

1 JAMIE SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
2 NIKKI TRENNER, ESQ. (SBN 316007)
nikki@crosnerlegal.com
3 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
4 **CROSNER LEGAL, PC**
5 9440 Santa Monica Blvd. Suite 301
6 Beverly Hills, CA 90210
7 Tel: (866) 276-7637
8 Fax: (310) 510-6429

9 Attorneys for Plaintiff ROCIO JUAREZ
10 As an individual and on behalf of all others similarly situated

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

13 ROCIO JUAREZ, as an individual on
14 behalf of herself and on behalf of all others
15 similarly situated,

16 Plaintiff,

17 v.

18 EXCEL RESIDENTIAL SERVICES,
19 INC., a California corporation; and DOES
20 1-100, inclusive,

21 Defendants.

Case No.: 23STCV05997

Assigned for all Purposes to:
Hon. Carolyn B. Kuhl
Dept. SSC-12

**DECLARATION OF NIKKI TRENNER IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: March 13, 2025
Time: 10:30 am
Dept.: SSC-12

1 I, NIKKI TRENNER, declare as follows:

2 1. I am an attorney duly licensed to practice in California and before this Court, and I am
3 associated with Crosner Legal, PC, counsel of record for Plaintiff in the above-captioned matter. If
4 called to testify as to the facts within, I would and could competently do so.

5 2. **Settlement Agreement and Notice.** Attached hereto as **Exhibit 1** is a true and correct copy
6 of the Parties' Class Action and PAGA Settlement Agreement and Class Notice. Attached hereto as
7 **Exhibit 2** is a true and correct redline copy of the Agreement showing the modifications made by the
8 Parties the LASC form agreement. Attached hereto as **Exhibit 3** is a true and correct copy of Parties'
9 Class Action Notice of Settlement.

10 3. **LWDA PAGA Notices.** Attached hereto as **Exhibit 4** is a true and correct copy of the
11 February 23, 2023 PAGA letter to the LWDA and proof of submission.

12 4. **Complaint Uploaded to LWDA.** Attached hereto as **Exhibit 5** is a true and correct copy
13 of the proof of submission that complaint was uploaded to the LWDA's website.

14 5. **Settlement Agreement Uploaded to LWDA.** Attached hereto as **Exhibit 6** is a true and
15 correct copy of the proof of submission that the Settlement Agreement was uploaded to the LWDA.

16 **CROSNER LEGAL'S EXPERIENCE**

17 6. I graduated from Trinity Law School in 2017 and joined Mara Law Firm, PC
18 (formerly The Turley and Mara Law Firm, APLC) that same year. I later joined Crosner Legal in
19 2020 and am currently employed as a senior associate in the wage and hour department. I have
20 solely handled wage and hour class actions and PAGA lawsuits for six (6) years. I routinely
21 write and oppose motions, draft complaints, appear before the Court at law and motion and
22 settlement hearings, engage in the discovery process, including drafting Belaire-West notices
23 and meet and confer letters.

24 7. I have obtained class certification in the following matters: *Hernandez v. Aviation*
25 *Port Services, LLC*, Kern County Superior Court Case No. BCV-18-100141. I have also assisted
26 in obtaining millions of dollars for employees in the following court-approved class action
27 and/or representative PAGA settlements: *Michael Campbell, et al. v. Symons Emergency*
28 *Specialities, Inc.*, San Bernardino County Superior Court Case No. CIVDS1903158; *Amber*

1 *Collins v. Danbarb, Inc., et al.*, Los Angeles County Superior Court Case No. 20STCV44190;
2 *Michael Elridge v. LA Downtown Medical Center, LLC, et al.*, Los Angeles County Superior
3 Court Case No. 20STCV05951; *Anthony Leon, et al. v. Sierra Aluminum Company, et al.*, San
4 Bernardino County Superior Court Case No. CIVDS2010856; *Elaine Moyal v. Cabinets To Go,*
5 *LLC*, Los Angeles County Superior Court Case No. 20STCV32477; *Genevieve Rangel v. Bassett*
6 *Direct NC, LLC*, Orange County Superior Court Case No. 30-2018-01040101-CU-OE-CXC;
7 *Jacob Buys v. Sizewise Rentals, Inc., et al.*, Sacramento County Superior Court Case No. 34-
8 2018-00225848-CU-OE-GDS; *Alejandro Valencia v. VM Tree Service, Inc., et al.*, Riverside
9 County Superior Court Case No. RIC1819395; *Joshua Rael v. Intercontinental Hotels Group*
10 *Resources, Inc.*, Los Angeles County Superior Court Case No. 19STCV16010; *Angel Cervantez*
11 *v. Valley Pallet, Inc.*, Sacramento County Superior Court Case No. 34-2018-00234334-CU-OE-
12 GDS; *Tonja Edwards-Bloodsaw v. Sandburst Convalescent Group, LTD, et al.*, Los Angeles
13 Superior Court Case No. 19STCV15797; *Moriah Holtegaard, et al. v. Howroyd-Wright*
14 *Employment Agency, Inc. dba AppleOne Corporation Services, et al.*, Central District Court of
15 California, Eastern Division, Case No. 5:20-cv-00509 JGB (KKx); *Jade Findley, et al. v.*
16 *Avenue5 Residential, LLC, et al.*, Los Angeles County Superior Court Case No. 20STCV34633;
17 *Keivan Keyhanzad v. Ryan Cars, LLC dba Pomona Kia, et al.*, Riverside County Superior Court
18 Case No. RIC1905276; *Luis Bolanos v. FSC Corporation dba Il Pastaio Restaurant, et al.*, Los
19 Angeles County Superior Court Case No. BC722758; *Loretta Cannon v. Pasadena Hospital*
20 *Association, LTD dba Huntington Hospital*, Los Angeles County Superior Court Case No.
21 19STCV14554; *Nathan Kapusta v. Cardinale Motors SLO, Inc., et al.*, Kern County Superior
22 Court Case No. BCV-20-101593; and *Jesse McCauley v. Mullahey Ford, Inc., et al.*, San Luis
23 Obispo County Superior Court Case No. 21CV0001.

24 8. Zach Crosner is a 2010 graduate of University San Diego School of Law and he
25 has approximately thirteen years of experience as a practicing attorney. For nearly his entire
26 career, his practice has focused on litigation of wage & hour, consumer, and privacy class action
27 and representative action claims. Following graduation he immediately began working for a
28 nationally recognized plaintiff's complex litigation firm, CaseyGerry, where he worked directly

1 with past presidents of the consumer attorneys and recipients of trial attorneys of the year
2 awards. He also worked for other firms that included former CAALA and CLAY trial attorney
3 of the year recipients. While with these firms, he advocated for the rights of consumers and
4 employees in class action litigation, civil rights and employment litigation, catastrophic injuries,
5 insurance bad faith and appellate litigation.

6 9. In 2013, he founded the law firm of Crosner Legal, P.C. which since its inception
7 has focused almost exclusively on plaintiff-side class actions lawsuits representing employees,
8 consumers and other victims. Currently, over ninety percent (95%) of his practice is dedicated
9 exclusively to the prosecution of class actions and representative action lawsuits, and his law
10 firm is currently responsible as lead counsel or co-lead counsel for prosecuting over one hundred
11 (100) active wage and hour class actions and/or PAGA representative actions, as well as a
12 multitude of consumer and privacy class actions, in both federal and state courts throughout
13 California. He has been a direct participant in over one hundred (100) class action and/or
14 representative action settlements where he has been approved as adequate lead counsel.

15 10. Mr. Crosner has been selected by Super Lawyers as a “Southern California Rising
16 Star” for employment and labor law consecutively from 2018 through 2023. Super Lawyers has
17 also named me on their “Up-and-Coming 100” Southern California Rising Stars List for
18 consecutive years from 2021 through 2023. Only 2.5% of lawyers within California are named a
19 Super Lawyer Rising Star and even less are added to their Top Lists. Additionally, he has been
20 selected as a Top 40 Under 40 Civil Plaintiff Attorney by the National Trial Lawyers, invitation-
21 only organization composed of the premier trial lawyers, from 2019 through 2023. He is an
22 active participant in advocacy groups, including as an executive board member of the Wage and
23 Hour Committee and the Legislative Committee for the California Employment Lawyers
24 Association; a member of the Grassroots Advocacy Team for the National Employment Lawyers
25 Association; Wage and Hour Committee member and Class Action Committee member for the
26 National Trial Lawyers; a member of the American Association for Justice; and a member of the
27 Pound Civil Justice Institute.

1 11. Jamie Serb is a partner with Crosner Legal and head of the firms' Wage & Hour
2 practice group. She graduated from the University of California, San Diego in 2004, graduated from
3 California Western School of Law in 2013, and has been a member of the California Bar since 2013.
4 She gained extensive experience in wage and hour litigation, beginning work as a class action
5 attorney in 2015 at the Mara Law Firm, PC (previously Turley & Mara Law Firm, APLC; Turley
6 Law Firm, APLC). She joined Crosner Legal on January 4, 2021 as an associate attorney. She has
7 handled wage and hour class actions and PAGA lawsuits for the past several years and has assisted
8 in obtaining millions of dollars for employees during her years of practice.

9 12. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
10 action settlements while serving as lead class counsel in recent years, including but not limited to a
11 \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America, Inc.*,
12 Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action settlement
13 in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252 (Sacramento
14 Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017 (*Montelone v. Ocean*
15 *Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a \$1.8 million wage and
16 hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc. dba American*
17 *Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and hour class action
18 settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160 JGB (C.D. Cal.)), a
19 \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v. Wyndham Vacation*
20 *Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.)), a \$1.15 million wage and
21 hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*, Case No. 4:18-CV-04864-
22 YGR (N.D.Cal.)); a \$7.25 million wage and hour class action settlement in 2020 in *Avina, et al. v.*
23 *First Alarm Security & Patrol, Inc.*, Case No. 18CV323753 (Santa Clara Cty. Super Ct.); a \$2.2
24 million wage and hour class action settlement in 2021 (*Ghorchian, et al. v. West Hills Hospital, et*
25 *al.*, Case No. LS029737 (Los Angeles Cty. Super. Ct.)); a \$2.85 million dollar wage and hour
26 settlement in 2021 (*Valencia v. The Original Mowbray's Tree Service, Inc.*, Case No.
27 CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1 million wage and hour class action
28 settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No. 21CV382467 (Santa Clara Cty. Super.

1 Ct.)), a \$1.4 million wage and hour class action settlement in 2023 in *Correa, et al. v. FedEx Supply*
2 *Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino Cty. Super. Ct.), a \$2.38 million wage and
3 hour class action settlement in 2023 in *Michel, et al. v. Valley Thrift Store, Inc.*, Case No.
4 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million wage and hour class action settlement
5 in 2023 in *Jajuga v. Pilot Travel Centers*, Case No. CIVDS1931464 (San Bernardino Cty. Super.
6 Ct.); \$1.015 million wage and hour class action settlement in 2023 in *Gotishan v. Kyo Autism*
7 *Therapy*, Case No. CGC-21-596378 (San Francisco Cty. Super. Ct); and a \$1.15 million wage and
8 hour PAGA settlement in 2023 in *Vaughn v. Public Health Foundation Enters., Inc.*, Case No.
9 21STCV18512 (Los Angeles Cty. Super. Ct.).

10 **BACKGROUND/LITIGATION HISTORY**

11 13. Excel is a “full-service property management company established in 2001, and
12 specializing in multifamily real estate. The company has managed over 112 properties consisting
13 of over 6,500 apartment units.” In 2015, Excel expanded to managing 14 affordable housing
14 residential apartments totaling to 589 units in Los Angeles. In addition, Excel manages properties
15 in Arizona and Texas.

16 14. Plaintiff Rocio Juarez was employed as an hourly-paid non-exempt Porter/Cleaner
17 for Excel from approximately May 2017 to the present. Plaintiff is currently out on medical leave.
18 Her job duties required that she clean two separate apartment buildings daily and would spend
19 approximately half of her work day at one location before driving to the next to complete her daily
20 cleaning duties. Plaintiff and similarly situated employees drove their personal vehicles between
21 locations and were not reimbursed for gas or mileage for the approximate 15-minute drive
22 between the two properties. Employees were required to make this drive between properties while
23 on their meal breaks and were not paid for this time spent working, nor paid premiums for
24 unlawful meal breaks.

