

EXHIBIT A-1

1 **STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

2 IT IS HEREBY STIPULATED by and between Plaintiff James Fryer, on behalf of himself
3 and others similarly situated, on the one hand, and Defendant T. E. Roberts, Inc., on the other hand,
4 subject to the approval of the Court, that the Lawsuit is hereby being compromised and settled
5 pursuant to the terms and conditions set forth in this Stipulation of Class and Representative Action
6 Settlement (“Settlement Agreement”) and that the Court shall make and enter judgment, subject to
7 the continuing jurisdiction of the Court as set forth below, subject to the definitions, recitals and
8 terms set forth herein which by reference become an integral part of this Settlement Agreement.

9 **DEFINITIONS**

10 1. “Administration Costs” means fees or costs of settlement administration services
11 rendered in administrating the settlement. The Administration Costs shall be paid from the Gross
12 Settlement Amount.

13 2. “Attorneys’ Fees and Costs” means the amount the Court authorizes to be paid to
14 Class Counsel for attorneys’ fees, not to exceed 33⅓% of the Gross Settlement Amount, and
15 litigation costs not to exceed \$20,000, paid from the Gross Settlement Amount.

16 3. “Class Counsel” means CounselOne, PC.

17 4. “Class List” means a list of contact information, compiled by Defendant based on its
18 records, containing the following information for each class member: full name, last-known mailing
19 address, last-known telephone number, Social Security number, the start and end dates of
20 employment in an hourly or non-exempt position in California during the Class Period.

21 5. “Class” or “Class Member(s)” means all current and former hourly paid or non-
22 exempt employees who worked for Defendant T. E. Roberts, Inc. within the State of California
23 during the Class Period.

24 6. “Class Notice” means the document to be sent via first class U.S. mail to Class
25 Members and PAGA Group Members following Preliminary Approval, in substantially the form
26 that is attached hereto as **EXHIBIT 1**, or otherwise approved by the Court, which will be printed in
27 English and Spanish and which will notify Class Members and PAGA Group Members of the
28

1 settlement, explain the basic terms of the Settlement Agreement, and inform Class Members of their
2 options with regard to the settlement.

3 7. "Class/PAGA Period End Date" means March 29, 2024, unless Defendant shortens
4 the end of the release period pursuant to Paragraph 61 below.

5 8. "Class Period" means the period beginning on August 8, 2019 and ending on the
6 Class/PAGA Period End Date.

7 9. "Court" means the Superior Court for the State of California, County of Orange.

8 10. "Defendant" means T. E. Roberts, Inc.

9 11. "Defendant's Counsel" means O'Hagan Meyer, LLP.

10 12. "Effective Date" means the later of: (a) if no objections are timely filed, the Final
11 Approval Date; (b) if objections are filed but no appeal is filed, the expiration date of the time for
12 filing notice of any appeal from Final Approval Date; or (c) if an appeal is filed, the latest of (i) the
13 date of final affirmance of an appeal of that Final Approval Order, (ii) the expiration of the time for
14 a petition for review or writ of certiorari with respect to the Final Approval Order and, if review or
15 certiorari is granted, the date of final affirmance of the Final Approval Order following review
16 pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Final Approval Order
17 or the final dismissal of any proceeding on review or certiorari with respect to the Final Approval
18 Order that has the effect of confirming the Final Approval Order.

19 13. "Employer's Share of Payroll Taxes" means Defendant's share of all applicable
20 federal, state and local payroll taxes and customary withholdings, including the employer FICA,
21 FUTA, and SDI contributions, on the portion of the Individual Settlement Share that constitutes
22 wages. The Employer's Share of Payroll Taxes shall be separately paid by Defendant and shall not
23 be paid from the Gross Settlement Amount or Net Settlement Amount.

24 14. "Enhancement Payment" means the amount that the Court authorizes to be paid to
25 the Class Representative, in addition to his Individual Settlement Payment, in recognition of his
26 efforts and risks in assisting with the prosecution of the Lawsuit.

27 15. "Final Approval Date" means the date on which the Court enters an order granting
28 final approval of the Settlement Agreement.

1 16. “Final Approval Hearing” means the hearing following Preliminary Approval and
2 distribution of the Class Notice to Class Members and PAGA Group Members, at which the Court
3 will determine whether to fully and finally approve the fairness and reasonableness of this
4 Settlement Agreement, and at which Plaintiff will request that the Court enter the Final Approval
5 Order and Judgment, approve and award the Attorneys’ Fees and Costs, Enhancement Payment,
6 Individual Settlement Payments, Administration Costs, and LWDA Payment, and take other
7 appropriate or necessary action as described herein.

8 17. “Final Approval Hearing Date” means the date of the Final Approval Hearing.

9 18. “Final Approval Order and Judgment” means the order (or orders) entered by the
10 Court that, inter alia, finally approves this Settlement Agreement, disposes of all issues raised in the
11 Lawsuit by way of judgment in conformity with California Rules of Court 3.769, and awards and
12 orders the payment of all required amounts pursuant to the terms of this Settlement Agreement.

13 19. “Gross Settlement Amount” means the maximum total payment of Seven Hundred
14 and Fifty Thousand Dollars (\$750,000) payable by Defendant under this Settlement Agreement,
15 inclusive of all Individual Settlement Payments, Attorneys’ Fees and Costs, Administration Costs,
16 Enhancement Payment to the Class Representative, and the LWDA Payment. The Gross Settlement
17 Amount is non-reversionary, subject to increase pursuant to Paragraph 61, and exclusive of the
18 Employer’s Share of Payroll Taxes which shall be paid separately.

