

CLASS ACTION AND PAGA REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

This Class Action and PAGA Representative Action Settlement Agreement (“Agreement”) is made by and between plaintiff MARY MAGDALENA MEJIA (“Plaintiff”), on the one hand, and defendants TOURO UNIVERSITY MEDICAL GROUP (“TUMG”) and TOURO UNIVERSITY (“TU”) (collectively, “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” means Plaintiff’s lawsuit alleging wage and hour violations against Defendants, entitled *Mary Magdalena Mejia, individually and on behalf of all similarly situated individuals vs. Touro University Medical Group, a California Corporation, Touro University California, form of entity unknown, and DOES 1 through 10, inclusive*, Case No. STK-CV-UOE-2023-953, commenced on February 3, 2023, and pending in the Superior Court of the State of California, County of San Joaquin.
- 1.2. “Administrator” means Phoenix Settlement Administrators, 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 obtained by the Parties.
- 1.4. “Aggrieved Employees” means all individuals who currently or previously have worked for either of the Defendants in California in hourly-paid, non-exempt classified positions at any time during the PAGA Period.
- 1.5. “Class” means all individuals who currently or previously have worked for either of the Defendants in California in hourly-paid, non-exempt classified positions at any time during the Class Period.
- 1.6. “Class Counsel” means Daniel F. Gaines and Alex P. Katofsky of Gaines & Gaines, APLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection

with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.8. "Class Data" means Class Member identifying information in Defendants' possession including, for each Class Member, their name, last-known mailing address, last known telephone number, Social Security number, email address (if known and available to Defendants), number of Workweeks worked during the Class Period, and number of PAGA Pay Periods worked during the PAGA Period.
- 1.9. "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 by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn, and Facebook.
- 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 the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12. "Class Notice Packet" means the Class Notice and Request for Exclusion form to be provided to the Class Members by the Administrator in the forms set forth as Exhibit A and Exhibit B to this Agreement.
- 1.13. "Class Period" means the period from February 3, 2019, through and including April 12, 2024.
- 1.14. "Class Representative" means Mary Magdalena Mejia, the named Plaintiff in the Complaint in the Action.
- 1.15. "Class Representative Service Payment" means the service payment made to the Plaintiff as Class Representative to compensate her for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendants' expenses, and for the general release of all claims by Plaintiff.
- 1.16. "Court" means the Superior Court of California, County of San Joaquin.
- 1.17. "Defendants" means Touro University Medical Group and Touro University (aka

“Touro University California”).

- 1.18. “Defense Counsel” means Seth L. Neulight of Nixon Peabody, LLP.
- 1.19. “Effective Date” means the date by when both of the following actions 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 objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment with no notice of appeal having been filed; or (c) if one or more Participating Class Members objects to the Settlement, and if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. “Final Approval” 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 to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.22. “Gross Settlement Amount” means the sum of One Million Nine Hundred Fifty Thousand Dollars and No Cents (\$1,950,000) which is the total amount to be paid by Defendants as provided by this Agreement except as provided in Paragraph 9 below. 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 Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendants, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendants.
- 1.23. “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 the Participating Class Member during the Class Period.
- 1.24. “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 by the Aggrieved Employee during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval of the Settlement.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency

entitled, under Labor Code section 2699, subd. (i).

- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.30. "Operative Complaint" means the First Amended Class and Representative Action Complaint filed by Plaintiff in the Action.
- 1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for either of the Defendants in California in hourly-paid, non-exempt classified positions for at least one day during the PAGA Period.
- 1.32. "PAGA Period" means the period from January 19, 2021, through and including April 12, 2024.
- 1.33. "PAGA" means the California Labor Code Private Attorneys General Act (Labor Code §§ 2698 et seq.).
- 1.34. "PAGA Notices" means the Plaintiff's letters to Defendants and the LWDA, dated January 19, 2023, February 2, 2023, and March 27, 2023, providing notice pursuant to California Labor Code section 2699.3, subd.(a).
- 1.35. "PAGA Penalties" means the total amount of PAGA civil penalties of \$100,000 (One Hundred Thousand Dollars and No Cents) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$25,000) and 75% to the LWDA (\$75,000) in full and final settlement of the PAGA claims asserted in the Action.
- 1.36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. "Plaintiff" means Mary Magdalena Mejia, the named Plaintiff in the Action.
- 1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