25 15. On March 17, 2023, Plaintiff filed a class action complaint against Defendant
26 alleging various violations of the Labor Code, including, unpaid minimum and overtime wages,
27 failure to provide meal and rest breaks, wage statement violations, waiting time penalties, failure to
28 reimburse business expenses and violation of the UCL. Plaintiff also submitted the required notice

letter the LWDA under PAGA and timely exhausted her administrative remedies with the LWDA. Plaintiff did not receive notice from the LWDA that it intended to investigate the alleged violations outlined in her PAGA letter. Plaintiff consequently filed a separate PAGA action on May 4, 2023, alleging similar violations of the Labor Code. (Agreement, § 2.1.) Shortly after the cases were filed, Excel provided Plaintiff's counsel with the arbitration agreements in effect during the Class Period. In lieu of fighting over arbitration and potentially submitting multiple arbitration demands, the Parties agreed to attend an early mediation.

16. In November 2023, the Parties participated in mediation with Steve Cerveris, Esq., a respected wage and hour class action mediator. After a full day of mediation, however, the Parties were unable to reach an agreement. After additional discussion and discovery, the Parties mediated a second time with Mr. Cerveris in May 2024 and with the mediator's assistance reached agreement on all major issues and ultimately prepared and executed a Memorandum of Understanding. They then formally reduced the proposed settlement to the Agreement now before the Court for approval. As part of the Settlement, Plaintiff filed a First Amended Complaint adding a PAGA cause of action, and the FAC is the Operative Complaint. Both the FAC and the Agreement have been uploaded to the LWDA. Plaintiff dismissed her PAGA-only action without prejudice on November 14, 2024.

INVESTIGATION

17. Prior to the mediation, Defendant provided Plaintiff with extensive informal discovery, including Plaintiff's personnel, time, and payroll records, time and payroll records for a randomly selected sampling of 20% the Class Members (Plaintiff's experts at Berger Consulting Group suggested the sampling was statistically significant and would enable them to extrapolate to the entire putative class), wage statement exemplars, Defendant's employee handbooks, including Defendant's policies and procedures regarding the payment of wages, the provision of meal and rest breaks, timekeeping policies (including recording hours), issuance of wage statements, and termination wages, expense reimbursement policies, as well as information regarding the number of putative Class Members who are current and former employees, the number of Aggrieved Employees, the number of workweeks throughout the Class Period, and the number of pay periods throughout the PAGA Period. From this information, Plaintiff was able to analyze Defendant's

1 liability for the claims asserted in this case and, with the assistance of Plaintiff's experts at Berger
2 Consulting Group, the potential exposure and damages.

3 18. Based on this informal discovery, Plaintiff contends the Class Members were not
4 paid all wages due, not provided with legally compliant meal and rest periods, did not receive
5 compliant wage statements, did not receive required expense reimbursement, and did not receive all
6 wages due on separation of employment. In considering the reasonableness of the proposed
7 settlement, Plaintiff considered each of Defendant's counterarguments, which sharply contested
8 Plaintiff's claims. Plaintiff and counsel weighed the strength of Defendant's arguments, including
9 the risks of prevailing at class certification and on the merits, and determined that the proposed
10 settlement is in the best interests of the Class. Although remaining confident in the strength of her
11 claims, these factors led Plaintiff to discount the exposure analysis, as discussed below.

12 **TERMS OF THE PROPOSED SETTLEMENT**

13 19. The Parties have agreed (subject to the Court's approval) to resolve this matter for
14 the non-reversionary total sum of \$342,500.00 ("Gross Settlement Amount" or "GSA")
15 (Agreement, § 3.1.), which includes: (a) reasonable attorney's fees of up to \$114,166.67 (33.33%
16 of the GSA) to compensate Class Counsel for work already performed and all work remaining to
17 be performed (Agreement, § 3.2.2.); (b) actual litigation expenses as documented and not to
18 exceed \$20,000.00 (Agreement, § 3.2.2.); (c) an Enhancement Award to Plaintiff in an amount not
19 to exceed \$2,500.00 (Agreement, § 3.2.1.); (d) Administration Costs to Apex Class Action, LLC
20 (the proposed settlement administrator) in an amount not to exceed \$4,695.00 (Agreement,
21 § 3.2.3.); and (e) PAGA penalties to the LWDA of \$7,500.00 (which is 75% of the \$10,000.00
22 PAGA Payment, with the remaining 25% or \$2,500.00 to Aggrieved Employees) (Agreement,
23 § 3.2.5.). Employer-side payroll taxes (including FICA, FUTA, and SDI) will be paid by
24 Defendant separate and apart from the GSA. (Agreement, § 3.1.)

25 20. After all Court-approved deductions from the GSA, it is estimated that at least
26 \$191,138.33 ("Net Settlement Amount" or "NSA"), less all applicable employee-side taxes, will be
27 distributed to the estimated 150 Class Members, with an average individual settlement amount of
28 around \$1,274. Additionally, it is estimated that the 25% PAGA Payment (\$2,500.00) will be

1 distributed to the estimated 65 Aggrieved Employees, resulting in an average payment of \$38.46
2 per Aggrieved Employees. Under no circumstances will any portion of the Settlement revert to
3 Defendant. (Agreement, § 3.1.)

4 21. Apex will calculate and issue Individual Class Payments to Participating Class
5 Members by “(a) dividing the Net Settlement Amount by the total number of Workweeks worked
6 by all Participating Class Members during the Class Period and (b) multiplying the result by each
7 Participating Class Member’s Workweeks.” (Agreement, § 3.2.4.) Additionally, Apex will calculate
8 and issue payments to Aggrieved Employees based (a) dividing the amount of the Aggrieved
9 Employees’ 25% share of PAGA Penalties (\$3,750) by the total number of PAGA Period Pay
10 Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result
11 by each Aggrieved Employee’s PAGA Period Pay Periods.” (Agreement, § 3.2.5.1.)

12 22. Each Class Member’s settlement award will be apportioned as follows:
13 twenty percent (20%) wages and eighty percent penalties and interest. (Agreement, § 3.2.4.1.) Apex
14 will be responsible for issuing Form W-2s for amounts deemed wages and Form 1099s for the
15 portions allocated to penalties and interest. (Agreement, §§ 3.2.4.1. and 3.2.5.2.)

16 23. Settlement checks must be cashed or deposited within 180 days after issuance.
17 (Agreement, § 4.4.1.) In the event a settlement check remains uncashed, such uncashed funds shall
18 be transmitted to the State Controller’s Office Unclaimed Property Fund in the name of the
19 Participating Class Member and/or Aggrieved Employee. (Agreement, § 4.4.3.). Therefore, there
20 will be no unpaid residue or unclaimed or abandoned Class Member funds under California Code
21 of Civil Procedure section 384(a).

22 24. Within fifteen (15) calendar days after entry of the Preliminary Approval Order,
23 Defendant will provide Apex with the Class Data, which Apex will maintain as private and
24 confidential. (Agreement, § 4.2.)

1 25. Prior to mailing, Apex will perform a search for updated addresses in the National
2 Change of Address database, and will use the NCOA database and skip traces to attempt to find
3 current addresses for any Notice returned as undeliverable. (Agreement, § 7.5.2.) If Apex is unable
4 to obtain a better address for a Class Member, it will be under no obligation to make further
5 attempts to locate or notice the Class Member. (Agreement, § 7.5.3.) Within fourteen days after
6 receipt of the Class Data, Apex will mail the Notice to all Class Members via First-Class mail.
7 (Agreement, § 7.5.2.)

8 26. The contents of the Notice are consistent with the terms of the Agreement and
9 California Rule of Court 3.769. The Notice informs Class Members how and when to request
10 exclusion from or object to the settlement and of their estimated payment amount which they will
11 automatically receive a settlement payment if they do nothing.

12 27. Class Members will have forty-five (45) days from the initial mailing of the Notice
13 to respond to the settlement by submitting a challenge to the number of weeks or pay periods
14 attributed to them, objecting, or requesting exclusion. (Agreement, § 7.5.4.) Class Members can
15 object to the settlement in writing via mail or fax by submitting a document with their name, the
16 words “Notice of Objection” or “Formal Objection” and a description of the arguments supporting
17 their objection, or they may be heard at the Final Approval Hearing. (Agreement, § 7.8.)

18 28. Class Members can also request for exclusion from the settlement by mailing or
19 faxing a written request, including his or her name, address, phone number or email address, last
20 four digits of their Social Security Number or Employment Authorization number, and a statement
21 demonstrating his or her intent to opt out of the settlement. (Agreement, § 7.6.)

22 29. The Notice also informs the Class Members/Aggrieved Employees that they can
23 dispute the number of workweeks/pay periods used to calculate their settlement payments by
24 contacting Apex before the Response Deadline and providing documentation to support their
25 dispute. Apex will investigate the dispute, request additional information from Defendant, and make
26 a final decision as to the number of eligible work weeks/pay periods. (Agreement, § 7.7.)

1 30. Defendant will fund the settlement within fourteen (14) calendar days after the
2 Effective Date, and Apex will disburse all payments required under this Settlement within fourteen
3 (14) calendar days of receipt of the GSA. (Agreement, § 4.3-4.)

4 31. Upon final approval, Participating Class Members shall forever release the
5 Released Parties for the Released Claims for the Class Period, including all claims pleaded in the
6 Operative Complaint, and which could reasonably have been alleged, based on the Class Period
7 facts, allegations, and/or claims stated in the Operative Complaint, for work performed during the
8 Class Period, and as specifically detailed in Sections 5.2. of the Agreement. (Agreement, § 5.2).
9 Additionally, the Aggrieved Employees will the Released Parties from all claims for PAGA
10 penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period
11 facts stated in the Operative Complaint, and PAGA Notice, and as more specifically detailed in
12 Section 5.3 of the Agreement.

13 32. The Agreement provides for a service payment not to exceed \$2,500.00 to Plaintiff
14 (Agreement, § 3.2.1.), and in addition she has entered into a separate individual settlement with
15 Excel in exchange for her agreement to resign her employment. Courts routinely approve service
16 payments, or incentive awards, to compensate named plaintiffs for the services they provide and the
17 risks they incur during class litigation. The requested service award is reasonable in light of the
18 benefits Plaintiff conferred upon the entire Class, resulting in a benefit to all Class Members and the
19 State of California, the time spent assisting counsel with the investigation and prosecution of these
20 claims, commitment to responding to discovery, and consenting to the proposed Agreement.
21 Furthermore, by attaching her name to this lawsuit, Plaintiff also took on the reputational risk that
22 future employers would learn of her participation in this case and would unfairly associate them
23 with costly litigation, costing them future employment opportunities. Any future employer could
24 easily perform a simple Google search – an unauthorized simple background check unknown to
25 Plaintiff that can still provide a plethora of information – and conclude that Plaintiff is not worth the
26 risk of hiring given her prior involvement in a lawsuit against a former employer. This is the kind
27 of reputational risk, borne only by Plaintiff, that the incentive award is meant to compensate.
28 Furthermore, in pursuing this action on behalf of the Class, Plaintiff risked a judgment against her

1 for attorney's fees and costs in the event this matter should Excel prevail. For these reasons, at final
2 approval, Plaintiff will request the Court award her an enhancement payment in an amount that does
3 not exceed \$2,500.

4 **The Proposed Settlement is a Reasonable Compromise of Claims and meets the Dunk/Kullar**

5 **Factors**

6 33. The proposed settlement was reached as a result of arm's-length negotiations
7 facilitated by a respected mediator. Though cordial and professional, the settlement negotiations
8 have been, at all times, adversarial and non-collusive. Following mediation, counsel for the Parties
9 conducted further extensive and arm's length negotiations on the settlement terms memorialized in
10 the Agreement.

