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all other aggrieved employees

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and CHARLES ROBINSON (erroneously
sued as CHARLES ROBERTSON)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

SABRINA CARRION, as an aggrieved
employee, and on behalf of all other
aggrieved employees under the Labor Code
Private Attorneys General Act of 2004,

Plaintiff,

v.

CLUTTER, INC., a Delaware corporation;
CHARLES ROBERTSON, an individual; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 23STCV06709

[Assigned for all purposes to the Hon.
Kerry Bensinger in Dept 31]

REPRESENTATIVE ACTION

**JOINT STIPULATION RE: PAGA
SETTLEMENT**

Action Filed: March 27, 2023
Trial Date: None Set

1 This Joint Stipulation re: PAGA Settlement (“Settlement,” “Agreement” or “Settlement
2 Agreement”) is made by and between plaintiff Sabrina Carrion (“Plaintiff”), individually, and on
3 behalf of the Aggrieved Employees, on one hand; and defendants Clutter, Inc. (“Clutter”) and
4 Charles Robinson (“Mr. Robinson”) (collectively “Defendants”), on the other hand, in the lawsuit
5 entitled *Sabrina Carrion v. Clutter, Inc., et al.*, filed in the Los Angeles County Superior Court,
6 Case No. 23STCV06709. Plaintiff and Defendants shall be, at times, collectively referred to as
7 the “Parties.” This Agreement is intended by the Parties to fully, finally and forever resolve the
8 claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

9 **1. DEFINITIONS**

10 1.1. “**Action**” means Plaintiff’s PAGA lawsuit, alleging wage and hour violations
11 against Defendants, captioned *Sabrina Carrion v. Clutter, Inc., et al.*, Case No. 23STCV06709,
12 initiated on March 27, 2023, and pending in the Superior Court of the State of California, County
13 of Los Angeles.

14 1.2. “**Administrator**” means ILYM Group, Inc., the neutral entity Plaintiff has
15 selected to administer the Settlement.

16 1.3. “**Administration Expenses Payment**” means the amount the Administrator will
17 be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
18 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
19 with approval of this Settlement.

20 1.4. “**Aggrieved Employees**” means all persons currently or formerly employed by
21 Clutter, as non-exempt, hourly-paid employees, during the PAGA Period in the State of
22 California.

23 1.5. “**Aggrieved Employee Data**” means Aggrieved Employee identifying
24 information in Clutter’s possession including the Aggrieved Employee’s name, last-known
25 mailing address, Social Security number, and number of PAGA Pay Periods.

26 1.6. “**Aggrieved Employee Address Search**” means the Administrator’s
27 investigation and search for current Aggrieved Employee mailing addresses using all reasonably
28 available sources, methods and means including, but not limited to, the National Change of

1 Address database, skip traces, and direct contact by the Administrator with Aggrieved
2 Employees.

3 1.7. “**Court**” means the Superior Court of California, County of Los Angeles.

4 1.8. “**Defense Counsel**” means Timothy B. Nelson and Kyle W. Owen of Medina
5 McKelvey LLP.

6 1.9. “**Effective Date**” means the date by when both of the following have occurred:
7 (a) the Court enters a Judgment on its Order Approving the PAGA Settlement, and (b) the
8 Judgment is final.

9 1.10. “**Gross Settlement Amount**” means \$570,000.00 which is the total amount
10 Defendants agree to pay under the Settlement except as provided in Paragraph 8 below. The
11 Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA
12 Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment,
13 Administrator’s Expenses Payment and PAGA Representative Service Payment.

14 1.11. “**Individual PAGA Payment**” means the Aggrieved Employee’s pro rata share
15 of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved
16 Employee worked during the PAGA Period.

17 1.12. “**Judgment**” means the judgment entered by the Court based upon the Final
18 Approval.

19 1.13. “**LWDA**” means the California Labor and Workforce Development Agency, the
20 agency entitled, under Labor Code section 2699, subd. (i).

21 1.14. “**LWDA PAGA Payment**” means the 75% of the PAGA Penalties paid to the
22 LWDA under Labor Code section 2699, subd. (i).