- 1.39. “Released Class Claims” means all class claims pled in the Operative Complaint, and all claims that reasonably could have been pled in the Operative Complaint based on the factual allegations contained therein which occurred during employment in California in hourly-paid, non-exempt classified positions during the Class Period, including: claims for unpaid minimum and overtime wages in violation of California Labor Code §§ 510, 1194, and 1194.2; claims for failure to provide rest period or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 558, and 1194, and California Industrial Welfare Commission Wage Order (“Wage Order”) 4-2001; claims for failure to provide meal periods or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 512, 558, and 1194, and Wage Order 4-2001; claims for failure to provide accurate itemized wage statements in violation of California Labor Code §§ 226 and 226.3; claims for failure to pay all final wages due in violation of California Labor Code §§ 201, 202, and 203; claims for violation of the California Unfair Competition Law, Business & Professions Code § 17200, et seq. based upon the foregoing alleged violations; and claims for all other relief recoverable based upon the foregoing violations, including compensatory damages, liquidated damages, restitution, pre-judgment interest, post-judgment interest, and attorneys’ fees and costs. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the California Fair Employment and Housing Act, unemployment insurance, disability insurance, social security benefits, workers’ compensation benefits, or claims based on facts occurring outside the Class Period.
- 1.40. “Released PAGA Claims” means all PAGA claims pled in the Operative Complaint and/or PAGA Notices, and all PAGA claims that reasonably could have been pled in the Operative Complaint and PAGA Notices based upon the factual allegations contained therein which occurred during employment in California in hourly-paid, non-exempt classified positions during the PAGA Period as to Aggrieved Employees, including: PAGA claims based upon alleged unpaid minimum and overtime wages in violation of California Labor Code §§ 510, 1194, and 1194.2; PAGA claims for failure to provide rest period or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 558, and 1194, and Wage Order 4-2001; PAGA claims for failure to provide meal periods or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 512, 558, and 1194, and Wage Order 4-2001; PAGA claims for failure to provide accurate itemized wage statements in violation of California Labor Code §§ 226 and 226.3; and PAGA claims for failure to pay all final wages due in violation of California Labor Code §§ 201, 202, and 203. The Released PAGA Claims do not include underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability insurance, social security benefits, worker’s compensation benefits, or PAGA claims based on facts occurring outside the PAGA Period.
- 1.41. “Released Parties” means: each of the Defendants, their parent, subsidiaries, affiliated

entities, and each of their respective former and present directors, officers, managing agents, attorneys, insurers, predecessors, successors, and assigns.

- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member, attached as **Exhibit B** and incorporated by reference into this Agreement.
- 1.43. "Response Deadline" means sixty (60) calendar days after the Administrator mails the Class Notice Packet to Class Members and Aggrieved Employees, which shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit an Objection to the Settlement. Class Members to whom Class Notice Packets are re-sent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during the Class Period in which a Class Member actively worked for Defendants in California in hourly-paid, non-exempt classified positions for at least one day.

2. RECITALS

- 2.1 On January 19, 2023, Plaintiff filed a PAGA Notice with the LWDA. On February 2, 2023, and March 27, 2023, respectively, Plaintiff filed supplemental PAGA Notices with the LWDA.
- 2.2 On February 3, 2023, Plaintiff commenced the Action by filing with the Court her Complaint against Defendants. Plaintiff's Complaint asserted claims that Defendants: (a) failed to pay minimum and overtime wages; (b) failed to provide rest periods or pay in lieu thereof; (c) failed to provide meal periods or pay in lieu thereof; (d) failed to provide accurate itemized wage statements; and (e) violated California Business and Professions Code § 17200 et seq.
- 2.3 In or about July 2023, Plaintiff filed a First Amended Class and Representative Action Complaint, which is the Operative Complaint in the Action, wherein Plaintiff added a PAGA claim.
- 2.4 On February 12, 2024, the Parties participated in a full-day mediation presided over by mediator Brandon McKelvey. Following the mediation, each side, represented by their respective counsel, agreed to settle the Action. This Agreement replaces and supersedes any and all prior written or verbal agreements, understandings, or representations between the Parties.