11 34. While Plaintiff believes in the merits of her case, she also recognizes the inherent
12 risks of litigation and understand the benefit of Class Members receiving significant settlement
13 funds immediately as opposed to risking continued litigation in achieving class certification, the
14 merits of the case before and after trial, the damages awarded and/or an appeal that can take several
15 more years to litigate.

16 35. Plaintiff believes this case is suitable for certification as she contends there are
17 company-wide policies that violate California law and uniformly affect the Class Members.
18 Defendant's counterarguments, however, raise uncertainties with respect to both class certification
19 and success on the merits.

20 36. Defendant provided Plaintiff with class-wide data from which Plaintiff's Counsel
21 extrapolated a damage analysis in preparation of mediation. For purposes of the mediation, there
22 were a total of 150 Class Members who worked approximately 14,858 work weeks in the limitations
23 period, and 65 aggrieved employees and 2.050 pay periods within the PAGA Period.

24 37. First, Plaintiff further contends Defendant failed to pay all minimum and overtime
25 wages due to the class members. First, she alleges Excel rounded time punches exactly to the nearest
26 quarter-hour interval even though Plaintiff and class members frequently worked 5-10 additional
27 minutes after the scheduled end of shift completing work duties. According to Plaintiff's expert,
28 approximately 41% of all shifts during the Class Period had punches that were rounded in this

1 manner. Second, Plaintiff and class members spent their meal break time traveling between their
2 different work locations and accordingly but were not paid for this time. As mentioned earlier,
3 Plaintiff worked at two different locations each shift, and she would spend the first half of her day
4 cleaning at the first location and then while purportedly on her lunch break she was required to drive
5 10-15 minutes to the second to finish her shift. This travel time was unpaid. For mediation purposes,
6 Plaintiff's expert conservatively estimated 15-minutes per shift is owed in off the clock wages
7 (53.2% of which is calculated at the overtime rate) for an estimated exposure of approximately
8 **\$355,970**, exclusive of any of Excel's defenses to class certification or on the merits. Plaintiff also
9 alleges Defendant failed to incorporate all forms of compensation into the regular rate of pay
10 calculations when paying overtime and sick pay as required by California law. Per Plaintiff's
11 experts, the total exposure on this claim was around **\$4,000**.

12 38. In response, Excel argued its payroll and timekeeping policies are fully compliant,
13 and that it properly tracked and paid for all hours worked at the appropriate hourly wage. Defendant
14 also argued that, if any class members failed to record and report time, whether travel time or
15 otherwise, it was in violation of company policy and would have occurred on a haphazard and
16 individual basis. Accordingly Defendant argued the issue would not be certifiable since it would
17 require individualized inquiries whether any compensable "off the clock" work occurred and why
18 it was or was not documented and paid for.

19 39. Next, Plaintiff contends Defendant failed to provide legally compliant meal and rest
20 breaks. Specifically, as to meal breaks, for the same reasons addressed above, Plaintiff contends she
21 and the class members did not receive compliant meal breaks because they spent part of their meal
22 periods traveling between work locations. Additionally, Plaintiff's expert's analysis suggests
23 approximately 41% of all shifts during the Class Period had punches that were rounded exactly to
24 the nearest quarter-hour interval in violation of *Donohue v. AMN Servs., LLC* (2021) 11 Cal. 5th 58.

25 40. Plaintiff also contends Excel failed to provide duty-free rest periods to Class
26 Members and that its written policies did not adequately inform employees they were entitled a net
27 10 minute break free from all employee control. As a result, per Plaintiff, Excel failed to relinquish
28 control over how Class Members utilized their rest period time by retaining control over the location

1 where employees took rest periods, by prohibiting employees from leaving the premises during rest
2 periods, and otherwise subjecting Class Members to policies imposing employer control during their
3 break time.

4 41. Defendant denies Plaintiff's contentions, claiming it made meal and rest breaks
5 available to Class Members in compliance with California law. Defendant contends its meal and
6 rest break policies are lawful and that Class Members were frequently reminded they were required
7 to take all meal and rest breaks. Defendant also contends that time records demonstrate that Class
8 Members took duty-free, timely meal and rest breaks, and strongly denied that employees were
9 required to travel or do work of any kind while on a meal break. Defendant also contends its meal
10 and rest break policies and practices comported with the flexibility the *Brinker* court held was
11 integral to California's meal and rest period requirements. Finally, Defendant argues that Plaintiff's
12 meal and rest break claims are not susceptible to common proof, as the claims would require
13 individualized inquiry, including whether there was an unlawful companywide policy, whether
14 employees had the opportunity to take meal and rest periods, whether they voluntarily chose to
15 forego their meal and rest periods, and whether Defendant ever prevented them from taking meal
16 and rest periods. Accordingly, Defendant contends these claims are vulnerable to a ruling that class
17 treatment is not appropriate. Without taking into consideration any of Defendant's defenses to
18 certification or on the merits, Plaintiff estimates Excel faces around **\$834,905** (48,906 violations *
19 \$17.37/hour = \$834,905) in damages for meal period violations assuming a 100% violation rate and
20 after accounting for meal period premiums paid. On the rest period claims, Plaintiff estimates around
21 **\$917,900** in damages, again assuming a 100% violation rate (52,849 violations * \$17.37/hour =
22 \$917,900.)

23 42. On the expense reimbursement claims, Plaintiff alleges employees were required to
24 use their own personal vehicles to drive to multiple properties each day to perform their job duties.
25 For example, Plaintiff would begin her workday at one location and spend half of her day there,
26 cleaning the property. On her lunch break, she was required to relocate to the second location,
27 approximately 10-15 minutes away, to finish her work day cleaning the second location. Plaintiff
28 and the class members received no mileage or other reimbursement for the expenses incurred using

1 their personal vehicles. Without taking into consideration any of Defendant's defenses to
2 certification or on the merits, Plaintiff calculated Defendant's maximum exposure for inaccurate
3 wage statements at about **\$173,700** (3,474 work months * \$50/month).

4 43. As a result of the above alleged violations, Plaintiff also derivatively alleges Excel
5 failed to provide accurate wage statements and further failed to timely pay all wages that were due
6 and owing upon separation of employment. Thus, should the primary claims fail, Plaintiff's claim
7 for wage statement violations and waiting time penalties would also fail. Defendant also contends
8 it would not be liable for waiting time penalties because a "good faith dispute" exists over the
9 payment of past wages. Defendant also contends Plaintiff would have to prove Defendant
10 "willfully" failed to pay Class Members appropriate wages due upon separation of employment.
11 Without taking into consideration any of Defendant's defenses to certification or on the merits,
12 Plaintiff calculated Defendant's maximum exposure for inaccurate wage statements at about
13 **\$232,450** ((51 initial violations * \$50/violation) + (2299 subsequent violations * \$100/violation =
14 \$232,450), and the exposure for waiting time penalties at about **\$258,465** based on 62 former
15 employees during the limitations period (62 former employees * (240 * \$17.37) = \$258,465).

16 44. As far as potential PAGA liability, the theoretical civil penalties likely are around
17 \$1,573,000 should Plaintiff prevail on all claims and establish violations of the multiple Labor Code
18 sections at issue for each and every pay period. As with the class claims, Plaintiff discounted the
19 potential PAGA penalties based on Defendant's various defenses on the merits and also accounted
20 for the Court's wide discretion to reduce such penalties, or to decline to award penalties at all.
21 Accordingly, the Parties allocated \$10,000 to PAGA penalties. (Agreement, § 3.2.5.) Plaintiff
22 submits this amount is reasonable under the circumstances and in line with comparable settlements
23 in other wage and hour class actions in California. Additionally, the LWDA has been informed of
24 the terms of the PAGA portion of the settlement, and will be able to weigh in as necessary.

25 45. The settlement obviates the significant risk that this Court may find any kind of class
26 or representative resolution unachievable or deny certification of all or some of Plaintiffs' claims.
27 Furthermore, even if Plaintiffs obtained certification of all or some of the claims, continued
28 litigation would be lengthy and expensive as the parties pursued merits discovery, a probable motion

1 to decertify, as well as trial and possible appeals, and would further and substantially delay any
2 recovery by the class with no assurance of recovering significantly more than the proposed
3 settlement. While Plaintiffs are confident in the merits of these claims, legitimate controversies exist
4 regarding each one of them. Plaintiffs also recognize proving the amount of wages and penalties
5 due each Class Member would be an expensive, time-consuming, and uncertain proposition.

6 46. Plaintiff and I discounted the value of the class claims consistent with the risks
7 discussed above, and carefully weighed the likelihood of the class receiving substantially greater
8 benefit if the litigation continued. We concluded – in light of these very real and substantial risks –
9 settlement on the proposed terms and without prolonged and costly litigation was in the best interests
10 of the class. The overall \$342,500 recovery represents a significant percentage of Defendant’s
11 potential exposure. Given Defendant’s multi-layered defenses and all other potential risks of
12 continued litigation, a total recovery for the class of \$342,500, which will result in average award
13 of at least \$1,274 per class member, plus additional sums under PAGA, is a significant result well
14 within the range of reasonableness considering all potential outcomes, and it will provide direct
15 monetary awards to all Class Members without further delay.

16 **Provisional Class Certification Should be Granted**

17 47. First, the class is both sufficiently numerous, consisting of approximately 150
18 individuals, and ascertainable by reference to Defendant’s personnel and payroll records.

19 48. Plaintiff’s claims are typical of the Class Members’ claims because they arise from
20 the same factual basis and are based on the same legal theories applicable to the Class Members.
21 Plaintiff further contends Defendant’s policies applied to all Class Members and each Class Member
22 is challenging the same policies and practices. As such, the typicality requirement is satisfied for
23 purposes of settlement. Further, Plaintiff is an adequate class representative as she has been and will
24 continue to be committed to vigorously prosecuting this case, and she has no conflicts of interest
25 with the Class. In this regard, her individual settlement poses no obstacle to her serving as the class
26 representative for several reasons. First, her independent claim in no way impacted negotiation of
27 the final class settlement which, as noted, was achieved following a mediator’s proposal -- in other
28 words the settlement amount represents a professional neutral’s independent evaluation of the value

1 of the case. Importantly as well, the settlement represents consideration for her resignation, which
2 is something no other class member is agreeing to. Plaintiff also is seeking an enhancement award
3 substantially less than is typical in this kind of case in recognition of the fact she is receiving
4 additional monies for her individual claims. Thus, Plaintiff has in no way placed her own interests
5 ahead of the class members but instead has simply received fair value for her separate agreement to
6 resign her employment in addition to securing a positive result for the absent class members. For
7 these reasons, Plaintiff contends she is an adequate class representative.

8 49. Common questions of law and fact predominate – particularly for purposes of a
9 settlement class – as the Class Members all were subject to the same meal and rest break policies
10 and alleged “de facto” policies resulting in meal period violations, and similarly subject to the same
11 improper time rounding policy. Since the focus of the claims against Defendant concerns the
12 legality of common policies applied uniformly to the entire class, common issues predominate over
13 individualized inquiries concerning liability. For instance, Defendant’s meal and rest break policy
14 is company-wide policy applied equally and consistently to all class members, and this policy is
15 either compliant with California law or it is not. Regardless of that determination, it will decide
16 liability for all class members one way or another. Similarly, whether the wage statements
17 improperly tabulated employee hours worked is another question common to all class members.

18 50. Resolving this matter as a class action is superior to other available means for the
19 fair and efficient adjudication of this controversy for multiple reasons, including inter alia: (a)
20 individual joinder of all members of the class is impractical, (b) class action treatment will permit
21 a large number of similarly situated persons to resolve their common claims in a single forum
22 simultaneously, efficiently, and without unnecessary duplication of effort and expense; and (c) the
23 damages suffered by many of the individual class members are relatively small and the expenses
24 and burden of individual litigation would make it difficult or impossible for them to seek redress
25 on their own.

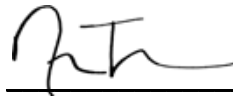
26 **Apex Should be Appointed as the Settlement Administrator**

27 51. The Parties agreed to use Apex Class Action, LLC as the Settlement Administrator
28 in this matter. (Agreement, § 7.1.) Apex is highly qualified and experienced as a settlement

1 administrator, committed to the security of data, carries insurance for the theft of money or data,
2 and has no relationship with Counsel.