19 20. “Individual Settlement Share(s)” means a Settlement Class Member’s pro rata share
20 of the Net Settlement Amount, which is to be determined in conformity with Paragraph 54(f) and
21 will be inclusive of the employee-side payroll taxes, contributions, and withholdings with respect
22 to the wage portion of the Individual Settlement Shares.

23 21. “Individual Settlement Payment(s)” means the sum of the Individual Settlement
24 Share and, if applicable, the individual PAGA payment.

25 22. “Lawsuit” means the action entitled *Fryer v. T. E. Roberts, Inc., et al.* (previously
26 entitled *Procoro Ochoa Gutierrez v. T. E. Roberts, Inc., et al.*) filed on August 8, 2023 in the Orange
27 County Superior Court and assigned case number 30-2023-01341160-CU-OE-CXC.

28 23. “LWDA” means the California Labor Workforce and Development Agency.

1 24. “LWDA Payment” means the payment that is subject to be approved by the Court
2 pursuant to Labor Code section 2699 and distributed as follows: seventy-five (75%) of the PAGA
3 Payment (*i.e.*, \$45,000) to the LWDA. Class Counsel shall give timely notice of the settlement to
4 the LWDA under Labor Code section 2699, subdivision (l)(2).

5 25. “Net Settlement Amount” means the portion of the Gross Settlement Amount that is
6 available for distribution to Settlement Class Members, which will be the Gross Settlement Amount
7 less the amounts awarded for Attorneys’ Fees and Costs, Enhancement Payment, PAGA Payment,
8 and Administration Costs.

9 26. “PAGA” means the California Labor Code Private Attorneys General Act of 2004
10 (Cal. Lab. Code §§ 2698, *et seq.*)

11 27. “PAGA Group Member(s)” means all Class Members employed by Defendant at any
12 time during the PAGA Period.

13 28. “PAGA Group Members’ Released Claims” means all claims for civil penalties
14 arising under the PAGA during the PAGA Period that were alleged or reasonably could have been
15 alleged based on the facts or legal theories alleged in the PAGA notices submitted to the LWDA
16 and the operative complaint filed by Plaintiff in the Lawsuit for alleged violations of Labor Code
17 sections 201, 202, 203, 204, 210, 223, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5,
18 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198, and shall further release the Released Parties from
19 any claims and/or liability for interest and all attorneys’ fees and costs available under the PAGA
20 arising out of the facts asserted in the operative complaint for the aforementioned Labor Code
21 violations.

22 29. “PAGA Payment” means the payment of penalties pursuant to the Labor Code
23 section 2968 *et seq.*, the Private Attorneys General Act of 2004 (“PAGA”), that the Parties have
24 agreed is a reasonable sum to be paid in settlement of the PAGA claims encompassed by the
25 underlying allegations in the Lawsuit, which is \$60,000.

26 30. “PAGA Period” means the period beginning on May 8, 2022 and ending on the
27 Class/PAGA Period End Date.

1 31. “Parties” means Plaintiff, individually and on behalf of all Class Members and
2 PAGA Group Members (as defined in Paragraphs 5 and 27 herein), and Defendant, who are each
3 individually referred to herein as “Party.”

4 32. “Pay Period(s)” means pay periods during the PAGA Period, during which time,
5 based on Defendant’s records, PAGA Group Members were actively employed by Defendant and
6 worked at least a portion of such Pay Period in an hourly-paid or non-exempt position in California.
7 Defendant shall certify the number of Pay Periods that have accrued for all PAGA Group Members
8 during the PAGA Period, in accordance with Paragraphs 54(d) and 61 below.

9 33. “Plaintiff” or “Class Representative” means Plaintiff James Fryer.

10 34. “Preliminary Approval Order” means the order to be entered by the Court that
11 preliminarily approves the terms and conditions of this Settlement Agreement, including the content
12 of the Class Notice, and sets a Final Approval Hearing.

13 35. “Released Parties” means Defendant, as well as any of its officers, directors,
14 employees, partners, shareholders, owners, trustees, representatives, agents, attorneys, subsidiaries,
15 related and/or parent companies/corporations and/or partnerships, divisions, assigns, predecessors,
16 successors, affiliates, and insurers, and all of their respective successors, subsidiaries, assigns, or
17 legal representatives, and any other individual or entity which could be liable for any of the Released
18 Class Claims and Released PAGA Claims.

19 36. “Response Deadline” means the last date on which Class Members may submit an
20 opt-out/request for exclusion or objection to the settlement, which shall be the later of either forty-
21 five (45) calendar days after the Settlement Administrator mails the original Class Notice to Class
22 Members or thirty (30) calendar days after the Settlement Administrator re-mails any Class Notice
23 which was returned to the Settlement Administrator.

24 37. “Settlement Administrator” means CPT Group, Inc., the neutral third-party
25 administrator mutually agreed upon by the Parties, subject to approval by the Court.

26 38. “Settlement Class” or “Settlement Class Member(s)” means all Class Members who
27 have not submitted a timely and valid opt-out/Request for Exclusion pursuant to Paragraph 62.

39. “Settlement Class Members’ Released Claims” means all demands, rights, obligations, debts, liabilities, causes of action, penalties, and/or claims arising at any time during the Class Period that were alleged or that could have been alleged based on the facts asserted in the operative complaint filed by Plaintiff in the Lawsuit for: (1) failure to pay minimum wages (Lab. Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1), (2) failure to pay overtime wages (Lab. Code, §§ 223, 510, and 1198), (3) failure to provide meal periods (Lab. Code, §§ 226.7, 512), (4) failure to provide rest breaks (Lab. Code, § 226.7), (5) failure to provide accurate itemized employee wage statements (Lab. Code, §§ 226 and 226.3), (6) failure to pay all wages owed timely and upon separation of employment (Lab. Code, §§ 201, 202, 203, 204, and 210), (7) failure to maintain records in violation of Labor Code section 1174, subdivision (d), and (8) violation of Business & Professions Code section 17200 et seq., and all corresponding wage orders. This release excludes the release of claims not permitted by law.