- 2.5 Defendants deny the allegations in the PAGA Notices and Operative Complaint, deny any failure to comply with the laws identified therein, deny any liability for the causes of action alleged therein, and deny that Plaintiff or any Class Members or Aggrieved Employees are entitled to damages, penalties, or any other relief.
- 2.6 Prior to mediation, Plaintiff obtained from Defendants documents and information to investigate the claims such that 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*").
- 2.7 This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Action have merit or that Defendants bear any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the Settlement does not become effective, Defendants reserve the right to contest certification of any class or subclass for any reason and reserve all available defenses to the claims alleged in the Action.
- 2.8 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 Paragraph 9 below, Defendants shall jointly and severally pay \$1,950,000 as the Gross Settlement Amount. The foregoing amount is inclusive of all payments contemplated by this Agreement, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendants to the Administrator. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.
- 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiff: a Class Representative Service Payment to the Class Representative of not more than \$15,000 (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 a Class Representative Service Payment that does not exceed this amount. As part of the motion for the Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 10 calendar days prior to the Final Approval Hearing, unless otherwise required by the Court. 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 an IRS Form 1099. Plaintiff assumes full responsibility and liability for all taxes owed on the Class Representative Service Payment.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than thirty-five percent (35%) of the Gross Settlement Amount, which is currently estimated to be \$682,500, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff will file a motion for the Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 10 calendar days prior to the Final Approval Hearing, unless otherwise required by the Court. 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. The Released Parties shall have no liability to Class Counsel arising from any claim to any portion of any Class Counsel Fees 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 all taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from and against any dispute, claim, or controversy regarding any division or sharing of any of these payments, or any taxes, penalties, liquidated damages, or assessments found to be due on these payments.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$10,000, except for a showing of good cause and as approved by the Court. To the extent the Court approves an Administration Expenses Payment in an amount less than \$10,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$100,000 to be paid from the Gross Settlement Amount, with 75% (\$75,000) allocated to the LWDA PAGA Payment, and 25% (\$25,000) allocated to the Individual PAGA Payments.

- i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$25,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any and all taxes owed on their Individual PAGA Payments.
 - ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) 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.
- i. Tax Allocation of Individual Class Payments. 25% 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. 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, 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 and all employee taxes owed on their Individual Class Payment.
 - ii. 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.

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks. Based on its records, Defendants have estimated that Class Members collectively have worked a total of approximately 36,536 Workweeks during the Class Period.
- 4.2. Class Data. Not later than 20 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 they discover 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.

- 4.3. Funding of the Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount and the amounts necessary to pay Defendants' share of payroll taxes, by transmitting the funds to the Administrator no later than 15 days after the Final Approval of the Settlement.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 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 Payments.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date," which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class 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 Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's check or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing them that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned 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 Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

- 5.4. For any Class Member 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).
- 5.5. 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 Class Members beyond those specified in this Agreement.
6. **RELEASE OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:
 - 6.1. **Plaintiff's General Release.** Plaintiff, for herself and her spouse, agents, attorneys, heirs and executor, generally releases, waives, and discharges the Released Parties from any and all causes of action or claims for relief of any kind whatsoever (whether based in tort, contract, statute, regulation, or ordinance), whether known or unknown, suspected or unsuspected, that occurred from the beginning of time through the date Plaintiff executes this Agreement, including but not limited to: (a) any and all individual, class, or representative PAGA claims that were, or reasonably could have been, alleged in the PAGA Notices and/or Operative Complaint based on the facts contained therein, and (b) any and all claims arising from or related to Plaintiff's employment with Defendants through the date Plaintiff executes this Agreement ("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 insurance benefits, social security benefits, or workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now know 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.

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

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.

- 6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, hereby release all Released Parties from all Released Class Claims.
- 6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, all Released Parties from all Released PAGA Claims.
7. **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 procedures and instructions.
- 7.1. Plaintiff 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 and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other 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; (vi) a signed declaration from Class Counsel 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)), and all facts relevant to any actual or potential conflict of interest with Class Members or the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 7.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 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 to the Administrator.
- 7.3. 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.