23 1.15. “**Net Settlement Amount**” means the Gross Settlement Amount, less the
24 following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA
25 Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation
26 Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to
27 Aggrieved Employees as Individual PAGA Payments.

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1.16. **“PAGA Counsel”** means David D. Bibiyan, Jeffrey D. Klein, and Vedang J. Patel of Bibiyan Law Group, P.C., the attorneys representing the Plaintiff in the Action.

1.17. **“PAGA Counsel Fees Payment”** and **“PAGA Counsel Litigation Expenses Payment”** mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action, as described in paragraph 3.2.1 below.

1.18. **“PAGA Pay Period”** means any Pay Period during which an Aggrieved Employee worked for Clutter for at least one day during the PAGA Period.

1.19. **“PAGA Period”** means the period from January 20, 2022 through the date of approval of the Settlement.

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

1.21. **“PAGA Notice”** means the January 20, 2023 letter that Plaintiff sent to Defendants and the LWDA, providing notice pursuant to the Labor Code section 2699.3, subd. (a).

1.22. **“PAGA Penalties”** means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (no less than \$81,262.50) and the 75% to LWDA (no less than \$243,787.50) in settlement of PAGA claims.

1.23. **“PAGA Representative Service Payment”** means the payment to Plaintiff for providing services in support of the Action and providing a broader release.

1.24. **“Plaintiff”** means Sabrina Carrion, the named plaintiff in the Action.

1.25. **“Approval Order”** means the proposed Court Order Granting Approval of PAGA Settlement.

1.26. **“Released PAGA Claims”** means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.

1.27. **“Released Parties”** means: Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

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1 1.28. “**Settlement**” means the disposition of the Action effected by this Agreement and
2 the Judgment.

3 **2. RECITALS**

4 2.1. On March 27, 2023, Plaintiff commenced this Action by filing a Complaint (the
5 “Operative Complaint”), alleging causes of action against Defendants for civil penalties under
6 PAGA for the Labor Code violations alleged in the PAGA Notice. Defendants deny the
7 allegations in the Operative Complaint, deny any failure to comply with the laws identified in
8 the Operative Complaint and deny any and all liability for the causes of action alleged.

9 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written
10 notices to Defendants and the LWDA by sending the PAGA Notice on January 20, 2023.

11 2.3. On February 7, 2024, the parties participated in an all-day mediation presided over
12 by Jeffrey A. Ross, Esquire, which led to this Agreement to settle the Action.

13 2.4. Prior to mediation, Plaintiff obtained, through informal discovery: (1) complete
14 time and payroll records of approximately 1,304 Aggrieved Employees for the period from
15 January 20, 2022 through December 20, 2023; (2) data points, including the number of Aggrieved
16 Employees, the number of Aggrieved Employees separated from employment in the waiting time
17 penalty period, the average hourly rate of pay, and the number of Pay Periods and shifts during
18 the period from January 20, 2022 through December 20, 2023; (3) all relevant policy documents
19 of Clutter; and (4) Plaintiff’s personnel records.

20 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not
21 aware of any other pending matter or action asserting claims that will be extinguished or affected
22 by the Settlement.

23 **3. MONETARY TERMS**

24 3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8 below,
25 Defendants promise to pay \$570,000.00 and no more as the Gross Settlement Amount.
26 Defendants have no obligation to pay the Gross Settlement Amount prior to the deadline stated
27 in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement
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1 Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of
2 payment. None of the Gross Settlement Amount will revert to Defendants.

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

6 3.2.1. **To Plaintiff:** PAGA Representative Service Payment of not more than
7 \$7,500 to Plaintiff (in addition to any Individual PAGA Payments she is
8 entitled to receive as an Aggrieved Employee). Defendants will not oppose
9 Plaintiff's request for a PAGA Representative Service Payment that does
10 not exceed this amount. As part of the motion for PAGA Counsel Fees
11 Payment and PAGA Litigation Expenses Payment, Plaintiff will seek
12 Court approval for any PAGA Representative Service Payment. If the
13 Court approves a PAGA Representative Service Payment less than the
14 amount requested, the Administrator will allocate the remainder to the Net
15 Settlement Amount. The Administrator will pay the PAGA Representative
16 Service Payment using IRS Form 1099. Plaintiff assumes full
17 responsibility and liability for any taxes owed on the PAGA
18 Representative Service Payment.