40. “Workweek(s)” means a seven-day work week during the Class Period during which, based on Defendant’s records, Class Members were actively employed by Defendant and worked at least a portion of such Workweek in an hourly-paid or non-exempt position in California.

RECITALS

41. **Procedural History.** On August 8, 2023, Procoro Ochoa Gutierrez (“Plaintiff Gutierrez”) filed a Class and Representative Complaint, alleging causes of action for: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to provide accurate itemized employee wage statements, (6) failure to pay all wages owed timely and upon separation of employment, (7) violation of Labor Code section 1174, subdivision (d), (8) violation of Business and Professions Code section 17200 et seq., and (9) civil penalties pursuant to the PAGA.

42. **Pre-Filing PAGA Notice.** On May 8, 2023, counsel for Plaintiff Gutierrez provided pre-filing written notice to the LWDA and by certified mail to Defendant of the above-identified allegations on behalf of Plaintiff Gutierrez and similarly situated aggrieved employees in accord with the PAGA.

1 43. **Substitution of Plaintiff and First Amended Complaint.** In early 2024, Plaintiff
2 Gutierrez decided he no longer wished to prosecute the instant action as class representative. The
3 Parties stipulated, and were granted leave by the Court, to file an amended complaint substituting
4 Plaintiff James Fryer (another Class Member) as the lead plaintiff instead of Plaintiff Gutierrez.
5 After providing an amended notice to the LWDA, on March 25, 2024, Plaintiff James Fryer, on
6 behalf of himself and others similarly situated, filed the First Amended Class and Representative
7 Action Complaint, alleging the same causes of action for: (1) failure to pay minimum wages; (2)
8 failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to provide rest periods;
9 (5) failure to provide accurate itemized employee wage statements, (6) failure to pay all wages owed
10 timely and upon separation of employment, (7) violation of Labor Code section 1174, subdivision
11 (d), (8) violation of Business and Professions Code section 17200 et seq., and (9) civil penalties
12 pursuant to the PAGA.

13 44. **Discovery and Investigation.** Class Counsel began their investigation well in
14 advance of filing the complaint and engaged in extensive informal discovery and investigation; such
15 was sufficient to allow the Parties to evaluate the case prior to settlement. In advance of mediation,
16 the Parties agreed to an exchange of information and documents. For example, Class Counsel
17 requested production of and reviewed key information and documents such as the number of
18 putative class members and aggrieved employees, relevant wage and hour and other employment
19 policies, time and payroll records, and rates of pay, among other things. Class Counsel analyzed
20 time and payroll records and interviewed Class Members to determine violation rates. The Parties
21 met and conferred at length regarding the information and documents produced.

22 45. **Mediation.** After having performed extensive investigation and analysis of the legal
23 and factual issues and risks, the Parties participated in a full-day mediation before Steve Rottman,
24 Esq. in an attempt to resolve the Lawsuit. The settlement discussions were conducted at arm's-
25 length. The Parties came to agreement on all material terms of this settlement pursuant to a
26 mediator's proposal.

27 46. **Benefits of Settlement to Class Members.** Plaintiff and Class Counsel recognize
28 the expense and length of continued proceedings necessary to litigate their disputes through trial

1 and through any possible appeals. Plaintiff and Class Counsel have also taken into account the
2 uncertainty and risks of the outcome of further litigation, and the difficulties and delays inherent in
3 such litigation. Further, Plaintiff and Class Counsel are aware of the burdens of proof necessary to
4 establish liability for the claims asserted in the Lawsuit, both generally and in response to
5 Defendant's defenses thereto, and the difficulties in establishing damages for Class Members. Based
6 on the foregoing, Plaintiff and Class Counsel have determined that the settlement set forth herein is
7 a fair, adequate and reasonable settlement, and is in the best interests of Class Members and PAGA
8 Group Members.

9 47. **Defendant's Reasons for Settlement and Non-Admission.** Defendant has
10 concluded that any further defense of this litigation would be protracted and expensive for all
11 Parties. Substantial amounts of Defendant's time and resources have been devoted—and, absent
12 settlement, will continue to be devoted—to the defense of the claims asserted by Plaintiff. Defendant
13 has also taken into account the risks of further litigation in reaching its decision to enter into this
14 Settlement Agreement. Despite continuing to contend that it is not liable for any of the claims set
15 forth by Plaintiff, Defendant has nonetheless agreed to settle in the manner and upon the terms set
16 forth in this Settlement Agreement to put to rest the claims alleged in the Lawsuit. Defendant has
17 claimed and continues to claim that the Settlement Class Members' Released Claims, and PAGA
18 Group Members' Released Claims have no merit and do not give rise to liability. This settlement is
19 a compromise of disputed claims.

20 48. **This Settlement Is Fair, Adequate and Reasonable.** The Parties believe this
21 settlement is a fair, adequate, and reasonable settlement of the Lawsuit and have arrived at this
22 settlement after extensive arms-length negotiations and taking into account all relevant factors,
23 present and potential. In addition, the mediator may, at his discretion, execute a declaration
24 supporting the settlement and the reasonableness thereof, and the Court may, in its discretion,
25 contact the mediator to discuss the settlement, and whether or not the settlement is fair and
26 reasonable.