8. SETTLEMENT ADMINISTRATION

- 8.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators 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 Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. 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.
- 8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 8.3. 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.

8.4. Notice to Class Members.

- (a) 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.
- (b) Using best efforts to perform as soon as possible, and in no event later than 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 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.
- (c) Not later than seven (7) 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.
- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline 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.
- (e) If the Administrator, the Parties, 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 no later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever dates are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) 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 the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A copy of the Request for Exclusion is attached as **Exhibit B**. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the Class Action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks and PAGA Pay Periods. Each Class Member shall have until the Response Deadline (plus an additional 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 U.S. Mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the

Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or 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 to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

8.7. Objections to Settlement.

- (a) 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.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, 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 the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the Class Action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.8. 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.

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.
- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis all Requests for Exclusion to ascertain their

validity. Not later than seven (7) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names 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).

- (c) Workweek and/or PAGA 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 PAGA Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) 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 provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator's Declaration. Not later than seven (7) days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, 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, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. 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.
- (f) Final Report by Administrator. Within ten (10) days after the Administrator disburses all funds of 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 seven (7) 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 its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing

the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least seven (7) days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. **CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendants provided an estimated number of Workweeks worked by Class Members as set forth in Paragraph 4.1 above. Should this number of Workweeks increase by more than ten percent (10%), the Gross Settlement Amount shall increase proportionally by 1% for every 1% increase in Workweeks over the 10% threshold.
10. **DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members, Defendants may, but are not obligated to, elect to withdraw from the Settlement and return the Parties to their respective positions as of the date of acceptance. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and neither Party will have any further obligation to perform under this Agreement. Defendants must notify Class Counsel and the Court of their election to withdraw no later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election. If Defendants elect to withdraw as permitted by this paragraph, they shall pay the entire Administration Expenses Payment incurred through the date of withdrawal.
11. **MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than 10 calendar 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 California Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 11.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 11.2. 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 Class Members), 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

a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this Paragraph.

- 11.3. 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 under California Code of Civil Procedure section 664.6 and as otherwise provided by law 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.
- 11.4. Waiver of the 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.
- 11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of 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.
12. **AMENDED JUDGMENT.** If any amended judgment is required under California Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended Judgment.

13. ADDITIONAL PROVISIONS

- 13.1. 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, that Defendants have any liability for any claims asserted, or that Plaintiff or any Class members or Aggrieved Employees are entitled to damages or any relief; 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 not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, 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. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 13.2. 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) to the extent necessary to report income to appropriate taxing authorities; (3) in response to a court order or subpoena; or (4) 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, with any 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. This Paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this Paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all prior oral or written representations, warranties, covenants, or inducements made to or by any Party.

- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement 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.
- 13.6. 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 Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. If 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.
- 13.7. 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 any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiff, Class Counsel, Defendants 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.
- 13.9. 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.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. 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.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to California Evid. Code §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, upon written demand from Defendants, Plaintiff and Class Counsel shall destroy all paper and electronic versions of Class Data received from Defendants.
- 13.15. 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.
- 13.16. 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.
- 13.17. 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 and the Class:

Daniel F. Gaines
Alex P. Katofsky
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Tel.: (858) 703-8985
E-Mail: attorneys@gaineslawfirm.com

To Defendants:

Seth L. Neulight
NIXON PEABODY, LLP
One Embarcadero Center, 32nd Floor
San Francisco, CA 94111
Tel.: (415) 984-8200
E-Mail: sneulight@nixonpeabody.com

With a copy to:
Zachary Shapiro
Touro University
Deputy General Counsel
690 Walnut Ave, Suite 210
Vallejo, California 94592
Tel.: (707) 638-5459
Email: zshapiro@touro.edu

- 13.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts electronically (i.e., DocuSign), digitally, or by email (PDF), 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.
- 13.19. 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.
- 13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, considering all relevant factors.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement on the dates set forth below.

