

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Esmeralda Lee (“Plaintiff”), on behalf of herself, the Class Members and the Aggrieved Employees, and Defendant River Oak Pharmaceutical Care, 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 and representative action lawsuit alleging wage and hour violations against Defendant and also seeking penalties pursuant the Private Attorneys General Act (“PAGA”) against Defendant captioned *Esmeralda Lee, et al. v. River Oak Pharmaceutical Care, Inc., et al.* initiated on February 14, 2023 and pending in Superior Court of the State of California, County of Stanislaus (Case No. CV-23-000787) (hereinafter referred to as the “Action”).
- 1.2. “Administrator” means Simpluris, 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 California employees of Defendant who worked for Defendant during the PAGA Period.
- 1.5. “Class” or “Class Members” means all current and former non-exempt employees of Defendant who worked for Defendant in California at any time during the Class Period.
- 1.6. “Class Counsel” means Otkupman Law Firm, A Law Corporation.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “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.

- 1.10. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, in a form substantially similar to the form attached hereto as Exhibit A.
- 1.11. “Class Period” means the period from February 14, 2022 through August 14, 2023.
- 1.12. “Class Representative” means Plaintiff Esmeralda Lee.
- 1.13. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.14. “Court” means the Superior Court of California, County of Stanislaus.
- 1.15. “Defendant” means named Defendant River Oak Pharmaceutical Care, Inc.
- 1.16. “Defense Counsel” means Laura A. Wolfe and Matthew K. Hawkins of McCormick, Barstow, Sheppard, Wayte & Carruth LLP.
- 1.17. “Effective Date” shall mean the date upon both of the following have occurred: (a) the Court enters its Final Approval Order and Judgment; and (b) the Final Approval Order and Judgment is final. The Final Approval Order and 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 the Final Approval Order and 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 Final Approval Order and Judgment; or if a timely appeal from the Final Approval Order and Judgment is filed, the day after the appellate court affirms the Final Approval Order and Judgment and issues a remittitur
- 1.18. “Final Approval” means the Court’s order granting final approval of the Settlement in the Action.
- 1.19. “Final Approval Hearing(s)” means the Court’s hearing(s) on the Motion for Final Approval of the Settlement in the Action.
- 1.20. “Final Approval Order and Judgment(s)” means the judgment(s) and order entered by the Court upon Granting Final Approval of the Settlement in the Action, which will be a judgment for purposes of California Rules of Court, Rule 3.771(a) and constitute approval pursuant to California Rules of Court, Rule 3.769(a).

- 1.21. “Gross Settlement Amount” means the maximum settlement amount Defendant shall pay in any event in full satisfaction of all Defendant’s liabilities in the Action, which is One Hundred Thousand Dollars and No Cents (\$100,000.00). The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.
- 1.22. “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.
- 1.23. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.24. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.25. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.26. “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.
- 1.27. “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.
- 1.28. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.29. “PAGA Period” means the period from February 14, 2022 through August 14, 2023.
- 1.30. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.31. “PAGA Notice” means Plaintiff’s February 10, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.32. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$10,000), allocated 25% to the Aggrieved Employees (\$2,500.00) and the 75% to LWDA (\$7,500.00) in settlement of PAGA claims. If the PAGA Penalties are approved by the Court, Aggrieved

Employees will receive payment from the Aggrieved Employees portion of the PAGA Penalties regardless of their decision to be a Participating Class Member or not.

- 1.33. “Participating Class Member” means all Class Members who do not submit a valid and timely Request for Exclusion from the Settlement.
- 1.34. “Plaintiff” means Esmeralda Lee, the named plaintiff in the Action.
- 1.35. “Preliminary Approval” means the date the enters an Order Granting Preliminary Approval of the Settlement in the Action.
- 1.36. "Preliminary Approval Order(s)" means the order(s) granting preliminary approval of the settlement entered by the Court in the Action.
- 1.37. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.38. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.39. “Released Parties” means: Defendant and each of its former, present and future owners, parents, affiliates, divisions, joint venturers, and subsidiaries, and all of their current, former and future spouse(s), children, officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, representatives, investors, administrators, predecessors, successors, assigns, accountants, insurers, reinsurers, management companies, and legal representatives.
- 1.40. “Request for Exclusion” means a Class Member’s valid and timely submission of a written request to be excluded from the Settlement signed by the Class Member.
- 1.41. “Response Deadline” means sixty (60) 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, (b) fax, email, or mail his or her Workweek disputes or PAGA Pay Period disputes; or (c) 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. The Response Deadline may also be extended by express agreement between Class Counsel and Defendant’s Counsel. Under no circumstances, however, will the Administrator have the authority to unilaterally extend the Response Deadline.
- 1.42. “Settlement” means the disposition of the Action effected by this Agreement and the Final Approval Order and Judgment.