49. **Related Matters or Actions That May Affect Settlement.** The Parties, Class Counsel and Defendant's 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 of this Lawsuit.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the Recitals above and the promises and warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set herein, Plaintiff, individually and on behalf of Class Members and PAGA Group Members, on the one hand, and Defendant, on the other hand, agree that the Lawsuit shall be, and is finally and fully compromised and settled on the following terms and conditions, subject to Court approval:

50. **Non-Admission of Liability.** The Parties enter into this Settlement Agreement to resolve the Lawsuit and to avoid the burden, expense, and risk of continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically denies, that it has violated any state or local law, violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements, or engaged in any other unlawful conduct or wrongdoing with respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations in connection with it, shall be construed as an admission or concession by Defendant of any such violation(s) or failure(s) to comply with any applicable law. Furthermore, the Parties agree that the settlement of this class and representative action shall not impact the enforceability of any agreement to arbitrate or class or representative action waiver entered between Defendant and any Class Member or PAGA Group Member. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a noncompliance with, state, local, or other applicable law. In addition, as set forth herein, the Parties intend this settlement to be contingent upon the Preliminary Approval and Final Approval of this Settlement Agreement; and the Parties do not waive, and instead expressly reserve, their respective rights to prosecute and defend the

Lawsuit as if this Settlement Agreement never existed, in the event the settlement is not finally approved as set forth herein.

51. **Release of Claims by Settlement Class Members.**

As of the Effective Date, Plaintiff and all Class Members who did not submit timely and valid requests for exclusion from the settlement (again, “Settlement Class Members”) will release and forever discharge Defendant, and each of its officers, directors, employees, partners, shareholders, owners, trustees, representatives, agents, attorneys, subsidiaries, parent and/or related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, affiliates, and insurers, and all of their respective successors, subsidiaries, assigns, or legal representatives (again, the “Released Parties”), from all claims contained in the operative complaint in the Lawsuit, or that could have been asserted based on the facts, circumstances, transactions, occurrences, acts, omissions, or failures to act alleged by Plaintiff in the operative complaint in the Lawsuit during the Class Period, including all claims based on allegations for: (1) failure to pay minimum wages (Lab. Code, §§ 1182.12, 1194, 1194.2, 1197, 1197.1), (2) failure to pay overtime wages (Lab. Code, §§ 223, 510, and 1198), (3) failure to provide meal periods (Lab. Code, §§ 226.7, 512), (4) failure to provide rest breaks (Lab. Code, § 226.7), (5) failure to provide accurate itemized employee wage statements (Lab. Code, §§ 226 and 226.3), (6) failure to pay all wages owed timely and upon separation of employment (Lab. Code, §§ 201, 202, 203, 204, and 210), (7) failure to maintain records in violation of Labor Code section 1174, subdivision (d), and (8) violation of Business & Professions Code section 17200 et seq., and corresponding wage orders, along with any potential penalties, interest, or attorneys’ fees based on the alleged failures set forth in (1) through (8) above (collectively, “Settlement Class Members’ Released Claims”). This release excludes the release of claims not permitted by law.

52. **Release of Claims by PAGA Group Members.**

As of the Effective Date, all PAGA Group Members will release the Released Parties from all claims for civil penalties arising during the PAGA Period under the PAGA that were alleged or reasonably could have been alleged based on the facts or legal theories alleged in the operative complaint filed by Plaintiff in the Lawsuit for alleged violations of Labor Code sections 201, 202,

203, 204, 210, 223, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198, and shall further release the Released Parties from any claims and/or liability for interest and all attorneys' fees and costs available under the PAGA arising out of the facts asserted in the operative complaint for the aforementioned Labor Code violations (collectively, the "PAGA Group Members' Released Claims").

53. **General Release by Plaintiff Only.**

In addition to the releases set forth in Paragraphs 51 and 52, Plaintiff, for himself only, releases and forever discharges the Released Parties from any and all claims, charges, complaints, promises, controversies, damages, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, penalties, actions, suits, rights, losses, or causes of action of every kind or nature, contingent or accrued, which do or may exist as of the date of the execution of this Settlement Agreement. including, without limiting the generality of the foregoing: (a) any and all claims under Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), the Americans with Disabilities Act ("ADA"), the Employee Retirement Income Security Act, as amended ("ERISA") (regarding un-vested benefits), the Family and Medical Leave Act ("FMLA") (regarding existing but not prospective claims), the Fair Labor Standards Act ("FLSA"), the Equal Pay Act, the Civil Rights Act of 1991, Section 1981 of U.S.C. Title 42, the Fair Credit Reporting Act ("FCRA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), the National Labor Relations act ("NLRA"), the Uniform Services Employment and Reemployment Rights Act ("USERRA"), the Genetic Information Nondiscrimination Act ("GINA"), the Immigration Reform and Control Act ("IRCA"), the Fair Employment and Housing Act ("FEHA"), the California Constitution, the California Family Rights Act ("CFRA"), the California Labor Code (including PAGA) and applicable Wage Order(s), the Unfair Competition Law, all as amended by their respective implementing regulations, and any other federal, state or local law, (statutory, regulatory, or otherwise) that may be legally waived and released; however the identification of specific statutes or law shall not limit the scope of this general release in any manner; and (b) any and all claims for back-pay, regular pay, minimum wages, premium pay, overtime pay, other wages, expenses, penalties, failure to provide meal and/or rest periods, failure to reimburse business expenses,

1 compensatory damages, special damages, interest, commissions, bonuses, sick leave, holiday pay,
2 vacation pay, restitution, tort claims, contract claims, equitable claims, hostile work environment
3 claims, workplace harassment claims, wrongful termination claims, discrimination claims, public
4 policy claims, retaliation claims, whistleblower retaliation claims, failure to provide reasonable
5 accommodation claims, failure to engage in the interactive process claims, failure to prevent
6 discrimination claims, failure to prevent retaliation claims, statutory claims, personal injury claims,
7 emotional distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum
8 meruit claims, and/or attorneys' fees and costs either individually or as part of a class action,
9 collective action, and/or representative action (collectively, "Plaintiff's Released Claims").