[SIGNATURES ON FOLLOWING PAGE]

Dated: 03 / 28 / 2024



MARY MAGDALENA MEJIA

TOURO UNIVERSITY MEDICAL GROUP

By: Richard Riemer

Dated: 3/29/2024

Name: DR. RICHARD RIEMER

TOURO UNIVERSITY

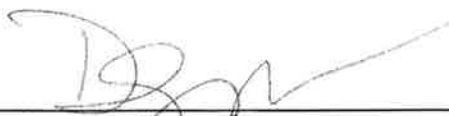
By: Alan Kadish

Dated: 3/29/24

Name: Dr. Alan Kadish

APPROVED AS TO FORM:

Dated: 3/28/2024



Daniel F. Gaines, Esq.
Gaines & Gaines, APLC
Attorney for Plaintiff

Dated: 03/29/2024



Seth L. Neulight
Nixon Peabody, LLP
Attorney for Defendants

EXHIBIT A

**[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

MARY MAGDALENA MEJIA, individually
and on behalf of all similarly situated
individuals,

Plaintiffs,

v.

TOURO UNIVERSITY MEDICAL GROUP, a
California corporation, TOURO UNIVERSITY
CALIFORNIA, form of entity unknown, and
DOES 1 through 10, inclusive,

Defendants.

CASE NO: STK-CV-UOE-2023-953

*Assigned to the Hon. Barbara Kronlund, Dept.
10D*

**NOTICE OF PENDENCY OF PROPOSED
CLASS ACTION SETTLEMENT AND
FINAL HEARING**

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**

A California court authorized this notice. This is not a solicitation from a lawyer.

- A settlement will provide \$1,950,000 to pay claims to all individuals who worked for either Touro University Medical Group and/or Touro University California (collectively, "Defendants") in an hourly-paid, non-exempt classified position in California at any time between February 3, 2019 and April 12, 2024.
- The settlement resolves a lawsuit alleging that Defendants failed to pay minimum and overtime wages due; provide compliant meal and rest periods or premium compensation in lieu thereof; timely issue final wages upon separation of employment; and issue accurate and complete itemized wage statements. The Settlement avoids costs and risks of continuing the lawsuit, pays money to employees, and releases Defendants from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$682,500 as attorney's fees and \$25,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- Defendants deny liability and believe all appropriate wages were paid and that they otherwise complied with any Labor Code obligations. The Parties disagree on how much money could have been awarded if employees won at trial.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If your address has changed, you must notify the Settlement Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendants, as detailed below.
Exclude Yourself	To exclude yourself, you must send a written Request for Exclusion to the Settlement Administrator by the applicable deadline, as detailed below. If you request exclusion, you will receive no money from the class settlement. This is the only option that allows you to ever be part of any other lawsuit against Touro University Medical Group and/or Touro University California about the legal claims that were brought in this case. Even if you exclude yourself, you will still be an Aggrieved Employee subject to the PAGA settlement.
Object	Write to the Settlement Administrator about why you don't like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of the Class on whose behalf this class action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On February 3, 2023, Plaintiff Mary Magdalena Mejia ("Plaintiff"), a former employee of Defendants Touro University Medical Group and Touro University California, filed this lawsuit in the San Joaquin County Superior Court. The lawsuit alleges violations of the California Labor Code and California Business and Professions Code. The lawsuit seeks to certify a class of all individuals who currently or previously have worked for either of the Defendants in California in hourly-paid, non-exempt classified positions at any time between February 3, 2019 and April 12, 2024 ("Class Period"). Specifically, the lawsuit alleges that members of the Class were not paid certain minimum and overtime wages due; provided compliant meal and rest periods or premium compensation in lieu thereof; timely issued final wages upon separation of employment; or issued accurate and complete itemized wage statements. The lawsuit seeks recovery of wages, liquidated damages, damages, interest, statutory and civil penalties, restitution, attorney's fees and costs. Defendants, including a nonprofit organization, deny all of the material allegations in the lawsuit and deny that they owe Class Members any remedies. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiff's Attorneys

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Gaines & Gaines, APLC
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Phone: (866) 550-0855

Defendants' Attorneys

Seth L. Neulight, Esq.
Nixon Peabody, LLP
One Embarcadero Center, 32nd Floor
San Francisco, CA 94111

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendants. Plaintiff believes she would have prevailed on her claims at a trial. Defendants do not believe that Plaintiff would have won anything from a trial. There has been no trial. Instead, both sides agreed to a settlement, which is memorialized in the Class Action and PAGA Representative Action Settlement Agreement ("Settlement" or "Settlement Agreement"), in order to avoid the further costs, risks, and uncertainty of a trial. Plaintiff and Plaintiff's Attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all Class Members.