3 52. For all the foregoing reasons, I respectfully request that the Court approve the
4 settlement in all particulars.

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct. Executed this 17th day of December 2024, at Los Angeles
7 California.

8
9
10 

11 _____
Declarant

EXHIBIT

1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Rocio Juarez (“Plaintiff”) and Defendant Excel Residential Services, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s Class Action lawsuit alleging wage and hour violations against Defendant captioned *Rocio Juarez v. Excel Residential Services, Inc.*, Case No. 23STCV05997, initiated on March 17, 2023 and pending in Superior Court of the State of California, County of Los Angeles; and Plaintiff’s PAGA Action lawsuit alleging wage and hour violations against Defendant captioned *Rocio Juarez v. Excel Residential Services, Inc.*, (Case No. 23STCV10049), initiated on May 4, 2023 and pending in the Superior Court of the State of California, County of Los Angeles.
- 1.2 “Administrator” means Apex Class Action Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4 “Aggrieved Employee” means all current and former non-exempt employees who worked for Defendant in California during the PAGA Period.
- 1.5 “Class” means all current and former non-exempt employees who worked for Defendant in California during the Class Period.
- 1.6 “Class Counsel” means Zachary Crosner, Jamie Serb, and Nikki Trenner of Crosner Legal, PC.
- 1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8 “Class Data” means Class Member and Aggrieved Employees identifying information in Defendant’s possession including name, last-known mailing address, Social Security number, email address (if available), and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12 “Class Period” means the period from September 20, 2018 through the date of Preliminary Approval.
- 1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15 “Court” means the Superior Court of California, County of Los Angeles.
- 1.16 “Defendant” means the named Defendant Excel Residential Services, Inc.
- 1.17 “Defense Counsel” means Alfred Landegger, Roxana E. Verano, and Evelyn Zarraga of Landegger, Verano & Davis, ALC.
- 1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19 “Final Approval” or “Final Approval Order” means the Court’s Order Granting Final Approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.22 “Gross Settlement Amount” means Three Hundred Forty-Two Thousand Five Hundred Dollars (\$342,500.00) which is the total amount Defendant agrees to pay

under the Settlement except as provided in Paragraph 8 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 Administrator's Expenses.

- 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 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 Pay Periods worked during the PAGA Period.
- 1.25 "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 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, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29 "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30 "Operative Complaint" means the First Amended Complaint filed by Plaintiff in the Action.
- 1.31 "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32 "PAGA Period" means the period from February 28, 2022 through the date of Preliminary Approval.
- 1.33 "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34 "PAGA Notice" means Plaintiff's February 23, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35 "PAGA Penalties" means the total amount of PAGA civil penalties (\$10,000.00) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved

Employees (\$2,500.00) and the 75% to LWDA (\$7,500.00) in settlement of PAGA claims.

- 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 Rocio Juarez, the named plaintiff in the Action.
- 1.38 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39 "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.40 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.41 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.42 “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, affiliates.
- 1.43 “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.
- 1.44 "Response Deadline" means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46 “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1 On March 17, 2023, Plaintiff commenced this Action, Case Number 23STCV05997, by filing a Complaint alleging causes of action against Defendant for (a) failure to pay minimum wages and liquidated damages; (b) failure to pay overtime wages; (c) failure to provide compliant meal periods or compensation in lieu thereof; (d) failure to provide compliant rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to

timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) claims for unfair business practices. On May 4, 2023, Plaintiff filed a separate Complaint, Case Number 23STCV10049, alleging one cause of action for Violation of the Private Attorneys General Act, Cal. Labor Code section 2698, et seq. Plaintiff will seek leave to amend the original Complaint filed on March 17, 2023 to add the PAGA claims asserted in the May 4, 2023 Complaint. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3 On November 21, 2023 and June 20, 2024, the Parties participated in all-day mediations presided over by Steve Cerveris of Cerveris Mediation which led to this Agreement to settle the Action.
- 2.4 Prior to mediation, Plaintiff obtained, through informal discovery, relevant documents and class data from Defendant including (1) Plaintiff's personnel file, (2) Plaintiff's time and payroll records, (3) the employee handbooks in effect during the Class Period, (4) Defendant's additional policies and operating procedures regarding the (a) payment of wages, (b) timekeeping policies (including recording hours), (c) issuance of wage statements, (d) reimbursement of business expenses, and (e) termination wages, (5) a sampling of the payroll and time records for the putative class members. 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*").
- 2.5 The Court has not granted class certification.
- 2.6 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 8 below, Defendant promises to pay Three Hundred Forty-Two Thousand Five Hundred Dollars (\$342,500.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has 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 Defendant.

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

3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than Two Thousand Five Hundred Dollars (\$2,500.00) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the Final Approval Motion, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3), which is currently estimated to be One Hundred Fourteen Thousand One Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$114,166.67) and a Class Counsel Litigation Expenses Payment of not more than Twenty Thousand Dollars (\$20,000.00). Defendant will not oppose requests for these payments provided that do not exceed these amounts. As part of the Final Approval Motion, Plaintiff will seek approval of the Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

- 3.2.3 **To the Administrator:** An Administrator Expenses Payment not to exceed \$4,695.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$4,695.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4 **To Each Participating Class Member:** An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- 3.2.4.1 **Tax Allocation of Individual Class Payments.** Twenty percent (20%) 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. Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for [e.g., interest and penalties] (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment. Notwithstanding the treatment of the payments to each Participating Class Member, none of the payments called for by this Agreement, including the Wage Portions of the Individual Class Payments, are to be treated as earnings, wages, pay or compensation for the purpose of any applicable benefit or retirement plan.
- 3.2.4.2 **Effect of Non-Participating Class Members on Calculation of Individual Class Payments.** Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.
- 3.2.5 **To the LWDA and Aggrieved Employees:** PAGA Penalties in the amount of Ten Thousand Dollars (\$10,000.00) to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments.
- 3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA

Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1 **Class Workweeks and Aggrieved Employee PAGA Pay Periods.** Based on a review of its records to date, as of June 20, 2024, Defendant estimates there are approximately 150 Class Members who collectively worked a total of approximately 14,858 Workweeks, and there are approximately 65 Aggrieved Employees who worked a total of 2,050 PAGA Pay Periods. .
- 4.2 **Class Data.** Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously 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. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant 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 Gross Settlement Amount.** Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4 **Payments from the Gross Settlement Amount.** Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service

Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1 The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2 The Administrator must conduct a Class Member Address Search for all other Participating Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member and/or Aggrieved Employee whose original check was lost or misplaced, requested by the Participating Class Member and/or Aggrieved Employee prior to the void date.
- 4.4.3 For any Participating Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Participating Class Members or Aggrieved

Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

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

5.1 **Plaintiff's Release.** In addition to the Released Class Claims and Released PAGA Claims described below, Plaintiff, individually and on behalf of her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, generally, release and discharge Released Parties from all claims, transactions, occurrences, demands, rights, liabilities and causes of action of every nature and description whatsoever, whether known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with any act or omission of the Released Parties through the date of full execution of this Settlement Agreement in connection with her employment or the termination thereof ("Plaintiff's Release."). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to those rights that as a matter of law cannot be waived, including, but not limited to any claims for vested benefits, unemployment benefits, disability 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 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.

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

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.

5.2 **Release by Participating Class Members of Class Claims:** All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including,

(a) failure to pay minimum wages and liquidated damages; (b) failure to pay overtime wages; (c) failure to provide compliant meal periods or compensation in lieu thereof; (d) failure to provide compliant rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) claims for unfair business practices during the Class Period (“Class Released Claims”). Participating Class Members’ only release these claims for the duration of the Class Period. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees and the State of California of PAGA Claims:

All Aggrieved Employees, including Plaintiff and the State of California, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, including, (a) failure to provide compliant meal periods or compensation in lieu thereof; (b) failure to provide compliant rest periods or compensation in lieu thereof; (c) failure to pay minimum wages; (d) failure to pay overtime wages; (e) statutory wage violations; (f) refusal to make payment; (g) standard conditions of labor violations; (h) failure to maintain accurate and complete records; (i) failure to reimburse business expenses; (j) failure to furnish accurate itemized wage statements; (k) failure to provide and/or properly pay for paid sick leave; (l) failure to provide and/or properly pay for supplemental paid sick leave; (m) failure to timely pay all wages upon separate of employment; (n) unlawful agreements and/or unlawful criminal and/or financial inquiries; (o) failure to produce employment records; and (p) failure to pay vested vacation and/or paid time off during the PAGA Period (“PAGA Released Claims”). Aggrieved Employees only release these claims for the duration of the PAGA Period.

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

6.1 Defendant’s Declaration in Support of Preliminary Approval. Within thirty (30) days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendant 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.

- 6.2 **Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice; (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, or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator In their Declarations, Plaintiff and Class Counsel Declaration 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.
- 6.3 **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.
- 6.4 **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.

7. SETTLEMENT ADMINISTRATION.

- 7.1 **Selection of Administrator.** The Parties have jointly selected to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action Administration agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 **Employer Identification Number.** The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 **Tax Reporting.** The Administrator will be responsible for calculating the applicable taxes and withholdings, including Defendant's employer payroll taxes owed on the Individual Class Payments, and for paying all taxes and withholdings to the applicable taxing or governmental authorities with the necessary reports, and submitting copies to Defense Counsel. The Administrator shall issue to Participating Class Members IRS Forms W-2 for the Wage Portions of the Individual Class Payments, IRS Forms 1099 for the Non-Wage Portions, and IRS Forms 1099 to Aggrieved Employees for Individual PAGA Payments, as described in this Agreement.
- 7.4 **Qualified Settlement Fund.** The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.5 **Notice to Class Members.**
- 7.5.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.
- 7.5.2 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, with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class

Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

- 7.5.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.5.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.5.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.6 Requests for Exclusion (Opt-Outs).

- 7.6.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.6.2 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.

7.6.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release and Aggrieved Employee Release under Paragraphs 5.1 and 5.2 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.6.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. 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 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.7 **Challenges to Calculation of Workweeks.** Each Class Member shall have 45 days after the Administrator mails the Class Notice (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 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 the challenges.

7.8 **Objections to Settlement.**

- 7.8.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- 7.8.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, 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 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- 7.8.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

- 7.9.1 **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, faxes and emails.
- 7.9.2 **Requests for Exclusion (Opt-outs) and Exclusion List.** The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 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).

- 7.9.3 **Weekly Reports.** The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.9.4 **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.
- 7.9.5 **Administrator’s Declaration.** Not later than 14 days after the Response Deadline, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of the Class Notice, the total number of Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from the 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.
- 7.9.6 **Final Report by Settlement Administrator.** Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator’s declaration in Court.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.

8.1 Based on its records, as of June 20, 2024, Defendant estimates that (1) there are approximately 150 Class Members and 14,858 Total Workweeks during the Class period.

8.2 The Gross Settlement Amount was agreed upon based on Defendant's representations of the total number of Workweeks in the Class Period. . If the number of Workweeks worked by Participating Class Members during the Class Period increase by more than 10% of this figure (i.e., if there are 16,343 or more Workweeks worked by Participating Class Members), Defendant agrees to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number of Workweeks worked by Participating Class Members above 10% (i.e., if there is a 12% increase in the number of Workweeks worked by Participating Class Members, Defendant would agree to increase the Gross Settlement Amount by 2%), or, in the alternative, Defendant may elect to cut off the Class Period at an earlier date to avoid triggering the Escalator Clause

9. **DEFENDANTS RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 8% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

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

10.1 **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

- 10.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 **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.
- 10.4 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 **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 Participating Class Members or Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. ADDITIONAL PROVISIONS.

