time during the Class Period or from September 13, 2018 to May 7, 2025.

You have been identified as a Class Member from Defendant's records. The Settlement will resolve all Class Members' Released Claims, as described below, from September 13, 2018 to May 7, 2025 (the "Class Period").

The Court will hold a Final Approval Hearing concerning the proposed settlement on ___ at ___, before Department 7 of the Superior Court of California, for the County of Los Angeles, located at 312 North Spring Street
Los Angeles, CA 90012. A Final Approval Hearing is a hearing set by the Court to make a final determination on the fairness, adequacy, and reasonableness of the Settlement. At this time, the Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate and reasonable, and any final determination of those issues will be made at the Final Approval Hearing.

A. How Will I Know If the Court Changes the Date or Location of the Final Approval Hearing?

The Final Approval Hearing may be continued to another date without further notice. To determine if the Final Approval Hearing has changed, you may contact the Settlement Administrator or Class Counsel; or, you may check the online docket by using the following link and entering the Case No. 22STCV29855: https://www.lacourt.org/onlineservices/on0001.aspx.

B. I Want to Attend the Hearing. What Are the Court's COVID-19 Procedures?

If you wish to attend the Final Approval hearing, please check the Court's website (https://www.lacourt.org) for the Court's current social distancing procedures for attendance at hearings. The Court previously issued a General Order concerning Covid-19 guidelines, which is accessible on its website.

C. If I Do Not Go to the Final Approval Hearing, How Will I Know If the Court Granted Final Approval of the Settlement and Entered Final Judgment?

You may contact the Settlement Administrator or Class Counsel to find out if the Court granted Final Approval and entered Final Judgment. If you wish to obtain a copy of the Final Judgment, it will be posted on the Settlement Administrator's website at https://www.ilymgroup.com and is also available on the Court's docket (see above for instructions on how to access).

2. How Does This Class Action Settlement Work?

In this Class Action, Plaintiffs sued on behalf of themselves and all other non-exempt employees who worked for Defendants in California at any time during the Class Period. The Settlement resolves the Released Claims of all Class Members, except for those who request exclusion from the Settlement, in the manner set forth below.

The Court must review the terms of the Settlement and determine if it is fair and reasonable to the Class. The Court file has the Settlement documents, which explain the Settlement in greater detail. See Section 7 if you would like to obtain documents filed in this Class Action.

3. How Does This Settlement Affect My Rights? What are the Released Claims?

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not request exclusion from the Settlement will be bound by the Court's Final Judgment and will release the "Defendant and each of its former and present directors, officers, employees, and agents" ("Released Parties") from the Released Claims. The Released Claims are defined as:

> All claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including, (1) failure to pay overtime compensation; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to pay minimum and regular rate wages; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse business expenses; (8) unfair business practices ("UCL"); and (9) PAGA.

Participating Class Members' only release these claims for the duration of the Class Period. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

If you do not request exclusion from the Settlement, you will be bound by this Release.

<u>PAGA Released Claims</u>

The Judgment entered by the Court upon Final Approval of the Settlement will also have res judicata effect and be final and binding upon Plaintiffs, the Aggrieved Employees, and the California Labor and Workforce Development Agency. The Aggrieved Employees include all non-exempt employees who worked either directly or via a staffing agency for Defendants in California during the PAGA Period defined as the time period from December 15, 2021 to May 7, 2025.

If you are an Aggrieved Employee, this Settlement will release the following PAGA Released Claims, regardless of whether or not you requested exclusion from the Settlement. Upon Defendant's final payment funding the Gross Settlement Amount, Aggrieved Employees shall forever release the Released Parties from the following PAGA Released Claims for the PAGA Period. The PAGA Released Claims are defined as:

All claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiffs' PAGA Notice, as alleged in the Operative Complaint. The PAGA Released Claims only releases those claims occurring during the PAGA Period.

4. *What Are My Options?*

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

<u>Important Note</u>*: *Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.

DO NOTHING:	If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and receive an Individual Settlement Payment. You will be bound to the release of the Released Claims as defined in the Settlement and the Final Judgment. You will also give up your right to pursue the Released Claims as defined in Section No. 3 above.
OPT OUT:	With the exception of the settlement of the PAGA claims, you have the right to request exclusion from the Settlement. To do so, you must complete and timely submit the Exclusion Form included herewith or otherwise timely provide a written request to opt-out of the class Settlement via mail or fax to the Settlement Administrator at 2832 Walnut Ave STE C Tustin, CA 92780. To be valid, a written request for exclusion from the class settlement must: (a) by signed by you; (b) state your full name, address, telephone number and the last for digits of your social security number; and, (c) clearly request to be excluded from the class settlement. The request for exclusion must be postmarked or faxed not later than forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for the Class Members whose Class Notice is re-mailed. The postmark or fax receipt date will be the exclusive means to determine whether the request for exclusion was submitted on time. Unless you timely opt out of the class settlement, you will be bound by the judgment upon final approval of the settlement, including the Release described in this Notice. You may use the enclosed Exclusion Form for the purpose of requesting exclusion. Following Final Approval of the settlement, the Court will enter Final Judgment. The Final Judgment will bind all Class Members who do not request exclusion from the Settlement on time. Even if you opt out of the class settlement, you will still receive any PAGA settlement payment to which you may be entitled as an Aggrieved Employee and will still be bound by the release of the PAGA claims.
OBJECT:	If you want to object to the Settlement and you have not requested exclusion or opted out of the Settlement, you may object to the Settlement, personally or through an attorney, by mailing or faxing your written objection to the Settlement Administrator at 2832 Walnut Ave STE C Tustin, CA 92780. The written objection must: (a) state your full name, address, telephone number and the last for digits of your social security number; (b) state all grounds for your objection,

	accompanied by any legal support; and, (c) contain your or your legal representative's signature. The written objection must be postmarked or faxed not later than forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for the Class Members whose Class Notice is re-mailed. The postmark or fax receipt date will be the exclusive means to determine whether the written objection was submitted on time. You may use the enclosed Objection Form to submit any objections. If the Court rejects or overrules your objection, you will receive a settlement payment and be bound by the terms of the Settlement.