B. Who is in the Settlement Class? Who is an Aggrieved Employee?

The Settlement encompasses a class composed of all individuals who currently or previously have worked for either of the Defendants in California in hourly-paid, non-exempt classified positions at any time between February 3, 2019 and April 12, 2024. It also encompasses Aggrieved Employees composed of all individuals who currently or previously have worked for either of the Defendants in California in hourly-paid, non-exempt classified positions at any time between January 19, 2021 and April 12, 2024 (the "PAGA Period").

C. What does the Settlement provide?

1. Gross Settlement Amount.

The Settlement provides that Defendants will pay \$1,950,000 (the "Gross Settlement Amount") to settle the lawsuit.

2. Net Settlement Amount.

The "Net Settlement Amount" is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts that will be requested at the Final Approval Hearing and are subject to comment or objection by Participating Class Members. The Court will set these amounts at the Final Approval Hearing.

(a) **Class Counsel's Attorney's Fees** in an amount set by the Court, not to exceed \$682,500;

(b) **Class Counsel's Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed \$25,000;

(c) **Class Representative Service Payment** in an amount set by the Court, not to exceed \$15,000 for her service in the lawsuit;

(d) **Settlement Administration Costs** which are currently estimated to not exceed \$10,000, for administering the settlement; and

(e) **PAGA Penalties** in the total amount of \$100,000 for the settlement of claims arising under the California Private Attorneys General Act ("PAGA"). Of that amount, 75% or \$75,000, shall be paid to the California Labor and Workforce Development Agency ("LWDA"). The remaining 25%, or \$25,000, shall be distributed for payment to Aggrieved Employees.

3. Individual Payment Amount.

Your share of the Net Settlement Amount will be determined by the formula detailed in section E below.

D. What Are You Giving Up To Get A Payment Or Stay In The Class?

Effective on the date when Defendants fully fund the entire Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, hereby release all Released Parties from all Released Class Claims.

All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, all Released Parties from all Released PAGA Claims.

"Released Parties" means: each of the Defendants, their parent, subsidiaries, affiliated entities, and each of their respective former and present directors, officers, managing agents, attorneys, insurers, predecessors, successors, and assigns.

"Released Class Claims" means all class claims pled in the Operative Complaint, and all claims that reasonably could have been pled in the Operative Complaint based on the factual allegations contained therein which occurred during employment in California in hourly-paid, non-exempt classified positions during the Class Period, including: claims for unpaid minimum and overtime wages in violation of California Labor Code §§ 510, 1194, and 1194.2; claims for failure to provide rest period or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 558, and 1194, and California Industrial Welfare Commission Wage Order ("Wage Order") 4-2001; claims for failure to provide meal periods or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 512, 558, and 1194, and Wage Order 4-2001; claims for failure to provide accurate itemized wage statements in violation of California Labor Code §§ 226 and 226.3; claims for failure to pay all final wages due in violation of California

Labor Code §§ 201, 202, and 203; claims for violation of the California Unfair Competition Law, Business & Professions Code § 17200, et seq. based upon the foregoing alleged violations; and claims for all other relief recoverable based upon the foregoing violations, including compensatory damages, liquidated damages, restitution, pre-judgment interest, post-judgment interest, and attorneys' fees and costs. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the California Fair Employment and Housing Act, unemployment insurance, disability insurance, social security benefits, workers' compensation benefits, or claims based on facts occurring outside the Class Period.

"Released PAGA Claims" means all PAGA claims pled in the Operative Complaint and/or PAGA Notices, and all PAGA claims that reasonably could have been pled in the Operative Complaint and PAGA Notices based upon the factual allegations contained therein which occurred during employment in California in hourly-paid, non-exempt classified positions during the PAGA Period as to Aggrieved Employees, including: PAGA claims based upon alleged unpaid minimum and overtime wages in violation of California Labor Code §§ 510, 1194, and 1194.2; PAGA claims for failure to provide rest period or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 558, and 1194, and Wage Order 4-2001; PAGA claims for failure to provide meal periods or pay in lieu thereof in violation of California Labor Code §§ 226.7, 510, 512, 558, and 1194, and Wage Order 4-2001; PAGA claims for failure to provide accurate itemized wage statements in violation of California Labor Code §§ 226 and 226.3; and PAGA claims for failure to pay all final wages due in violation of California Labor Code §§ 201, 202, and 203. The Released PAGA Claims do not include underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability insurance, social security benefits, worker's compensation benefits, or PAGA claims based on facts occurring outside the PAGA Period.