19 3.2.2. **To PAGA Counsel:** A PAGA Counsel Fees Payment of not more than
20 thirty-five percent (35%) of the Gross Settlement Amount, subject to
21 escalation pursuant to section 8.1 of this Agreement and approval by the
22 Court, which is currently estimated to be \$199,500.00 and PAGA Counsel
23 Litigation Expenses Payment of not more than \$30,000.00. Defendants
24 will not oppose requests for Court approval of these payments provided
25 that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will
26 file an application or motion for PAGA Counsel Fees Payment and PAGA
27 Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees
28 Payment and/or a PAGA Counsel Litigation Expenses Payment less than

1 the amounts requested, the Administrator will allocate the remainder to the
2 Net Settlement Amount. Released Parties shall have no liability to PAGA
3 Counsel or any other Plaintiff's Counsel arising from any claim to any
4 portion any PAGA Counsel Fees Payment and/or PAGA Counsel
5 Litigation Expenses Payment. The Administrator will pay the PAGA
6 Counsel Fees Payment and PAGA Counsel Expenses Payment using one
7 or more IRS 1099 Forms. PAGA Counsel assume full responsibility and
8 liability for taxes owed on the PAGA Counsel Fees Payment and the
9 PAGA Counsel Litigation Expenses Payment and hold Defendants
10 harmless, and indemnify Defendants, from any dispute or controversy
11 regarding any division or sharing of any of these Payments. There will be
12 no additional charge of any kind to Aggrieved Employees or request for
13 additional consideration from Defendants for such work unless,
14 Defendants materially breach this Agreement, including any term
15 regarding funding, and further efforts are necessary from PAGA Counsel
16 to remedy said breach, including, without limitation, moving the Court to
17 enforce the Agreement.

18 3.2.3. **To the Administrator:** An Administrator Expenses Payment not to
19 exceed \$7,950.00 except for a showing of good cause and as approved by
20 the Court. To the extent the Administration Expenses are less, or the Court
21 approves payment less than \$7,950.00, the Administrator will retain the
22 remainder in the Net Settlement Amount.

23 3.2.4. **To the LWDA and Aggrieved Employees:** PAGA Penalties in the
24 amount of no less than \$325,050.00 to be paid from the Gross Settlement
25 Amount, with 75% (no less than \$243,787.50) allocated to the LWDA
26 PAGA Payment and 25% (no less than \$81,262.50) allocated to the
27 Individual PAGA Payments.
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1 3.2.4.1. The Administrator will calculate each Individual PAGA Payment
2 by (a) dividing the amount of the Aggrieved Employees' 25%
3 share of PAGA Penalties (no less than \$81,262.50) by the total
4 number of PAGA Period Pay Periods worked by all Aggrieved
5 Employees during the PAGA Period and (b) multiplying the
6 result by each Aggrieved Employee's PAGA Period Pay Periods.
7 Aggrieved Employees assume full responsibility and liability for
8 any taxes owed on their Individual PAGA Payment.

9 3.2.4.2. If the Court approves PAGA Penalties of less than the amount
10 requested, the Administrator will allocate the remainder to the Net
11 Settlement Amount. The Administrator will report the Individual
12 PAGA Payments on IRS 1099 Forms.

13 **4. SETTLEMENT FUNDING PAYMENTS**

14 4.1. **Aggrieved Employee Pay Periods.** Based on a review of Clutter's records as of
15 mediation, the Parties understand there are 1,304 Aggrieved Employees who worked a total of
16 27,000 PAGA Pay Periods in the proposed PAGA group.

17 4.2. **Aggrieved Employee Data.** Within 14 days of the Effective Date, Clutter will
18 simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a
19 Microsoft Excel spreadsheet. To protect Aggrieved Employee's privacy rights, the Administrator
20 must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data
21 only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved
22 Employee Data to Administrator employees who need access to the Aggrieved Employee Data
23 to effect and perform under this Agreement. Clutter has a continuing duty to immediately notify
24 PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying
25 information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably
26 feasible. Without any extension of the deadline by which Clutter must send the Aggrieved
27 Employee Data to the Administrator, the Parties and their counsel will expeditiously use best
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1 efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted
2 Aggrieved Employee Data.