- 1.43. “Workweek” means any calendar week (i.e. a week beginning on a Sunday and ending on Saturday) during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On February 14, 2023 Plaintiff filed a class action Complaint alleging causes of action against Defendant for (1) failure to provide meal periods in violation of Labor Code sections 226.7, 512, and 558; (2) failure to provide rest periods in violation of Labor Code sections 226.7, 512, and 558; (3) failure to pay all wages in violation of Labor Code sections 510, 1194, and 1194.2; (4) knowing and intentional failure to comply with itemized employee wage statement provisions in violation of Labor Code section 226(a), (e); (5) failure to timely pay wages due at termination in violation of Labor Code sections 201 – 203; (6) failure to timely pay employees in violation of Labor Code section 204(a), (b); (7) failure to reimburse for business expenses in violation of Labor Code section 2802; (8) failure to provide suitable seating in violation of Labor Code section 1198 and section 14(a) of Wage Order 7-2001; 9) failure to pay for all hours worked, including overtime hours worked in violation of Labor Code section 210, 218, 222; 10) failure to provide place of employment that is safe and healthful in violation of Labor Code sections 6400, 6401, 6403, 6404, 6407, 8 CCR 3202; and 11) violation of Business and Professions Code section 17200. On April 25, 2023, Plaintiff filed a First Amended Complaint against Defendant adding one cause of action for penalties pursuant to Labor Code section 2699(f) (the Private Attorneys General Act or “PAGA”) for violations of Labor Code sections 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 201 – 203, 204(a), (b), 2802, 1198, 210, 218, 222, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202, and 17200 (the “Action”). Defendant denies the allegations in the Action, denies any failure to comply with the laws identified in the Action 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 written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On August 14, 2023, the Parties participated in an all-day mediation presided over by James A. Dilling which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, statistical data, including records of its employees, which consisted of wage statements, clock-in and clock-out times, times taken for meal breaks, wages earned during the relevant pay periods, written policies and procedures on meal breaks, rest breaks, overtime compensation, and reimbursement for business expenses, training materials and confirmation of Plaintiff’s completion of trainings related to Covid-19 safety procedures and mask requirement, policies on adequate seating, the number of workweeks and pay periods in the class, the total number of class members and aggrieved employees, and the average rate of pay for class members each year in question. 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. The Parties engaged in private mediation prior to class certification, and by way of a Motion for Preliminary Approval, will request provisional certification of the Class.
- 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. Defendant promises to pay \$100,000.00 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:
 - 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$7,500.00 (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 motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments 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 amount of the Class Representative Service Payment is not a material term of this Agreement and if the Court approves a Class Representative Service Payment less than the amount requested, it shall not result in the Agreement being void. The Administrator will pay the Class Representative Service Payment using IRS Form 1099.

- 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$33,330.00 and a Class Counsel Litigation Expenses Payment of not more than \$15,000.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for 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. The amount of the Class Counsel Fees Payment and/or the Class Counsel Litigation Expenses Payment is not a material term of this Agreement and if the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amount requested, it shall not result in the Agreement being void. 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.
- 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$10,000.00 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 \$10,000.00, 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. 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. 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.

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 \$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 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.

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 amount of the PAGA Penalties awarded by the Court is not a material term of this Agreement and if the Court approves an amount for PAGA Penalties less than the amount requested, or requests that the Parties allocate a greater amount of the Gross Settlement Amount toward the PAGA Penalties, it shall not result in the Agreement being void. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. **SETTLEMENT FUNDING AND PAYMENTS.**

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records as of August 14, 2023, Defendant estimates there are twenty-six (26) Class Members who worked a total of one thousand two hundred and ninety (1,290) Workweeks during the Class Period and twenty-six (26) Aggrieved Employees who worked a total of six hundred and sixty-six (666) Pay Periods during the PAGA Period.

4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement in this Action, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees

who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel 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 deposit the first payment of \$50,000.00 of the Gross Settlement Amount with the Settlement Administrator no later than 14 calendar days after the Effective Date. Defendant shall deposit the second payment of \$50,000.00 with the Settlement Administrator no later than 7 months after Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant fully 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/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the 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 Class Members 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

Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

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 Class Members (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, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from (1) from all claims, losses, damages, liquidated damages, penalties, interest, liabilities, causes of action, civil complaints, arbitration demands or suits that were, or reasonably could have been alleged based on the facts contained in the Action, including all claims under the California Labor Code as alleged in the Action, including violations for meal periods, rest breaks, non-productive time, off the clock work, unpaid overtime and minimum wages, timely payment of wages, wage statements, waiting time penalties, unreimbursed business expenses, failure to provide suitable seating, failure to provide a place of employment that is safe and healthful, penalties under the Private Attorneys General Act sections 2698, *et seq.*, and violations of California Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), during the Class Period and the PAGA Period; and (b) all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any of the Released Parties committed or omitted prior to the execution hereof ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, which cannot be lawfully released. 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: 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 pled in the Action and claims that could have been pled in the Action based on the same operative facts, including claims for 1) failure to provide meal periods, 2) failure to provide rest periods, 3) failure to pay all wages, 4) failure to comply with itemized employee wage statement provisions, 5) failure to pay all wages due at termination, 6) failure to timely pay wages during employment, 7) failure to reimburse business expenses, 8) failure to provide suitable seating, 9) failure to pay for all hours worked, 10) failure to provide place of employment that is safe and healthful, and 11) violation of Business and Professions Code section 17200.

5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Action and the PAGA Notice, including claims for PAGA penalties arising out of or based on: 1) failure to provide meal periods, 2) failure to provide rest periods, 3) failure to pay all wages, 4) failure to comply with itemized employee wage statement provisions, 5) failure to pay all wages due at termination, 6) failure to timely pay wages during employment, 7) failure to reimburse business expenses, 8) failure to provide suitable seating, 9) failure to pay for all hours worked, 10) failure to provide place of employment that is safe and healthful, and 11) violation of Business and Professions Code section 17200.

6. **MOTION FOR PRELIMINARY APPROVAL.** Plaintiff agrees to prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") no later than 60 days after the full execution of this Agreement. Plaintiff shall provide a draft of the

Motion for Preliminary Approval paperwork to Defendant prior to filing the paperwork with the Court.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Simpluris to serve as the Administrator and verified that, as a condition of appointment, Simpluris 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. Notice to Class Members.

7.2.1. No later than 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, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.2.2. 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. 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 used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.2.3. 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.

7.2.4. The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 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.

7.2.5. 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 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, whichever are later.

7.3. Requests for Exclusion (Opt-Outs).

7.3.1. 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 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.

7.3.2. 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.

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

7.3.4. 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 in this Agreement and are eligible for an Individual PAGA Payment.

- 7.4. Challenges to Calculation of Workweeks. Each Class Member shall have 60 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 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 Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.
- 7.5. Objections to Settlement.
- 7.5.1. 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.
- 7.5.2. 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 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- 7.5.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.
- 7.6. 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.
- 7.6.1. 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.

- 7.6.2. 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).
- 7.6.3. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.6.4. Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.6.5. 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.** Based on its records, Defendant estimates that, as of August 14, 2023, (1) there are approximately one thousand, two hundred and ninety (1,290) Workweeks in the Class Period. If the actual number of Workweeks increases by more than 10% for the time period from February 14, 2022 through August 14, 2023, the Settlement Amount shall increase proportionately to the actual percentage increase between the estimated Workweeks and the certified Workweeks worked by the Class Members.
9. **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.
 - 9.1. 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 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for 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.
 - 9.3. 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.
 - 9.4. 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.

- 9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on 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.
10. **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.
11. **NOTICE OF SETTLEMENT TO LWDA.** Plaintiff and Class Counsel shall provide notice to the LWDA of the proposed settlement as required by California Labor Code section 2699, subdivision (l)(2), as well as any other information required by law to be provided to the LWDA to effectuate the terms of this Agreement.
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 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 and Class 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

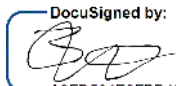
cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of 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. Plaintiff and Class Counsel agrees to immediately notify Defendant and Defendant's Counsel of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff and Class 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 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 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.
- 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. 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.

- 12.18. 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.

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Plaintiff ESMERALDA LEE

Dated: 9/26/2023

By: _____
 Defendant RIVER OAK
 PHARMACEUTICAL CARE, INC.

Dated: _____

APPROVED AS TO FORM:

OTKUPMAN LAW FIRM, A LAW
 CORPORATION



Roman Otkupman
 Nidah Farishta
 Counsel For Plaintiff

Dated: 9/26/23

MCCORMICK, BARSTOW, SHEPPARD,
 WAYTE & CARRUTH LLP

Laura A. Wolfe
 Matthew K. Hawkins
 Counsel For Defendant

Dated: _____

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Plaintiff ESMERALDA LEE

Dated: _____



By: R. W. Cosner
Defendant RIVER OAK
PHARMACEUTICAL CARE, INC.

Dated: 9/25/23

APPROVED AS TO FORM:

OTKUPMAN LAW FIRM, A LAW
CORPORATION

Roman Otkupman
Nidah Farishta
Counsel For Plaintiff

Dated: _____

MCCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP


Laura A. Wolfe
Matthew K. Hawkins
Counsel For Defendant

Dated: 9/25/23