E. How Is My Share Of The Settlement Calculated?

An Individual Class Payment is calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks (defined as any week during the Class Period in which a Class Member actively worked for Defendants in California in hourly-paid, non-exempt classified position for at least one day) worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$25,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any and all taxes owed on their Individual PAGA Payments.

For tax purposes, 25% 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. 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, 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 and all employee taxes owed on their Individual Class Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

Individual Class Payment: According to the records of Defendants, you worked [] Workweeks while employed as an hourly-paid, non-exempt employee in California from February 3, 2019 through April 12, 2024. Based on these weeks worked, you are entitled to an Individual Class

Payment of approximately \$[____]. This amount is subject to change based on the final ruling of the Court.

Individual PAGA Payment: According to the records of Defendants, you worked [____] pay periods while employed as an hourly-paid, non-exempt employee in California from January 19, 2021 through April 12, 2024. Based on these pay periods, you are entitled to an Individual PAGA Payment of approximately \$[____]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than _____, 2024. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendants and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the "Final Settlement Hearing") on _____, at 8:30 a.m., in the Courtroom of Judge Barbara Kronlund of the San Joaquin County Superior Court, Department 10D, located at 180 E Weber Ave, Stockton, CA 95202. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court's final approval as fair, reasonable, adequate and in the best interests of the Class Members; (iii) whether the Class Members should be bound by the terms of the settlement; (iv) the amount of the attorney's fees and costs to be awarded to Plaintiff's Attorneys; and (v) the amount that should be awarded to Plaintiff as a service award. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than _____. The Settlement Administrator's address is [Settlement Administrator address].

- **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Settlement Hearing, you may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than _____.

• **OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself (“opt out”) from the Class, but if you choose to do so, you will not receive any benefits from the proposed settlement except you will participate in the PAGA portion thereof and be paid a share of the PAGA settlement. With that exception, you will not be bound by a judgment in this case and you will have the right to file your own lawsuit against the Defendants and pursue your own claims in a separate suit. You can opt out of the Class by completely filling out and mailing the enclosed Request for Exclusion Form to the Settlement Administrator at the above-stated address, such that it is postmarked no later than _____.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed “Class Action and PAGA Representative Action Settlement Agreement” which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the San Joaquin County Superior Court, located at 180 E Weber Ave, Stockton, CA 95202.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number].

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT B

[REQUEST FOR EXCLUSION FORM]

REQUEST FOR EXCLUSION

ONLY COMPLETE THIS REQUEST FOR EXCLUSION FORM IF YOU WANT TO OPT OUT OF (NOT PARTICIPATE IN) THE SETTLEMENT OF THE ACTION KNOWN AS *Mary Magdalena Mejia v. Touro University Medical Group and Touro University California*, San Joaquin County Superior Court Case. No. STK-CV-UOE-2023-953. **IF YOU OPT OUT OF THE SETTLEMENT, YOU WILL NOT RECEIVE ANY PORTION OF THE SETTLEMENT AMOUNT.**

I confirm that I was employed by Defendants Touro University Medical Group and/or Touro University California in California between February 3, 2019 and April 12, 2024.

I do not wish to receive any payment under the terms of the proposed class action settlement or to otherwise participate in the proposed settlement.

Date: _____

Signature: _____

Print Name: _____

Residence Street Address: _____

City, State and Zip Code: _____

IN ORDER TO BE VALID, THIS REQUEST FOR EXCLUSION FORM MUST BE COMPLETED, SIGNED, MAILED BY FIRST CLASS MAIL, AND POSTMARKED ON OR BEFORE **[60 days after mailing of Notice]**. Send this signed request for exclusion form to the Settlement Administrator:

Touro University Medical Group and Touro University California
Settlement Administrator
c/o _____