3 **4.3. Funding of Gross Settlement Amount.** Defendants shall fully fund the Gross
4 Settlement Amount by transmitting the funds to the Administrator no later than seven (7) calendar
5 days after the Effective Date.

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

12 **4.4.1.** The Administrator will issue checks for the Individual PAGA Payments
13 and send them to the Aggrieved Employees via First Class U.S. Mail,
14 postage prepaid. The face of each check shall prominently state the date
15 (not less than 180 days after the date of mailing) when the check will be
16 voided. The Administrator will cancel all checks not cashed by the void
17 date. Before mailing any checks, the Settlement Administrator must update
18 the recipients' mailing addresses using the National Change of Address
19 Database.

20 **4.4.2.** The Administrator must conduct an Aggrieved Employee Address Search
21 for all Aggrieved Employees whose checks are returned undelivered
22 without USPS forwarding address. Within 7 days of receiving a returned
23 check the Administrator must re-mail checks to the USPS forwarding
24 address provided or to an address ascertained through the Aggrieved
25 Employee Address Search. The Administrator need not take further steps
26 to deliver checks to Aggrieved Employees whose re-mailed checks are
27 returned as undelivered. The Administrator shall promptly send a
28 replacement check to any Aggrieved Employee whose original check was

lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose 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 Aggrieved Employee.

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

5. RELEASES OF CLAIMS

Effective on the date when Defendants fully fund the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1. **Plaintiff's Release.** Plaintiff and her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits, wrongful termination, violation of the Fair Employment and Housing Act, discrimination, harassment, or retaliation related claims that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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1 **5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.**

2 For purposes of Plaintiff's Release, Plaintiff expressly waives and
3 relinquishes the provisions, rights, and benefits, if any, of section 1542 of
4 the California Civil Code, which reads:

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

9 5.1.1.1. However, the foregoing release, including waiver of 1542,
10 expressly excludes Plaintiff's claims for wrongful termination,
11 violation of the Fair Employment and Housing Act,
12 discrimination, harassment, and retaliation related claims.

13 **5.2. Release by Aggrieved Employees:** All Aggrieved Employees are deemed to
14 release, on behalf of themselves and their respective former and present representatives, agents,
15 attorneys, heirs, administrators, successors, and assigns, Released Parties from all claims, rights,
16 demands, liabilities and causes of action that arose during the PAGA Period for civil penalties
17 under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated
18 in the Operative Complaint and the PAGA Notice for PAGA civil penalties, including, but not
19 limited to, pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1 and 2699, in
20 connection with alleged violations of Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7,
21 246, *et seq.*, 432, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198.5, 2699 and 2810.5,
22 among others.

23 **5.3. Release by PAGA Counsel:** PAGA Counsel release, on behalf of their present
24 and former attorneys, employees, agents, successors and assigns, the Released Parties from all
25 claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA
26 Period facts stated in the Operative Complaint and the PAGA Notice, except as described herein.

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1 **6. MOTION OR APPLICATION FOR APPROVAL OF**
2 **SETTLEMENT**

3 The Parties agree to Plaintiff's filing of a motion for approval of this Settlement.

4 6.1. **Plaintiff's Responsibilities.** Plaintiff will prepare and endeavor to deliver to
5 Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor
6 Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of
7 PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed"
8 bid for administering the Settlement and attesting to its willingness to serve; competency;
9 operative procedures for protecting the security of Aggrieved Employee Data; amounts of
10 insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts
11 relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA;
12 and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense
13 Counsel; (iii) a signed declaration from PAGA Counsel attesting to their timely transmission to
14 the LWDA of all necessary PAGA documents (initial notices of violations (Labor Code section
15 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement
16 (Labor Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential
17 conflict of interest with Aggrieved Employees and/or the Administrator.