10 In connection therewith, Plaintiff further agrees and expressly waives and relinquishes to the
11 fullest extent permitted by law, the rights and benefits of the provisions of Civil Code section 1542,
12 which states:

13 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
14 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
15 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
16 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

17 Accordingly, if the facts relating in any manner to this Settlement Agreement are found hereafter to
18 be other than or different from the facts now believed to be true by Plaintiff, Plaintiff's release of
19 claims contained herein shall be effective as to all unknown claims.

20 Plaintiff has been given at least 21 days from the date of receipt of this Settlement Agreement
21 to consider the terms of this Settlement Agreement and consult with counsel before signing it
22 (Consideration Period). In the event Plaintiff chooses to sign this Settlement Agreement prior to the
23 expiration of the Consideration Period, Plaintiff represents that he knowingly and voluntarily is
24 waiving the remainder of the Consideration Period. Plaintiff understands that having waived some
25 portion of the Consideration Period, Defendant may expedite the processing of benefits provided to
26 him in exchange for signing this Release. Plaintiff agrees with Defendant that changes, whether
27 material or immaterial, do not restart the running of the Consideration Period. Plaintiff
28 acknowledges that he has seven (7) days after she signs this Settlement Agreement to revoke his

1 agreement to it by sending a written revocation notice to Defendant through their counsel.
2 Notwithstanding any other provision of this Agreement, if Plaintiff revokes this Settlement
3 Agreement pursuant to this section, the Settlement Agreement will not be effective or enforceable.

4 54. **Payments under the Settlement.** In consideration of the mutual covenants and
5 promises set forth herein, Defendant agrees to pay the Gross Settlement Amount of seven hundred
6 and fifty thousand dollars (\$750,000). Defendant shall not be required to pay any amount above the
7 Gross Settlement Amount under this Settlement Agreement, with the exception of the Employer's
8 Share of Payroll Taxes, and if the escalator clause is triggered by Defendant in accordance with
9 Paragraph 61. The Parties agree that the Gross Settlement Amount will be paid by Defendant on a
10 non-reversionary basis and no portion of the Gross Settlement Amount will revert to Defendant. At
11 no time shall Defendant have the obligation to segregate the funds comprising the Gross Settlement
12 Amount, and Defendant shall retain exclusive authority over, and the responsibility for, those funds
13 through and until the date Defendant is obligated to fund the settlement through an order of final
14 approval. The Parties agree, subject to Court approval, that the Gross Settlement Amount shall be
15 apportioned as follows:

16 a. Plaintiff will apply to the Court for an award of attorneys' fees of no more
17 than thirty-three and one-third percent (33- $\frac{1}{3}$ %) of the Gross Settlement Amount (*i.e.*, \$250,000) to
18 Class Counsel and reimbursement of actual litigation costs up to twenty thousand dollars (\$20,000)
19 to Class Counsel (again, "Attorneys' Fees and Costs"). The Attorneys' Fees and Costs are included
20 in, and will be paid from, the Gross Settlement Amount. Defendant will not oppose such application.

21 b. Plaintiff will also apply to the Court for payment to the Settlement
22 Administrator for the costs of notice and settlement administration not to exceed twenty-two
23 thousand dollars (\$22,000) (again, "Administration Costs"). The Administration Costs are included
24 in, and will be paid from, the Gross Settlement Amount. Defendant will not oppose such application.

25 c. Plaintiff will apply to the Court for a payment in the amount of ten thousand
26 dollars (\$10,000) (again, "Enhancement Payment") in recognition of his services and
27 responsibilities in prosecuting the Lawsuit as the Class Representative. The Enhancement Payment
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1 is included in, and will be paid from, the Gross Settlement Amount. Defendant will not oppose such
2 application.

3 d. The amount of sixty thousand dollars (\$60,000) is allocated towards penalties
4 pursuant to Labor Code section 2698 et seq. (again, “PAGA Payment”), from which the LWDA will
5 be paid the amount of forty-five thousand dollars (\$45,000) (again, “LWDA Payment”) and the
6 amount of fifteen thousand dollars (\$15,000) will be distributed on a pro rata Pay Period basis to all
7 PAGA Group Members (*i.e.*, individual recovery depends on each PAGA Group Member’s ratio of
8 his or her Pay Periods relative to the total Pay Periods of all PAGA Group Members) who worked
9 during the PAGA Period, and irrespective of whether he or she is a Settlement Class Member. The
10 number of Pay Periods that have accrued for all PAGA Group Members in accordance with this
11 paragraph and Paragraph 61 was estimated to be 11,543 as of the date of mediation. The PAGA
12 Payment will be included in, and will be paid from, the Gross Settlement Amount.

13 e. Any of the foregoing amounts not awarded by the Court shall be added to the
14 Net Settlement Amount.

15 f. The Net Settlement Amount will be the amount that is available for
16 distribution to Class Members on a pro rata Workweek basis. The sum of all Class Members’
17 individual Workweeks will be the “Total Workweeks.” The Net Settlement Amount will be divided
18 by the Total Workweeks to yield the “Workweek Value.” Each Class Member’s Individual
19 Settlement Share will be determined by multiplying his or her individual Workweeks by the
20 Workweek Value.