12.1 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 Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves 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 Defendant's defenses. The Settlement, this Agreement, and the 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).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 12.3 **No Solicitation.** The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. 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.
- 12.4 **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 oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 **Attorney Authorization.** Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 **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. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 **No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 **No Tax Advice.** Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 **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.
- 12.10 **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

- 12.11 **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.
- 12.12 **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.
- 12.13 **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.
- 12.14 **Use and Return of Class Data.** Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 12.15 **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.
- 12.16 **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.
- 12.17 **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:

Zachary Crosner
zach@crosnerlegal.com
Jamie Serb
jamie@crosnerlegal.com
Nikki Trenner
nikki@crosnerlegal.com

CROSNER LEGAL, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210

To Defendant:

Alfred Landegger
alfred@landeggeresq.com
Roxana E. Verano
roxana@landeggeresq.com
Evelyn Zarraga
evelyn@landeggeresq.com
LANDEGGER VERANO & DAVIS, ALC
15760 Ventura Blvd., Suite 1200
Encino, California 91436

- 12.18 **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19 **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. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: 11 / 19 / 2024



PLAINTIFF ROCIO JUAREZ

Dated: _____

_____ for:

DEFENDANT EXCEL RESIDENTIAL
SERVICES, INC.

CROSNER LEGAL, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210

To Defendant:

Alfred Landegger
alfred@landeggeresq.com
Roxana E. Verano
roxana@landeggeresq.com
Evelyn Zarraga
evelyn@landeggeresq.com
LANDEGGER VERANO & DAVIS, ALC
15760 Ventura Blvd., Suite 1200
Encino, California 91436

- 12.18 **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19 **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. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: _____

PLAINTIFF ROCIO JUAREZ

Dated: 11/20/2024

DocuSigned by:
Pinkal Jogani
A97DB0C2C0F94F3...

Pinkal Jogani for:

DEFENDANT EXCEL RESIDENTIAL
SERVICES, INC.

Dated: 11/19/2024

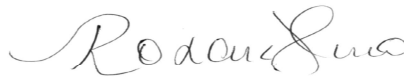
CROSNER LEGAL, PC



Zachary Crosner
Jamie Serb
Nikki Trenner
Attorneys for Plaintiff and the Class

Dated: 11/14/2024

LANDEGGER VERANO & DAVIS, ALC



Alfred Landegger
Roxana E. Verano
Evelyn Zarraga
Attorneys for Defendant

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

(case name and number)

The Superior Court for the State of California authorized this Notice. Read it carefully!

It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendant Excel Residential Services, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by a former employee Rocio Juarez ("Plaintiff") and seeks payment of (1) back wages and penalties for a class of all current and former non-exempt employees who worked for Defendant in California during the Class Period (September 20, 2018 to the date of Preliminary Approval) ("Class Members"); and (2) penalties under the California Private Attorney General Act ("PAGA") for all current and former non-exempt employees who worked for Defendant during the PAGA Period (February 28, 2022 to the date of Preliminary Approval) ("Aggrieved Employees").

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

Based on Defendant's records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that you worked [REDACTED] workweeks during the Class Period and you worked [REDACTED] pay periods during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

1. **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
2. **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement. If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).

You Can Opt-Out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is **DATE**. If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You Cannot Opt-out of the PAGA Portion of the Proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by **DATE**. All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court's Final Approval Hearing is scheduled to take place on **DATE**. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using

the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by **DATE**. The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Workweeks and number of Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by **DATE**. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former non-exempt employee of Defendant. The Action accuses Defendant of violating California labor laws by (a) failing to pay minimum wages and liquidated damages; (b) failing to pay overtime wages; (c) failing to provide compliant meal periods or compensation in lieu thereof; (d) failing to provide compliant rest periods or compensation in lieu thereof; (e) failing to furnish accurate itemized wage statements; (f) failing to timely pay all wages due upon separation of employment; (g) failing to reimburse business expenses; and (h) engaging in unfair business practices. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys ("Class Counsel") in the Action.

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Defendant violated any laws. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine whether to finally approve the Settlement.

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

Defendant Will Pay \$342,500 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

- Up to \$114,166.67 (one-third of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- Up to \$2,500.00 as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
- Up to \$4,695.00 to the Administrator for services administering the Settlement.
- Up to \$10,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

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

Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to penalties and interest. ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are

responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the payment represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than **DATE**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from a you or your representative setting forth your name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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

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

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

Participating Class Members’ Release of Class Claims: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including, including, e.g., claims for: (a) failure to pay minimum wages and liquidated damages; (b) failure to pay overtime wages; (c) failure to provide compliant meal periods or compensation in lieu thereof; (d) failure to provide compliant rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) claims for unfair business practices (“Class Released Claims”). Except as set forth in Section 5.2 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendant has paid the Gross Settlement and separately paid the employer-side payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ and the State of California’s Release of PAGA Claims: All Aggrieved Employees, including Plaintiff and the State of California, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice including, all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice including, e.g., (a) failure to provide compliant meal periods or compensation in lieu thereof; (b) failure to provide compliant rest periods or compensation in lieu thereof; (c) failure to pay minimum wages; (d) failure to pay overtime wages; (e) statutory wage violations; (f) refusal to make payment; (g) standard conditions of labor violations; (h) failure to maintain accurate and complete records; (i) failure to reimburse business expenses; (j) failure to furnish accurate itemized wage statements; (k) failure to provide and/or properly pay for paid sick leave; (l) failure to provide and/or properly pay for supplemental paid sick leave; (m) failure to timely pay all wages upon separate of employment; (n) unlawful agreements and/or unlawful criminal and/or financial inquiries; (o) failure to produce employment records; and (p) failure to pay vested vacation and/or paid time off (“PAGA Released Claims”).

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating

Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$2,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of Pay Periods worked by each individual Aggrieved Employee.

Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment. **Non-Participating Class Members.** The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Rocio Juarez v. Excel Residential Services, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must

be sent your request to be excluded by **DATE**, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website **(url)** or the Court's website <http://www.lacourt.org/casesummary/ui/index.aspx>.

A Participating Class Member who disagrees with any aspect of the Agreement, or the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is **DATE**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Rocio Juarez v. Excel Residential Services, Inc.*, and include your name, current address, telephone number, and approximate dates of employment with Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on **DATE** at **TIME** in Department 12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 23STCV05997. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Jamie Serb
Nikki Trenner
Zachary Crosner
CROSNER LEGAL, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210
Telephone: 1 (866) 276-7637

Settlement Administrator:
APEX CLASS ACTION ADMINISTRATION
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT

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~~[MODEL]~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS
NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between ~~plaintiff~~
~~Plaintiff Rocio Juarez~~ (“Plaintiff”) and ~~defendant~~ (“XYZ”) ~~Defendant Excel Residential~~
~~Services, Inc.~~ (“Defendant”). The Agreement refers to Plaintiff and XYZ ~~Defendant~~ collectively as
“Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s ~~Class Action~~ lawsuit alleging wage and hour violations*
against XYZ ~~Defendant~~ captioned ~~Plaintiff Rocio Juarez v. Excel Residential~~
~~Services, Inc., Case No. 23STCV05997~~, initiated on ~~March 17, 2023~~, and
pending in Superior Court of the State of California, County of Los Angeles; and
Plaintiff’s PAGA Action lawsuit alleging wage and hour violations against Defendant
captioned ~~Rocio Juarez v. Excel Residential Services, Inc., (Case No. 23STCV10049)~~,
initiated on ~~May 4, 2023~~ and pending in the Superior Court of the State of California,
County of Los Angeles.
- 1.2 “Administrator” means ~~Apex Class Action Administration~~, the neutral entity
the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be
paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses
in accordance with the Administrator’s “not to exceed” bid submitted to the Court in
connection with Preliminary Approval of the Settlement.
- 1.4 “Aggrieved Employee” means ~~for example, a person employed by XYZ in California all~~
~~current and classified as a former non-exempt employees~~ who worked for XYZ
Defendant in California during the PAGA Period.
- 1.5 “Class” means ~~define class, for example, all persons employed by XYZ in California all current~~
~~and classified as former non-exempt employees~~ who worked for XYZ Defendant
in California during the Class Period.
- 1.6 “Class Counsel” means ~~Zachary Crosner, Jamie Serb, and Nikki Trenner of~~
~~Crosner Legal, PC~~.

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

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1.8 “Class Data” means Class Member and Aggrieved Employees identifying information in XYZ’s Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if available), and number of Class Period Workweeks and PAGA Pay Periods.

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

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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.

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Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be

1.11 mailed to Class Members in English, with a Spanish translation, if applicable, in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12 “Class Period” means the period from _____ to _____, September 20, 2018 through the date of Preliminary Approval.

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

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

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

1.16 “XYZ” Defendant” means the named Defendant —Excel Residential Services, Inc.,

1.17 “Defense Counsel” means —Alfred Landegger, Roxana E. Verano, and Evelyn Zarraga of Landegger, Verano & Davis, ALC.

1.18 “Effective Date” means the date by when both of the following have occurred:

1.18 (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; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19 “Final Approval” or “Final Approval Order” means the Court’s order granting final approval Order Granting Final Approval of the Settlement.

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

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1.21 “Final Judgment” means the Judgment ~~Entered~~entered by the Court upon ~~Granting~~granting Final Approval of the Settlement.

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1.22 “Gross Settlement Amount” means ~~\$Three Hundred Forty-Two Thousand Five Hundred Dollars (\$342,500.00)~~ which is the total amount ~~XYZ~~Defendant agrees to pay under the Settlement except as provided in Paragraph 98 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 Administrator’s Expenses.

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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 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 Workweeks Pay Periods worked during the PAGA Period.

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

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

1.27 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (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, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30 “Operative Complaint” means the First Amended Complaint filed by Plaintiff in the Action.

1.31 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for XYZ Defendant for at least one day during the PAGA Period.

1.32 “PAGA Period” means the period from _____ to _____, February 28, 2022 through the date of Preliminary Approval.

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

1.34 “PAGA Notice” means Plaintiff’s February 23, 2023 letter to XYZ Defendant and the LWDA [and Plaintiff’s _____ letter to XYZ and the LWDA] providing notice pursuant to Labor Code section 2699.3, subdivision (a).

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~~1.34~~ “PAGA Penalties” means the total amount of PAGA civil penalties
(~~\$10,000.00~~) to be paid from the Gross Settlement Amount, allocated 25% to the
Aggrieved Employees

~~1.35~~ (~~(\$2,500.00)~~ and the 75% to LWDA (~~\$7,500.00~~), in settlement of PAGA
claims.

~~1.35~~~~1.36~~ “Participating Class Member” means a Class Member who does not submit a
valid and timely Request for Exclusion from the Settlement.

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1.361.37 “Plaintiff” means ~~—Rocio Juarez, the named plaintiff in the Action.~~

1.371.38 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.381.39 ““Preliminary Approval Order”” means the proposed Order Granting Preliminary Approval ~~and Approval of PAGA~~ the Settlement.

1.391.40 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.401.41 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.411.42 “Released Parties” means ~~XYZ: Defendant~~ and each of its former and present directors, officers, shareholders, owners, ~~{members}~~, attorneys, insurers, predecessors, successors, assigns ~~{, subsidiaries}~~ ~~{, affiliates}~~.

1.421.43 “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.

1.431.44 ““Response Deadline”” means ~~{e.g., 60}~~45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his, her, or ~~their~~her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.441.45 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.451.46 “Workweek” means any week during which a Class Member worked for ~~XYZ Defendant~~ for at least one day, during the Class Period.^{iv}

2. RECITALS,

2.1 On ~~—March 17, 2023,~~ Plaintiff commenced this Action, Case Number ~~23STCV05997,~~ by filing a Complaint alleging causes of action against ~~XYZ Defendant~~ for ~~—.~~ ~~[The Complaint is the operative complaint]~~ (a) failure to pay minimum

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wages and liquidated damages; (b) failure to pay overtime wages; (c) failure to provide compliant meal periods or compensation in the Action (the "Operative Complaint."); (d) failure to provide compliant rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) claims for unfair business practices. On May 4, 2023, Plaintiff filed a [e.g., First Amended] Complaint, Case Number 23STCV10049, alleging causes of action against XYZ for _____. The [e.g., First Amended] Complaint is the operative complaint in the Action (the "Operative Complaint").] XYZ for Violation of the Private Attorneys General Act, Cal. Labor Code section 2698, et seq. Plaintiff will seek leave to amend the original Complaint filed on March 17, 2023 to add the PAGA claims asserted in the May 4, 2023 Complaint. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

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2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to XYZ Defendant and the LWDA by sending the PAGA Notice.