5. How Much is the Settlement and What is my Estimated Settlement Payment?

As obligated under the Settlement, Defendant will be required to pay a total sum of $367,500.00 ("Gross Settlement Amount"). The following payments will be deducted from the Gross Settlement Amount: (1) Class Representative Enhancement Payments to Plaintiff in an amount up to $10,000.00, for her time and efforts in the prosecution of the lawsuit and risks undertaken for the payment of attorneys' fees and costs; (2) payment of the Settlement Administrator's cost and fees not to exceed $4,950.00; (3) PAGA Penalties in the amount of $20,000.00 ($15,000.00 to the California Labor Workforce Development Agency ("LWDA") for its 75% portion of the PAGA Penalties and $5,000.00 to be distributed among the Aggrieved Employees for their 25% portion of the PAGA Penalties); and (4) payment to Class Counsel in an amount not to exceed $122,377.50 (one-third of the Gross Settlement Amount) for attorneys' fees and an amount not to exceed $25,574.56 for actual litigation costs. All of these payments are subject to Court approval and the Court has the discretion to award less than the amounts listed above.

A. How Are Individual Settlement Payments to Class Members Calculated?

After deducting the above-referenced items, the remaining Net Settlement Amount ("NSA") will be proportionately distributed amongst all Class Members who have not requested exclusion from the Settlement.

Defendant will calculate the total number of workweeks worked by each Class Member in California during the Class Period ("Individual Workweeks") and the total number of workweeks worked by all Class Members in California during the Class Period ("Class Workweeks"). To determine each Class Member's Individual Settlement Payment, the Settlement Administrator will use the following formula:

> (a) divide the NSA by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

All Participating Class Members will be credited with at least one Workweek. The number of workweeks worked by all Class Members will be derived from Defendant's records.

B. What is my Estimated Individual Settlement Payment?

Although your exact Individual Settlement Payment cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your estimated Individual Settlement Payment is: $______________, less taxes. This estimate is based on Defendant's records, which show you worked ___ shifts during the Class Period or from September 13, 2018 to the date of Preliminary Approval.

C. My Workweek Count is Incorrect. How do I Dispute it?

If you disagree with the number of workweeks listed for you above, you may contact the Settlement Administrator and provide evidence demonstrating the number of workweeks listed above is incorrect. Your dispute must be returned by mail or fax to the Settlement Administrator at 2832 Walnut Ave STE C Tustin, CA 92780 and postmarked not later than forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for the Class Members whose Class Notice is re-mailed. The postmark or fax receipt date will be the exclusive means to determine whether a shift dispute was submitted on time.

The Settlement Administrator will evaluate your evidence and make a final decision as to the number of eligible workweeks that should be used to determine your Individual Settlement Payment. Absent evidence demonstrating Defendant's records are incorrect, Defendant's records will be presumed accurate.

D. How Will my Individual Settlement Payment be Taxed?

Each Individual Settlement Payment will be apportioned as follows: 10% wages, 45% interest, and 45% penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported on IRS W-2 forms. The amounts paid as penalties and interest shall be reported on IRS 1099 forms.

E. What Happens if I do not Cash my Settlement Payment Check?

You must cash or deposit your Settlement Check before the 180-day void date shown on the check. If any checks remain uncashed by the expiration of the 180-day period, the uncashed amounts will be forwarded to the California State Controller's Unclaimed Property Fund.

6. Who Are the Attorneys Representing the Parties?

Attorneys for Plaintiffs/Class Counsel	Attorneys for Defendant
FOROOTAN LAW CORP. Shirin Forootan, Esq. 3334 E. Coast Hwy., No. 307 Corona Del Mar, California 92625 **MOSSAVAR LAW, P.C.** Miranda Mossavar, Esq. 1875 Century Park East, Suite 2250 Los Angeles, CA 90067	**LITTLER MENDELSON P.C.** Samantha McPherson, Esq. John P. Nordlund, Esq. 510 W. Broadway, Suite 900 San Diego, CA 92101

The Court has decided that the attorneys at Forootan Law Corp and Mossavar Law PC are qualified to represent you and all other Class Members. You do not need to hire your own attorney because Class Counsel is working on your behalf. However, if you want your own attorney, you may hire one at your own cost.

7. How do I Obtain More Information?

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at 888.250.6810. Please refer to the Stark 2, LLC Class Action Settlement.

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you can request copies of documents filed with the Court, free of charge, from Class Counsel or the Settlement Administrator.

You may also obtain these documents from the Court's website for a fee. Go to https://www.lacourt.org/onlineservices/on0001.aspx and enter the Case No. 22STCV29855. Scroll down and click on the link entitled "Document Download." You will then be able to access for a fee Plaintiffs' Notice of Motion and Motion for Preliminary Approval of Class Action Settlement and supporting documents, which includes the entire Settlement Agreement, which is attached as Exhibit 2 to the Declaration of Shirin Forootan filed on or about February 28, 2025.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.