21 55. **No Credit Toward Benefit Plans.** Payments made to Plaintiff, Settlement Class
22 Members, and PAGA Group Members under this Settlement Agreement shall not be utilized to
23 calculate any additional benefits under any benefit plans to which they may be eligible including,
24 but not limited to, under profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans,
25 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’
26 intention that this Settlement Agreement will not affect any rights, contributions, or amounts to
27 which Plaintiff, Settlement Class Members, and PAGA Group Members may be entitled under any
28 benefit plans.

56. **Taxation of Settlement Proceeds.**

a. The Parties agree that twenty percent (20%) of each Individual Settlement Share will be considered taxable wages and will be reported as such to each Settlement Class Member on IRS Form W-2. The Parties agree that eighty percent (80%) of each Individual Settlement Share will be considered interest and penalties and will be reported as such to each Settlement Class Member on IRS Form 1099 (if required). The Parties agree that one hundred percent (100%) of each individual PAGA payment will be considered penalties and will be reported as such to each PAGA Group Member on IRS Form 1099 (if required).

b. The Settlement Administrator shall calculate and remit to applicable taxing authorities sufficient amounts for the employee and employer taxes.

c. The Settlement Administrator will issue appropriate tax forms to each Settlement Class Member and PAGA Group Member consistent with the foregoing breakdown.

d. All Parties represent that they have not received, and shall not rely on, advice or representations from Plaintiff, Class Counsel or Defendant's Counsel regarding the tax treatment of payments under federal, state, or local law, and that no representations have been made to them regarding the taxability of any payments under the settlement.

e. Class Counsel will be issued IRS Form 1099 for Attorneys' Fees and Costs awarded by the Court. Except as provided herein, each of the Parties shall bear his, her, their, or its own attorneys' fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Lawsuit.

f. Plaintiff will be issued an IRS Form 1099 for his Enhancement Payment. The Enhancement Payment payable to Plaintiff shall be in addition to the Individual Settlement Payment he is contemplated to receive under this Settlement Agreement. Plaintiff will be solely and legally responsible to pay any and all applicable taxes on the Enhancement Payment. Plaintiff understands and agrees that this Settlement Agreement shall remain in full force and effect even if the full amount of the Enhancement Payment sought by Plaintiff is not ultimately awarded by the Court.

57. **Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR PURPOSE OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS

1 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
2 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
3 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE
4 PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO
5 BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
6 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF
7 UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
8 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON
9 HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE
10 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT
11 ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY
12 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS
13 NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
14 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT
15 MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR
16 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS
17 THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX
18 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)
19 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR
20 TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
21 CONTEMPLATED BY THIS AGREEMENT.

22 58. **Notice Procedure.**

23 a. The Parties shall use CPT Group, Inc. as the Settlement Administrator to
24 distribute the Class Notice, distribute payments under this Settlement Agreement, handle tax
25 reporting, establish and host a dedicated case settlement website, and field questions with a
26 telephonic hotline.

27 b. Defendant will provide the Settlement Administrator with the Class List
28 within ten (10) calendar days following the date of Preliminary Approval. The Class List and any

1 other data provided by Defendant to the Settlement Administrator shall not be used by the Settlement
2 Administrator for any purpose other than as permitted by this Settlement Agreement. The Settlement
3 Administrator will use the Class List only for the purposes described herein, and ensure that any
4 other communications with Class Members shall not include the Class Members' Social Security
5 numbers except for the last four digits.

6 c. The Settlement Administrator shall be responsible for:

7 i. Mailing the Class Notice in English and Spanish to Class Members
8 and PAGA Group Members as directed by the Court;

9 ii. Consulting with counsel for the Parties concerning any relevant issue,
10 including (without limitation) the estimated payments to Settlement Class Members and PAGA
11 Group Members;

12 iii. Receiving and processing Workweek Disputes and rejecting untimely
13 or improper Workweek Disputes;

14 iv. Keeping track of Requests for Exclusion, and rejecting untimely or
15 improper Requests for Exclusion;

16 v. Keeping track of Objections;

17 vi. Distribution of payments in accordance with this Settlement
18 Agreement and the Court's orders;

19 vii. Providing weekly status reports to counsel for the Parties, including:
20 (a) the number of Class Notices mailed; (b) the number of Workweek Disputes received; (c) the
21 number of Objections received; and (d) the number of Requests for Exclusion received;

22 viii. No later than twenty-one (21) business days before the Final Approval
23 Hearing, preparing and providing to Class Counsel and Defendant's Counsel, for filing with the
24 Court in support of Plaintiff's motion for final approval of the settlement, a declaration of due
25 diligence setting forth its compliance with its obligations under this Settlement Agreement;

26 ix. Notifying Defendant's Counsel, within three (3) business days after
27 the Effective Date, of the wiring instructions to fund the Gross Settlement Amount, which must be
28 paid by Defendant in the amounts and in accordance with the deadlines set forth herein;

x. Issuing the following: IRS Form W-2 to each Settlement Class Member for the wage portion of each Individual Settlement Share, IRS Form 1099 (if required) to each Settlement Class Member for the non-wage portion of each Individual Settlement Share, IRS Form 1099 to Plaintiff for his Enhancement Award, IRS Form 1099 to Class Counsel for the Attorneys' Fees and Costs award, and IRS Form 1099 to the Settlement Administrator for the Administration Costs; and,

xi. Such other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform, including responding to questions from Class Members and PAGA Group Members.