2.3 On November 21, 2023 and June 20, 2024, the Parties participated in an all-day mediation/mediations presided over by Steve Cerveris of Cerveris Mediation, which led to this Agreement to settle the Action for describe alternative means of negotiation.

(describe alternative means of negotiation)

2.4 Prior to mediation negotiating the Settlement, Plaintiff obtained, through

2.4 formal informal discovery, (documents, testimony and information obtained) Prior to mediation, Plaintiff obtained, through informal discovery, relevant documents and class data from Defendant including (1) Plaintiff's personnel file, (2) Plaintiff's time and payroll records, (3) the employee handbooks in effect during the Class Period, (4) Defendant's additional policies and operating procedures regarding the (a) payment of wages, (b) timekeeping policies (including recording hours), (c) issuance of wage statements, (d) reimbursement of business expenses, and (e) termination wages, (5) a sampling of the payroll and time records for the putative class members. 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").

2.5 The Court has has not granted class certification.

(insert details as needed)

2.6 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 8 below, XYZ Defendant promises to pay \$ Three Hundred Forty-Two Thousand Five Hundred Dollars (\$342,500.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. XYZ Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3

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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 XYZDefendant.

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

- 3.2.1 ~~To Plaintiff.~~ Class Representative Service Payment to the Class Representative of not more than \$ ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ (in addition to any Individual Class Payment {and any Individual PAGA Payment} the Class Representative is entitled to receive as a Participating Class Member), XYZDefendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the ~~motion for Class Counsel Fees Payment and Class Litigation Expenses Payment~~ Final Approval Motion, Plaintiff will seek Court approval for any Class Representative Service ~~Payments~~Payment no

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3.2.1 later than {16 court} days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

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3.2.2 **To Class Counsel:** A Class Counsel Fees Payment of not more than ~~_____%, one-third (1/3),~~ which is currently estimated to be \$~~_____One Hundred Fourteen Thousand One Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$114,166.67)~~ and a Class Counsel Litigation Expenses Payment of not more than \$~~_____XYZTwenty Thousand Dollars (\$20,000.00).~~ Defendant will not oppose requests for these payments provided that do not exceed these amounts. ~~As part of the Final Approval Motion, Plaintiff and/or Class Counsel will file a motion for~~ seek approval of the Class Counsel Fees Payment and Class Litigation Expenses Payment no later than {16 court} days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds ~~XYZDefendant~~ harmless, and indemnifies ~~XYZDefendant~~ from any dispute or controversy regarding any division or sharing of any of these Payments.

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3.2.3 **To the Administrator:** An Administrator Expenses Payment not to exceed ~~_____ \$4,695.00~~ except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$~~_____4,695.00~~, the Administrator will retain the remainder in the Net Settlement Amount.

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

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3.2.4.1 **Tax Allocation of Individual Class Payments.** ~~—%Twenty percent (20%)~~ of each Participating Class Member’s Individual Class Payment will be allocated to settlement of wage claims (the “Wage Portion”). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. ~~The —%Eighty percent (80%)~~ of each Participating Class Member’s Individual Class Payment will be allocated to settlement of claims for [e.g., interest and penalties] (the “Non-Wage Portion^{2) viii)}). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment. Notwithstanding the treatment of the payments to each Participating Class Member, none of the payments called for by this Agreement, including the Wage Portions of the Individual Class Payments, are to be treated as earnings, wages, pay or compensation for the purpose of any applicable benefit or retirement plan.

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

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3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$ Ten Thousand Dollars (\$10,000.00) to be paid from the Gross Settlement Amount, with 75%

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3.2.5 (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments.

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3.2.4.13.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

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4. SETTLEMENT FUNDING AND PAYMENTS.

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4.1 Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records to date, XYZas of June 20, 2024, Defendant estimates there are approximately 150 Class Members who collectively worked a total of approximately 14,858 Workweeks, and there are approximately 65 Aggrieved Employees who worked a total of 2,050 PAGA Pay Periods.

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4.2 Class Data. Not later than 151 days after the Court grants Preliminary Approval of the Settlement, XYZDefendant will simultaneously 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

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4.3 ~~_____ Funding of Gross Settlement Amount. XYZDefendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay XYZ'sDefendant's share of payroll taxes by transmitting the funds to the Administrator no later than {14} days after the Effective Date.~~

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4.4 ~~_____ Payments from the Gross Settlement Amount. Within {14} days after XYZDefendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.~~

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

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

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4.4.3 For any Participating Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure ~~section~~Section 384, ~~subdivisionsubd.~~ (b). for to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure section 384, subdivision (b) ("Cy").

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Pres Recipient”)]. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

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

5.1 **Plaintiff's Release.** In addition to the Released Class Claims and Released PAGA Claims described below, Plaintiff, individually and his, on behalf of her, or their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, generally, release and discharge Released Parties from all claims, transactions or occurrences, demands, rights, liabilities and causes of action of every nature and description whatsoever, whether known or unknown, asserted or that occurred during the Class Period, including, but not limited to:

5.1 (a) all claims that were, or reasonably could might have been, alleged, based on asserted, whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with any act or omission of the Released Parties through the facts contained, in date of full execution of this Settlement Agreement in connection with her employment or the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, for ascertained during the Action and released under 5.2, below, termination thereof, ("Plaintiff's Release."), Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to those rights that as a matter of law cannot be waived, including, but not limited to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 **Plaintiff's Waiver of Rights Under California Civil Code Section 1542.** For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes

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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.~~

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.

5.2 Release by Participating Class Members Who Are Not Aggrieved Employees:

of Class Claims: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from ~~(+)~~ all claims that were alleged, or reasonably could have

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5.2 ~~been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [, including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wages and liquidated damages; (b) failure to pay overtime wages; (c) failure to provide compliant meal periods or compensation in lieu thereof; (d) failure to provide compliant rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage; etc.” statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) claims for unfair business practices during the Class Period (“Class Released Claims”). Participating Class Members’ only release these claims for the duration of the Class Period. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.~~

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5.3 ~~Release by Non-Participating Class Members Who Are Aggrieved Employees and the State of California of PAGA Claims; All Non-Participating Class Members who are Aggrieved Employees, including Plaintiff and the State of California, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint[, and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.” facts stated in the Operative Complaint and the PAGA Notice, including, (a) failure to provide compliant meal periods or compensation in lieu thereof; (b) failure to provide compliant rest periods or compensation in lieu thereof; (c) failure to pay minimum wages; (d) failure to pay overtime wages; (e) statutory wage violations; (f) refusal to make payment; (g) standard conditions of labor violations; (h) failure to maintain accurate and complete records; (i) failure to reimburse business expenses; (j) failure to furnish accurate itemized wage statements; (k) failure to provide and/or properly pay for paid sick leave; (l) failure to provide and/or properly pay for supplemental paid sick leave; (m) failure to timely pay all wages upon separate of employment; (n) unlawful agreements and/or unlawful criminal and/or financial inquiries; (o) failure to produce employment records; and (p) failure to pay vested vacation and/or paid time off during the PAGA Period (“PAGA Released Claims”). Aggrieved Employees only release these claims for the duration of the PAGA Period.~~

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

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6.1 ~~XYZ's Defendant's Declaration in Support of Preliminary Approval.~~

Within ~~thirty (30) days~~ of the full execution of this Agreement, ~~XYZ Defendant~~ will prepare and deliver to Class Counsel a signed Declaration from ~~XYZ Defendant~~ and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator ~~and Cy Pres Recipient~~. In their Declarations, Defense Counsel and ~~XYZ Defendant~~ 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.

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6.2 ~~Plaintiff's Responsibilities.~~ Plaintiff will prepare and deliver to Defense Counsel

~~all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar, and a request for approval of the PAGA Settlement under Labor Code sectionSection 2699, subdivisionsubd. (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/or the proposed Cy Pres]; 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 [and/or the proposed Cy Pres]; (vi: (v)) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely~~

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6.2 transmission to the LWDA of all necessary PAGA documents (initial notice of violations (~~Lab.Labor Code, § section 2699.3, subd. (a)(1)~~), Operative Complaint (~~Lab.Labor Code, § section 2699, subd. (l)(1)~~), this Agreement (~~Lab.Labor Code, § section 2699, subd. (l)(2)~~); (~~wiiv~~) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (~~wiiivii~~) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator ~~and/or the Cy Pres Recipient~~. In their Declarations, Plaintiff and Class Counsel Declaration 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.

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6.3 **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.

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6.4 **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~~.

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7. SETTLEMENT ADMINISTRATION.

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7.1 **Selection of Administrator.** The Parties have jointly selected _____ to serve as the Administrator and verified that, as a condition of appointment,

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

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

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7.3 ——— **Tax Reporting.** The Administrator will be responsible for calculating the applicable taxes and withholdings, including Defendant’s employer payroll taxes owed on the Individual Class Payments, and for paying all taxes and withholdings to the applicable taxing or governmental authorities with the necessary reports, and submitting copies to Defense Counsel. The Administrator shall issue to Participating Class Members IRS Forms W-2 for the Wage Portions of the Individual Class Payments, IRS Forms 1099 for the Non-Wage Portions, and IRS Forms 1099 to Aggrieved Employees for Individual PAGA Payments, as described in this Agreement.

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

7.47.5 **Notice to Class Members.**

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~~7.4.17.5.1~~ — No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, ~~PAGA Members~~ Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

~~7.4.27.5.2~~ — 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 ~~f~~, with Spanish translation, ~~if applicable~~, substantially in the form attached to this Agreement as Exhibit — A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

~~7.4.37.5.3~~ — Not later than ~~{3}~~ business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. ~~The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.~~

~~7.4.47.5.4~~ — The deadlines for Class Members’ written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional ~~{14}~~ days beyond the ~~{60}~~ 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. ~~The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.~~

~~7.4.57.5.5~~ — If the Administrator, ~~XYZ~~ Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. ~~If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than {14} days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.~~

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7.57.6 Requests for Exclusion (Opt-Outs)

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~~7.5.17.6.1~~ Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than ~~{60}{45}~~ days after the Administrator mails the Class Notice (plus an additional ~~{14}~~ days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her/~~their~~ representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address, or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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~~7.5.27.6.2~~ 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.

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~~7.5.3~~ Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' ~~Releases~~Release and Aggrieved Employee Release under Paragraphs 5.1 and 5.2 and

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~~7.6.3~~ 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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~~7.5.47.6.4~~ Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. 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 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

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5.3 of this Agreement and are eligible for an Individual PAGA Payment.

~~7.6~~ Challenges to Calculation of Workweeks. Each Class Member shall have ~~{60}{45}~~ days after the Administrator mails the Class Notice (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

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Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or 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

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7.7 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 the challenges.

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7.7.7.8 Objections to Settlement.

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7.7.17.8.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.27.8.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral/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 60/45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

7.8.17.9.1 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, faxes and emails.

7.8.2

Requests for Exclusion (Opt-outs) and Exclusion List. The

Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 15 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

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7.9.2 (“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).

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7.8.37.9.3 **Weekly Reports.** The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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7.8.47.9.4 **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.

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7.8.57.9.5 **Administrator’s Declaration.** Not later than {14} days before after the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement Response Deadline, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of the Class Notice, the total number of Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from the 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.

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7.8.67.9.6 **Final Report by Settlement Administrator.** Within {10} days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least {15} days before any deadline set by the Court, the Administrator will prepare, and submit to Class

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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~~ Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES ~~(and AND ESCALATOR CLAUSE)~~.