18 6.2. **Responsibilities of PAGA Counsel.** PAGA Counsel are responsible for
19 expeditiously finalizing and filing the motion for approval of this Settlement after the full
20 execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion
21 and appearing in Court to advocate in favor of the motion. PAGA Counsel are responsible for
22 delivering the Court's Preliminary Approval to the Administrator.

23 6.3. **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed
24 application or motion for approval of this Settlement and/or the supporting declarations and
25 documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of
26 the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.
27 If the Court does not grant the motion for approval of this Settlement or conditions its approval
28 on any material change to this Agreement, PAGA Counsel and Defense Counsel will

1 expeditiously work together on behalf of the Parties by meeting in person or by telephone, and
2 in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

3 **7. SETTLEMENT ADMINISTRATION**

4 7.1. **Selection of Administrator.** Plaintiff has selected ILYM Group, Inc., ("ILYM")
5 to serve as the Administrator and verified that, as a condition of appointment, ILYM agrees to be
6 bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in
7 exchange for payment of Administration Expenses. The Parties and their Counsel represent that
8 they have no interest or relationship, financial or otherwise, with the Administrator other than a
9 professional relationship arising out of prior experiences administering settlements.

10 7.2. **Employer Identification Number.** The Administrator shall have and use its own
11 Employer Identification Number for purposes of calculating payroll tax withholdings (if any) and
12 providing reports state and federal tax authorities.

13 7.3. **Qualified Settlement Fund.** The Administrator shall establish a settlement fund
14 that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
15 Regulation section 468B-1.

16 7.4. **Administrator Duties.** The Administrator has a duty to perform or observe all
17 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

18 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR**
19 **CLAUSE**

20 Based on Clutter's records, the Parties understand that, as of mediation, there are 1,304
21 Aggrieved Employees who worked 27,000 Pay Periods during the PAGA Period.

22 8.1. **Escalator Clause.** The Settlement is based on the Parties' understanding that
23 there are approximately 27,000 Pay Periods worked by Aggrieved Employees during the PAGA
24 period. In the event the actual number of Pay Periods worked during the PAGA period is more
25 than 10% (2,700) greater than 27,000 (i.e., if there are more than 29,700 Pay Periods worked
26 during the PAGA Period), either (1) the gross settlement amount will be increased by the same
27 percentage above 10% that the actual number of Pay Periods exceeds 27,000 (i.e., if the actual
28 number of pay periods is 12% higher than 27,000, then the gross settlement amount will be

increased by 2%); or (2) at Defendants' option, the PAGA Period and the PAGA release will end as of the date the actual number of Pay Periods exceeds 27,000 by 10%.

9. CONTINUING JURISDICTION OF THE COURT

The Parties agree that, after entry of Judgment, the Court 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.

9.1. **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel 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 another party 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.

10. ADDITIONAL PROVISIONS

10.1. **No Admission of Liability 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 representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection

1 with, any litigation (except for proceedings to enforce or effectuate the Settlement and this
2 Agreement).

3 10.2. **Integrated Agreement.** Upon execution by all Parties and their counsel, this
4 Agreement together with its attached exhibits shall constitute the entire agreement between the
5 Parties relating to the Settlement, superseding any and all oral representations, warranties,
6 covenants, or inducements made to or by any Party.

7 10.3. **Attorney Authorization.** PAGA Counsel and Defense Counsel separately
8 warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take
9 all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
10 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
11 terms of this Agreement including any amendments to this Agreement.

12 10.4. **Cooperation.** The Parties and their counsel will cooperate with each other and
13 use their best efforts, in good faith, to implement the Settlement by, among other things,
14 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
15 points and authorities as requested by the Court. In the event the Parties are unable to agree upon
16 the form or content of any document necessary to implement the Settlement, or on any
17 modification of the Agreement that may become necessary to implement the Settlement, the
18 Parties will seek the assistance of a mediator and/or the Court for resolution.

19 10.5. **No Prior Assignments.** The Parties separately represent and warrant that they
20 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
21 or encumber to any person or entity, any portion of any liability, claim, demand, action, cause of
22 action, or right released and discharged by the Party in this Settlement.