d. Within ten (10) calendar days of receipt of the Class List, the Settlement Administrator shall mail the Class Notice via first class U.S. mail to all persons shown by Defendant's records to be Class Members and/or PAGA Group Members as reflected in the Class List, using the most current mailing address available after a National Change of Address search. The Class Notice shall state an estimate of each Class Member's respective Individual Settlement Share and the number of Workweeks credited to him or her along with an estimate of each PAGA Group Member's respective individual PAGA payment and the number of Pay Periods credited to him or her, based on Defendant's certification pursuant to Paragraphs 54(d) and (f).

e. Any Class Notice(s) returned to the Settlement Administrator as undelivered within fifteen (15) calendar days of initial mailing and bearing a forwarding address shall be re-mailed by the Settlement Administrator within three (3) business days following receipt of the returned mail. For any such Class Notice returned to the Settlement Administrator without a forwarding address, the Settlement Administrator shall first conduct a National Change of Address search as required for undeliverable notices, followed by a skip trace search to obtain an updated address, and shall promptly re-mail the Class Notice to any newly discovered addresses. The Settlement Administrator shall also re-mail by first class U.S. mail any such Class Notice returned by the Post Office with a forwarding address. It shall be conclusively presumed that those Class Members whose re-mailed Class Notice is not returned to the Settlement Administrator as undeliverable within five (5) calendar days after re-mailing received the Class Notice.

f. Class Counsel shall provide the Court with a declaration from the Settlement Administrator confirming that the Class Notice was mailed to all Class Members and PAGA Group Members as required by this Settlement Agreement, as well as any additional information Class Counsel deem appropriate to provide to the Court, before the Final Approval Hearing.

59. **Settlement Payments.** Class Members and PAGA Group Members are not required to submit a claim form to receive a settlement payment.

60. **Submission of Workweek Disputes.**

a. If any Class Member disputes the Workweeks set forth on the Class Notice during the Class Period (“Workweeks Dispute”), the Class Member may submit documentation supporting his or her position by mail to the Settlement Administrator no later than forty five (45) calendar days from the date the Class Notice is originally mailed by the Settlement Administrator for those Class Members whose original mailing was not returned to the Settlement Administrator, or thirty (30) days from the date of the re-mailing to Class Members whose Class Notice was returned to the Settlement Administrator, whichever is later (“Response Deadline”). Workweek Disputes not postmarked or confirmed received by the Settlement Administrator on or before the Response Deadline will be considered late and may be summarily rejected by the Settlement Administrator, in consultation with Class Counsel and Defendant’s Counsel.

b. The Settlement Administrator will notify counsel for the Parties of any disputes via email. To the extent Class Members dispute their employment dates or the number of Workweeks on record, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. The Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Parties and the Settlement Administrator will evaluate the evidence and discuss in good faith how many Workweeks to be credited in conformity with Paragraph 54(f). Defendant’s records will be presumed correct.

61. **Pro-Rata Increase of Gross Settlement Amount.**

There are approximately 23,670 Workweeks worked by all Class Members during the Class Period as of the date of mediation. If the number of the Workweeks is greater than the foregoing amounts by more than ten percent (10%), the Gross Settlement Amount will increase by a

1 proportional amount in excess of the ten percent (10%) grace amount (*e.g.*, if the number of
2 Workweeks increases by 11%, the Gross Settlement Amount will increase by 1%). However,
3 Defendant has discretion to stop the Class Period End Date at 26,037 [23,670 + 10%] Workweeks
4 without triggering the escalator clause herein.

5 62. **Opt-Out Procedure.**

6 a. Class Members may request to opt out of the class settlement by mailing a
7 written request for exclusion (“Request for Exclusion”) to the Settlement Administrator. To be
8 timely, Requests for Exclusion must be mailed to the Settlement Administrator, postmarked on or
9 before the Response Deadline.

10 b. A Request for Exclusion should: (1) be signed by the Class Member; (2)
11 contain the case name and case number of the Lawsuit; (3) contain the Class Member’s full name,
12 telephone number, and mailing address; and (4) clearly state that the Class Member wants to opt out
13 of the settlement. No specific language is required in the Request for Exclusion provided it is
14 sufficiently clear that the Class Member desires to be excluded from the class settlement, however,
15 for convenience, a pre-printed Request for Exclusion form will be attached to the Class Notice. No
16 opt-out request may be made on behalf of more than one Class Member.

17 c. Upon receipt of a timely Request for Exclusion, the Settlement Administrator
18 shall review the request to verify the information contained therein and confirm that the request
19 complies with the requirements of this Settlement Agreement.

20 d. Any Class Member who fails to submit via first class U.S. mail a timely and
21 valid Request for Exclusion shall be barred from opting out of the settlement. The Settlement
22 Administrator shall not review or consider any Request for Exclusion postmarked after the Response
23 Deadline. Under no circumstances shall the Settlement Administrator have the authority to extend
24 the Response Deadline for Class Members to file a Request for Exclusion, except as ordered by the
25 Court or mutually agreed by the Parties.

26 e. Plaintiff agrees not to request to be excluded from the settlement.

27 f. PAGA Group Members may not opt out of the settlement of the PAGA Group
28 Members’ Released Claims.

63. **Defendant's Right to Cancel.**

If more than ten percent (10%) of class members submit a timely and valid Request for Exclusion, Defendant shall have the sole and absolute discretion to withdraw from this Settlement Agreement within fourteen (14) business days after the Response Deadline by providing written notice of such withdrawal to Class Counsel. In the event that Defendant elects to withdraw as set forth in this provision, the withdrawal shall have the same effect as a termination of this Settlement Agreement for failure to satisfy a condition of settlement and shall become null and void and have no further force or effect. If Defendant exercises their option to terminate this settlement, they shall pay all Administration Costs already incurred by the Settlement Administrator, not to exceed the amount approved by the Court in the Preliminary Approval Order.