8.8.1 Based on its records, ~~XYZ~~ as of June 20, 2024, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are approximately 150 Class Members and 14,858 Total Workweeks during the Class period and (2) there were

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Aggrieved Employees who worked _____ Pay Periods during the PAGA
Period.^{vii}

~~XYZ'S~~

8.2 The Gross Settlement Amount was agreed upon based on Defendant's representations of the total number of Workweeks in the Class Period. . If the number of Workweeks worked by Participating Class Members during the Class Period increase by more than 10% of this figure (i.e., if there are 16,343 or more Workweeks worked by Participating Class Members), Defendant agrees to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number of Workweeks worked by Participating Class Members above 10% (i.e., if there is a 12% increase in the number of Workweeks worked by Participating Class Members, Defendant would agree to increase the Gross Settlement Amount by 2%), or, in the alternative, Defendant may elect to cut off the Class Period at an earlier date to avoid triggering the Escalator Clause

9. **DEFENDANTS RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ~~8%~~ of the total of all Class Members, ~~XYZ Defendant~~ may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if ~~XYZ Defendant~~ withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, ~~XYZ Defendant~~ will remain responsible for paying all Settlement Administration Expenses incurred to that point, ~~XYZ Defendant~~ must notify Class Counsel and the Court of its election to withdraw not later than ~~seven~~ days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. **MOTION FOR FINAL APPROVAL.** Not later than ~~16~~ court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, ~~subdivisionsubd.~~ (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 days~~ as soon as practicable prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 10.1 **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than ~~that~~ ~~than~~ five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

- 10.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited

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to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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- 10.3 **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 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.

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- 10.4 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees

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10.4 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.

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10.5 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 Participating Class Members or Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. ADDITIONAL PROVISIONS

12.1 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 XYZDefendant that any of the allegations in the Operative Complaint have merit or that XYZDefendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that XYZ'sDefendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, XYZDefendant reserves the right to contest certification of any class for any reasons, and XYZDefendant reserves 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 XYZ'sDefendant's defenses. The Settlement, this Agreement, and

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~~Parties~~the 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).

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12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, XYZDefendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

12.2 Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, XYZDefendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

12.4 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 oral representations, warranties, covenants, or inducements made to or by any Party.

12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and XYZDefendant, 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.

12.6 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. In the event the Parties are unable to agree upon the form or content of any document necessary to

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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.

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

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12.8 ~~_____~~ **No Tax Advice.** Neither Plaintiff, Class Counsel, ~~XYZDefendant~~ 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.

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12.9 ~~_____~~ **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.

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

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12.12 **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.

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12.13 **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.

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12.14 **Use and Return of Class Data.** Information provided to Class Counsel pursuant to ~~Evidence~~Cal. Evid. Code ~~section~~ §1152, and all copies and summaries of the Class Data provided to Class Counsel by ~~XYZDefendant~~ 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 ~~California Rules~~rule of ~~Court rule~~court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from ~~XYZDefendant~~ unless, prior to the Court's discharge of the

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12.16 **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.

12.17 **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:

[Zachary Crosner](#)
zach@crosnerlegal.com
[Jamie Serb](#)
jamie@crosnerlegal.com
[Nikki Trenner](#)
nikki@crosnerlegal.com
CROSNER LEGAL, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210

To ~~xyz~~ Defendant:

[Alfred Landegger](#)
alfred@landeggeresq.com
[Roxana E. Verano](#)
roxana@landeggeresq.com
[Evelyn Zarraga](#)
evelyn@landeggeresq.com
LANDEGGER VERANO & DAVIS, ALC
15760 Ventura Blvd., Suite 1200
Encino, California 91436

12.18 **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts

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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.

- 12.19 **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. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure CCP section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure CCP section 583.310 for the entire period of this settlement process.

For Dated:

PLAINTIFF ROCIO JUAREZ

Dated:

for:

DEFENDANT EXCEL RESIDENTIAL
SERVICES, INC.

Dated:

CROSNER LEGAL, PC

Zachary Crosner

Jamie Serb

Nikki Trenner

Attorneys for Plaintiff For XYZ and the Class

(date)

Counsel for Plaintiff

Counsel for XYZ

(date)

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Dated: LANDEGGER VERANO & DAVIS, ALC

Alfred Landegger
Roxana E. Verano
Evelyn Zarraga
Attorneys for Defendant

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xyzDefendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against xyzDefendant.

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If you worked for xyzDefendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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

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

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

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SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against XYZ that are covered by this Settlement (Released Claims).
You Can Opt out of the Class Settlement but not the PAGA Settlement	If you don't want to fully participate in the proposed Settlement, you can opt out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.
The Opt-out Deadline is _____	You cannot opt out of the PAGA portion of the proposed Settlement. XYZ must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

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

You Don’t Have to Do Anything to Participate in the Settlement. If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).

You Can Opt-Out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is **DATE**. If you don’t want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You Cannot Opt-out of the PAGA Portion of the Proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

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Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by **DATE**. All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court’s Final Approval Hearing is scheduled to take place on **DATE**. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by **DATE**. The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Workweeks and number of Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by **DATE**. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a ~~an~~ ~~former~~ XYZ non-exempt employee of Defendant. The Action accuses XYZ Defendant of violating California labor laws by (a) failing to pay ~~for e.g., overtime wages, minimum wages, wages due upon termination, and reimbursable expenses~~ and liquidated damages; (b) failing to pay overtime wages; (c) failing to provide ~~for e.g., compliant meal periods, or compensation in lieu thereof~~; (d) failing to provide compliant rest breaks and periods or compensation in lieu thereof; (e) failing to furnish accurate itemized wage statements; (f) failing to timely pay all wages due upon separation of employment; (g) failing to reimburse business expenses; and (h) engaging in unfair business practices. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (~~Lab. Labor Code, §§ 2698, et seq.~~) (“PAGA”). Plaintiff is represented by attorneys (“Class Counsel”) in the Action.

____ (“Class Counsel.”)

XYZ Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether XYZ or Plaintiff is correct on the merits. Defendant violated any laws. In the meantime, Plaintiff and XYZ Defendant hired

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an experienced, neutral mediator

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by negotiating an ~~to end to~~ the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”), and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and XYZ Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, XYZ Defendant does not admit any violations or concede the merit of any claims.

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Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) XYZDefendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval whether to finally approve the Settlement.

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

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1. XYZDefendant Will Pay \$—342,500 as the Gross Settlement Amount (Gross Settlement). XYZDefendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorneys' attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, XYZDefendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomebecomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

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A. Up to \$— [%114,166.67 (one-third of the Gross Settlement)] to Class Counsel for attorneys' fees and up to \$—20,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$—2,500.00 as a Class Representative AwardService Payment for filing the Action, working with Class Counsel and representing the Class. A Class Representative AwardService Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

C. Up to \$—4,695.00 to the Administrator for services administering the Settlement.

D. Up to \$—10,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

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

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4. Taxes Owed on Payments to Class Members. Plaintiff and XYZ Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to [e.g., penalties and interest, etc.] (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. [Option 1: XYZ Defendant will separately pay employer payroll taxes it owes on the Wage Portion.] The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name. If the payment represented by your check is sent to the Controller’s Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

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☐ will be deposited with the California Controller’s Unclaimed Property Fund in your name.

☐ will irrevocably lost to you because they will be paid to a non-profit organization or foundation (“Cy Pres”).

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than DATE, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her/their/your representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded

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Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against XYZ Defendant.

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You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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for Individual PAGA Payments and are required to give up their right to assert PAGA claims against XYZ based on the PAGA Period facts alleged in the Action.

7. **The Proposed Settlement Will be Void if the Court Denies Final Approval.** It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. ~~Plaintiffs~~ Plaintiff and XYZ Defendant have agreed that, in either case, the Settlement will be void; XYZ Defendant will not pay any money and Class Members will not release any claims against XYZ Defendant.

8. **Administrator.** The Court has appointed a neutral company, Apex Class Action Administration, (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. **Participating Class Members' Release.** After the Judgment is final and XYZ Defendant has fully funded the Gross Settlement ~~{Option 1: (and separately paid all employer payroll taxes)}~~, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against XYZ Defendant or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period the facts, as alleged in the Action and resolved by this Settlement.

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

Members' Release of Class Claims: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from ~~(i)~~ all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint ~~{and ascertained in the course of the Action}~~ including, including, e.g., "(a) any and all claims involving any alleged for: (a) failure to pay minimum wages and liquidated damages; (b) failure to pay overtime wages; (c) failure to provide compliant meal periods or compensation in lieu thereof; (d) failure to provide compliant rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage; etc.; statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) claims for unfair business practices ("Class Released Claims"). Except as set forth in Section 5.32 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period."ⁱⁱⁱ

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10. **Aggrieved Employees' PAGA Release.** After the Court's judgment is final, and XYZDefendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against XYZDefendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the facts alleged in the Action and resolved by this Settlement.

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of the Class Settlement, cannot sue, continue to sue or participate in any other PAGA claim against XYZ or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

and the State of California's Release of PAGA Claims: All Participating and Non-Participating Class Members who are Aggrieved Employees, including Plaintiff and the State of California, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint[,] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., (a) any and all claims involving any alleged failure to pay minimum wage; etc.], and the PAGA Notice including, all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice including, e.g., (a) failure to provide compliant meal periods or compensation in lieu thereof; (b) failure to provide compliant rest periods or compensation in lieu thereof; (c) failure to pay minimum wages; (d) failure to pay overtime wages; (e) statutory wage violations; (f) refusal to make payment; (g) standard conditions of labor violations; (h) failure to maintain accurate and complete records; (i) failure to reimburse business expenses; (j) failure to furnish accurate itemized wage statements; (k) failure to provide and/or properly pay for paid sick leave; (l) failure to provide and/or properly pay for supplemental paid sick leave; (m) failure to timely pay all wages upon separate of employment; (n) unlawful agreements and/or unlawful criminal and/or financial inquiries; (o) failure to produce employment records; and (p) failure to pay vested vacation and/or paid time off ("PAGA Released Claims").

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1- **Individual Class Payments.** The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2- **Individual PAGA Payments.** The Administrator will calculate Individual PAGA Payments by (a) dividing \$ 2,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3- **Workweek/Pay Period Challenges.** The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in XYZ's Defendant's records, are stated in the first page of this Notice. You have until

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DATE to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept XYZ's Defendant's calculation of Workweeks and/or Pay Periods based on XYZ's Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and XYZ's Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

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5. HOW WILL I GET PAID?

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

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

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

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

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Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Rocio Juarez v. Excel Residential Services, Inc., and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by DATE, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

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7. HOW DO I OBJECT TO THE SETTLEMENT?

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Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and ~~xyz~~ Defendant are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and ~~(2) a Motion for Fees, Litigation Expenses and Service Award~~ stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service ~~Award~~ Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website (url) or the Court's website http://www.lacourt.org/casesummary/ui/index.aspx.

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(url) or the Court's website (url)

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A Participating Class Member who disagrees with any aspect of the Agreement, or the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award, may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is DATE. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Rocio Juarez v. Excel Residential Services, Inc.*, and include your name, current address, telephone number, and approximate dates of employment with Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information. ~~Be sure to tell the Administrator what~~

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you object to, why you object and any facts that support your objection. Make sure you identify the Action _____ and include your name, current address, telephone number and approximate dates of employment for [XYZ] and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

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8. CAN I ATTEND THE FINAL APPROVAL HEARING?

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You can, but don't have to, attend the Final Approval Hearing on DATE at (time) TIME in Department 7412 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>; <https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

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9. HOW CAN I GET MORE INFORMATION?

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The Agreement sets forth everything XYZ Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other

documents is to go to (specify entity) the Administrator's website at

(url)

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I You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) **[confirm]** <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 23STCV05997. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

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Class Counsel; Name of Attorney: Email Address: Name of Firm: Mailing Address:

Jamie Serb

Nikki Trenner

Zachary Crosner

CROSNER LEGAL, PC

9440 Santa Monica Blvd., Suite 301

Beverly Hills, CA 90210

Telephone: 1 (866) 276-7637

Settlement Administrator:

Name of Company:

APEX CLASS ACTION ADMINISTRATION

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

☐ you should consult the Unclaimed Property Fund _____
for instructions on how to retrieve the funds

☐ you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

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

ⁱ This Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.

ⁱⁱ Whether the “date of preliminary approval” yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties’ *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount “represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation.” (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94–95, internal quotation marks omitted.)