23 10.6. **No Tax Advice.** Neither Plaintiff, PAGA Counsel, Defendants nor Defense
24 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
25 Settlement be relied upon as such within the meaning of United States Treasury Department
26 Circular 230 (31 CFR Part 10, as amended) or otherwise.

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1 10.7. **Modification of Agreement.** This Agreement, and all parts of it, may be
2 amended, modified, changed, or waived only by an express written instrument signed by all
3 Parties or their representatives, and approved by the Court.

4 10.8. **Agreement Binding on Successors.** This Agreement will be binding upon, and
5 inure to the benefit of, the successors of each of the Parties.

6 10.9. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will
7 be governed by and interpreted according to the internal laws of the state of California, without
8 regard to conflict of law principles.

9 10.10. **Cooperation in Drafting.** The Parties have cooperated in the drafting and
10 preparation of this Agreement. This Agreement will not be construed against any Party on the
11 basis that the Party was the drafter or participated in the drafting.

12 10.11. **Confidentiality.** To the extent permitted by law, all agreements made, and orders
13 entered during Action and in this Agreement relating to the confidentiality of information shall
14 survive the execution of this Agreement.

15 10.12. **Use of Aggrieved Employee Data.** Information provided to PAGA Counsel
16 pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to
17 PAGA Counsel by Clutter in connection with the mediation, other settlement negotiations, or in
18 connection with the Settlement, may be used only with respect to this Settlement, and no other
19 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
20 or rule of court.

21 10.13. **Headings.** The descriptive heading of any section or paragraph of this Agreement
22 is inserted for convenience of reference only and does not constitute a part of this Agreement.

23 10.14. **Calendar Days.** Unless otherwise noted, all reference to “days” in this Agreement
24 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
25 weekend or federal legal holiday, such date or deadline shall be on the first business day
26 thereafter.

27 10.15. **Notice.** All notices, demands or other communications between the Parties in
28 connection with this Agreement will be in writing and deemed to have been duly given as of the

1 third business day after mailing by United States mail, or the day sent by email or messenger,
2 addressed as follows:

3 To Plaintiff:

4 **BIBIYAN LAW GROUP, P.C.**

David D. Bibiyan (SBN 287811)

david@tomorrowlaw.com

Jeffrey D. Klein (SBN 297296)

jeff@tomorrowlaw.com

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

Brandon M. Chang (Cal Bar No. 316197)

brandon@tomorrowlaw.com

1460 Westwood Boulevard

Los Angeles, California 90024

Tel: (310) 438-5555; Fax: (310) 300-1705

10 To Defendant:

Timothy B. Nelson (SBN 235279)

Email: *tim@medinamckelvey.com*

Kyle W. Owen (SBN 326335)

Email: *kyle@medinamckelvey.com*

13 **MEDINA McKELVEY LLP**

925 Highland Pointe Drive, Suite 300

Roseville, California 95678

Telephone: (916) 960-2211

Facsimile: (916) 742-5488

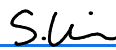
17 10.16. **Execution in Counterparts.** This Agreement may be executed in one or more
18 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this
19 Agreement shall be accepted as an original. All executed counterparts and each of them will be
20 deemed to be one and the same instrument if counsel for the Parties will exchange between
21 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
22 prove the existence and contents of this Agreement.

23 10.17. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement
24 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
25 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
26 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
27 process.

28 ///

10.18. **Severability.** In the event that 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 effect any other provision if Defendants' Counsel and PAGA Counsel, on behalf of the Parties and the Aggrieved Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:


Sabrina Carrion (Apr 25, 2024 17:43 PDT)

Plaintiff Sabrina Carrion

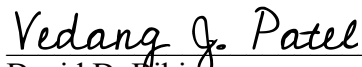
DocuSigned by:


Steven James

Defendant Clutter, Inc.

By: Steven James

Its: VP, Consumer and W&L

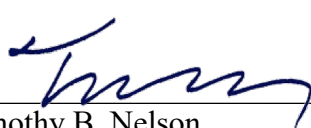


David D. Bibiyan

Jeffrey D. Klein

Vedang J. Patel

Counsel for Plaintiff Sabrina Carrion


Timothy B. Nelson

Kyle W. Owen

Counsel for Defendant Clutter, Inc. and
Charles Robinson