ⁱⁱⁱ See endnote ii above.

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^{iv} The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.

^v The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.

^{vi} Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code section 226, subdivision (a) claim.)

^{vii} Insert negotiated terms, if any, addressing the possibility that XYZ's estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an "escalator" clause memorializing XYZ's promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ's estimates.

^{viii} Releases in Notice should track the releases in the Settlement Agreement.

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EXHIBIT

3

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

(case name and number)

The Superior Court for the State of California authorized this Notice. Read it carefully!

It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendant Excel Residential Services, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by a former employee Rocio Juarez ("Plaintiff") and seeks payment of (1) back wages and penalties for a class of all current and former non-exempt employees who worked for Defendant in California during the Class Period (September 20, 2018 to the date of Preliminary Approval) ("Class Members"); and (2) penalties under the California Private Attorney General Act ("PAGA") for all current and former non-exempt employees who worked for Defendant during the PAGA Period (February 28, 2022 to the date of Preliminary Approval) ("Aggrieved Employees").

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

Based on Defendant's records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that you worked [REDACTED] workweeks during the Class Period and you worked [REDACTED] pay periods during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

1. **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
2. **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement. If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).

You Can Opt-Out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is **DATE**. If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You Cannot Opt-out of the PAGA Portion of the Proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by **DATE**. All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court's Final Approval Hearing is scheduled to take place on **DATE**. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using

the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by **DATE**. The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Workweeks and number of Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by **DATE**. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former non-exempt employee of Defendant. The Action accuses Defendant of violating California labor laws by (a) failing to pay minimum wages and liquidated damages; (b) failing to pay overtime wages; (c) failing to provide compliant meal periods or compensation in lieu thereof; (d) failing to provide compliant rest periods or compensation in lieu thereof; (e) failing to furnish accurate itemized wage statements; (f) failing to timely pay all wages due upon separation of employment; (g) failing to reimburse business expenses; and (h) engaging in unfair business practices. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys ("Class Counsel") in the Action.

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Defendant violated any laws. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine whether to finally approve the Settlement.

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

Defendant Will Pay \$342,500 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

- Up to \$114,166.67 (one-third of the Gross Settlement] to Class Counsel for attorneys’ fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- Up to \$2,500.00 as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Payment will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
- Up to \$4,695.00 to the Administrator for services administering the Settlement.
- Up to \$10,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

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

Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to penalties and interest. (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are

responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the payment represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than **DATE**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from you or your representative setting forth your name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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

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

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

Participating Class Members’ Release of Class Claims: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including, including, e.g., claims for: (a) failure to pay minimum wages and liquidated damages; (b) failure to pay overtime wages; (c) failure to provide compliant meal periods or compensation in lieu thereof; (d) failure to provide compliant rest periods or compensation in lieu thereof; (e) failure to furnish accurate itemized wage statements; (f) failure to timely pay all wages due upon separation of employment; (g) failure to reimburse business expenses; and (h) claims for unfair business practices (“Class Released Claims”). Except as set forth in Section 5.2 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendant has paid the Gross Settlement and separately paid the employer-side payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ and the State of California’s Release of PAGA Claims: All Aggrieved Employees, including Plaintiff and the State of California, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice including, all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice including, e.g., (a) failure to provide compliant meal periods or compensation in lieu thereof; (b) failure to provide compliant rest periods or compensation in lieu thereof; (c) failure to pay minimum wages; (d) failure to pay overtime wages; (e) statutory wage violations; (f) refusal to make payment; (g) standard conditions of labor violations; (h) failure to maintain accurate and complete records; (i) failure to reimburse business expenses; (j) failure to furnish accurate itemized wage statements; (k) failure to provide and/or properly pay for paid sick leave; (l) failure to provide and/or properly pay for supplemental paid sick leave; (m) failure to timely pay all wages upon separate of employment; (n) unlawful agreements and/or unlawful criminal and/or financial inquiries; (o) failure to produce employment records; and (p) failure to pay vested vacation and/or paid time off (“PAGA Released Claims”).

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating

Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$2,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of Pay Periods worked by each individual Aggrieved Employee.

Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment. **Non-Participating Class Members.** The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Rocio Juarez v. Excel Residential Services, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must

be sent your request to be excluded by **DATE**, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website **(url)** or the Court's website <http://www.lacourt.org/casesummary/ui/index.aspx>.

A Participating Class Member who disagrees with any aspect of the Agreement, or the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is **DATE**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Rocio Juarez v. Excel Residential Services, Inc.*, and include your name, current address, telephone number, and approximate dates of employment with Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on **DATE** at **TIME** in Department 12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at [\(url\)](#). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 23STCV05997. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Jamie Serb
Nikki Trenner
Zachary Crosner
CROSNER LEGAL, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210
Telephone: 1 (866) 276-7637

Settlement Administrator:
APEX CLASS ACTION ADMINISTRATION

Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT

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Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (310) 496-5818
fax: (310) 510-6429

February 23, 2023

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

Pinkal Jogani
Agent for Service of Process for:
Excel Residential Services, Inc.
631 S. Olive St., Suite # 660
Los Angeles, CA 90014

Excel Residential Services, Inc.
Attn: Human Resources/ Legal Department
631 S. Olive St., Suite # 660
Los Angeles, CA 90014

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Excel Residential
Services, Inc.
Date: February 23, 2023
Subject: *Rocio Juarez v. Excel Residential Services, Inc.*

Introduction

This office represents COMPLAINANT, Rocio Juarez (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entity and individual managing agents of said entity: Excel Residential Services, Inc., (hereinafter, these entities and

their managing agents are collectively referred to as “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by the EMPLOYER at any location in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT’s claims, COMPLAINANT requests that the LWDA regard this NOTICE as written notice of COMPLAINANT’s intent to seek civil penalties against EMPLOYER. Under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, a PAGA representative

has authority to seek penalties for all known violations committed by the employer – regardless of whether the representative experienced all violations personally. *Id.* at 760-761. Moreover, under *Johnson v. Maxim Healthcare Servs., Inc.*, (2021) 66 Cal. App. 5th 924, 929, an employee may pursue a claim under PAGA even when that employee’s individual claim is time-barred.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.6, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California’s labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER owns, operates or otherwise manages a property management company that has managed over 112 properties, including but not limited to multi-family real estate properties in California. Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT is currently employed by EMPLOYER as a non-exempt employee. COMPLAINANT worked for EMPLOYER as a janitor and/or similar title or position. COMPLAINANT worked for employer for approximately five years through in or around April 2022, when COMPLAINANT went on leave. COMPLAINANT worked for EMPLOYER out of a couple of EMPLOYER's locations/properties including but not limited to two of EMPLOYER's apartment buildings in Los Angeles, California. COMPLAINANT regularly worked at least eight (8) hours per day, at least (5) days per week. EMPLOYER paid COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT

AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; and (14) required and continues to require COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT

and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER's time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER's failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES' work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER's failure to keep "accurate and complete" payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.¹

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Section (b) of Labor Code section 226 further requires employers to “afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer.” Section (c) of Labor Code section 226 provides that, “an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.” An employer’s failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee’s signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a “reasonable” amount of time, but “not later than 30 calendar days from the date the employer receives a written request.” An employer’s failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee’s personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, COMPLAINANT sent a written request for payroll and personnel records to EMPLOYER on or around January 12, 2023. Yet, EMPLOYER failed to timely produce complete records or any records at all within the time periods delineated by California labor law. As such, on February 21, 2023, COMPLAINANT sent an additional written request to EMPLOYER, yet EMPLOYER has failed to produce any of the requested records. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete payroll and personnel records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a

second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT's employment by EMPLOYER.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, COMPLAINANT was regularly forced to work during her purported meal periods. COMPLAINANT regularly worked at two of EMPLOYER's properties, frequently splitting her shift between the two properties. Once COMPLAINANT completed her work at one property, she was required to drive to her other assigned property and complete her janitorial duties at this second property. Due to the workload, COMPLAINANT was often forced to drive to EMPLOYER's other property during her purported meal periods in order to complete her assigned duties at the second location. Despite working through her meal periods, COMPLAINANT was required to clock out during her purported meal

periods even though she was performing work during such periods. This work time was off-the-clock and uncompensated.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER's goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal periods.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER's control owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per EMPLOYER's uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.² EMPLOYER's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to its employees.").

EMPLOYER did not properly authorize and provide COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice. For example, COMPLAINANT was rarely afforded the opportunity to take timely ten-minute uninterrupted rest periods due to her need to complete her assigned job duties, including but not limited to janitorial duties at her assigned properties. At times, COMPLAINANT was not able to take a single rest period during her shifts.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...” *Cal. Lab. Code* § 1194.2.

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER’s automatic deduction and time rounding policies for shift start and shift end times and meal period start and end times, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER’s control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed. As explained above, COMPLAINANT was regularly required to perform work duties during her purported off-the-clock meal periods, including but not limited to driving between EMPLOYER’s property locations.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER’s policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, during most of her employment, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to write down their scheduled shift times on a written time sheet, and as such were only paid for the scheduled hours worked instead of the actual hours worked.

Moreover, COMPLAINANT regularly performed at least 5-10 minutes of post shift off-the-clock work due to EMPLOYER’s refusal to pay for time worked beyond eight (8) hours in a day and/or forty (40) hours in a week. As such, EMPLOYER instructed COMPLAINANT to clock out of her shift and continue working to complete her job duties whenever her workload required her to work overtime hours and/or beyond her scheduled hours. As such, COMPLAINANT and other NON-

EXEMPT AGGRIEVED EMPLOYEES were deprived of all owed wages including but not limited to minimum and overtime wages.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by EMPLOYER would almost always, if not always, result in understating actual compensable work time. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

⁴ See Lab. Code §1197.1(a) (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods (described above), and/or other off-the-clock work (described above) resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

⁵ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and

employee was underpaid”); All applicable Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, EMPLOYER failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not

provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁶

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

⁶ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

EMPLOYER's failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER's failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, wage statements issued by EMPLOYER failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9) due to EMPLOYER's failure to list an overtime rate category at all and/or failure to list a category containing the proper overtime rate.

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁷

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by, including but not limited to, failing to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to

⁷ See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, EMPLOYER had and continues to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES’ final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.⁸

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. See Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

⁸ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554. Further, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State." *See* Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, uniforms and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work related purposes. Moreover, COMPLAINANT was required to use her personal vehicle for work related purposes including but not limited to driving between EMPLOYER's property locations during her shift(s). COMPLAINANT was not reimbursed for the costs associated with using her personal vehicle including but not limited to wear and tear costs, mileage, and/or fuel costs.

Additionally, at times, COMPLAINANT was required to purchase her own disposable gloves to use while performing janitorial duties. EMPLOYER did not reimburse COMPLAINANT for these business expenses.

Based on information and belief, and as explained herein, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER, including but not

limited to costs associated with using a personal cell phone and/or personal vehicle for work related purposes and costs associated with purchasing tools and/or protective equipment for work related purposes including but not limited to gloves.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and

belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, EMPLOYER violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, based on information and belief, EMPLOYER violated Labor Code section 432.5 by requiring some NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, EMPLOYER required some NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring them to agree, in writing, to an unlawful PAGA waiver, EMPLOYER required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

EMPLOYER has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

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Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 310.496.5818
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink that reads "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Manny Martinez <manny@crosnerlegal.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "zach@crosnerlegal.com" <zach@crosnerlegal.com>

Thu, Feb 23, 2023 at 3:33 PM

2/23/2023

LWDA Case No. LWDA-CM-938073-23
Law Firm : Crosner Legal, PC
Plaintiff Name : Rocio Juarez
Employer: Excel Residential Services, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT

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Maria Monterrey <maria@crosnerlegal.com>

Thank you for your Court Complaint Submission.

1 message

DIR PAGA Unit <no-reply@formassembly.com>
To: maria@crosnerlegal.com

Tue, Dec 10, 2024 at 10:08 AM

12/10/2024 10:08:31 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT

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