64. **Objections to Settlement.**

a. Any Settlement Class Member may object to the settlement by either mailing a written objection to the Settlement Administrator ("Objection") or appearing at the Final Approval Hearing to discuss the Settlement Class Member's objection with the Court and the Parties at Settlement Class Member's own expense. To be timely, written Objections must be mailed to the Settlement Administrator, postmarked on or before the Response Deadline.

b. An Objection should: (1) be signed by the Settlement Class Member; (2) contain the case name and case number of the Lawsuit; (3) contain the Settlement Class Member's full name, telephone number, and mailing address; (4) clearly state the factual and legal basis for objecting to the settlement; (5) indicate whether the Settlement Class Member is represented by counsel and identify said counsel; and (6) indicate whether the Settlement Class Member intends to appear at the Final Approval Hearing and seeks to be heard at the Final Approval Hearing. The Settlement Administrator will provide the Parties' counsel with any Objections received and also attach the Objections as exhibits to its declaration regarding due diligence that will be filed with the Court in advance of the Final Approval Hearing.

65. **Settlement Proceeds Distribution Deadlines.**

a. Defendant shall fund the Gross Settlement Amount within twenty (20) business days after the Effective Date. Defendant shall not be required to deposit the Gross

1 Settlement Amount until the Effective Date. If the Gross Settlement Amount increases or changes
2 pursuant to Paragraph 61, then the amount to be paid by Defendant will proportionally increase or
3 change.

4 b. No later than ten (10) business days after Defendant fully funds the Gross
5 Settlement Amount, the Settlement Administrator shall distribute payments in accordance with this
6 Settlement Agreement and the Court's orders, as follows: (i) payment of the Enhancement Payment
7 to Plaintiff; (ii) payment of the LWDA Payment to the LWDA; (iii) payment of Individual
8 Settlement Payments to Settlement Class Members and PAGA Group Members; (iv) payment of
9 Attorneys' Fees and Costs to Class Counsel; and (v) payment of Administration Costs to the
10 Settlement Administrator.

11 c. Settlement checks will be valid for a period of one hundred and eighty (180)
12 calendar days from the date of issuance, after which any uncashed check(s) will be cancelled, and
13 the funds associated with such cancelled checks will be transmitted to the Public Law Center of
14 Orange County as the cy pres beneficiary in conformity with the requirements of California Code
15 of Civil Procedure section 384. The Parties, Class Counsel, and Defendant's Counsel represent that
16 they have no affiliation or relationship with the cy pres beneficiary.

17 d. The remittance of all Court ordered and approved payments under this
18 Settlement Agreement to the Settlement Administrator shall constitute the full and complete
19 discharge of the entire obligation of Defendant under this Settlement Agreement.

20 e. No person shall have any claim against the Settlement Administrator,
21 Defendant, Plaintiff, Class Counsel, Defendant's Counsel, or any other agent designated by Plaintiff
22 or Defendant based upon the distribution of payments made in accordance with this Settlement
23 Agreement or further orders of the Court.

24 f. Defendant shall not be obligated to make any payments contemplated by this
25 Settlement Agreement unless and until the Court enters the Final Approval Order and Judgment,
26 and after the Effective Date, and no amounts will be owed or payable until all appeals or other
27 collateral attack have been lapsed or have been favorably resolved in favor of the settlement and no
28 further challenge to the settlement is possible.

1 66. **Binding Effect.**

2 a. Subject to Final Approval, all Settlement Class Members and PAGA Group
3 Members shall be bound by this Settlement Agreement, the contemplated Final Approval Order and
4 Judgment, and the release of Settlement Class Members' Released Claims and PAGA Group
5 Members' Released Claims against the Released Parties.

6 b. Subject to Final Approval, all Class Members, whether or not they submit a
7 request for exclusion, employed by Defendant during the PAGA Period (again, "PAGA Group
8 Members") will receive a PAGA payment and will no longer be able to seek penalties under the
9 PAGA for PAGA Group Members' Released Claims.

10 c. A copy of the Final Approval Order and Judgment will be available on the
11 Settlement Administrator's website pursuant to California Rules of Court, Rule 3.771(b).

12 67. **Provisional Approval of Settlement.** After execution of this Settlement Agreement,
13 Plaintiff shall file a motion seeking preliminary approval of the settlement. Defendant shall not
14 oppose the motion for preliminary approval of the settlement so long as the motion and supporting
15 papers are consistent with the terms of this Settlement Agreement. By way of the motion, the Court
16 will be requested to enter a Preliminary Approval Order that:

17 a. Preliminarily approves this Settlement Agreement;
18 b. Conditionally certifies the Class, for purposes of settlement;
19 c. Preliminarily appoints Plaintiff as representative of the Class for settlement
20 purposes;

21 d. Preliminarily appoints Class Counsel as counsel for the Class for settlement
22 purposes;

23 e. Approves and appoints the Settlement Administrator to administer the
24 settlement as required by this Settlement Agreement;

25 f. Approves the form of the Class Notice and requires that it be sent to Class
26 Members and PAGA Group Members by first class U.S. mail;

27 g. Schedules the Final Approval Hearing; and
28

h. Approves the procedure and deadlines for Class Members to submit Requests for Exclusion, Objections, and Workweek Disputes.

68. **Non-Interference with Settlement Administration.** The Parties and their counsel agree that they shall not seek to solicit or otherwise encourage Class Members to submit Requests for Exclusion or Objections to the settlement or to appeal from the Final Approval Order and Judgment.

69. **Final Approval Order and Judgment.** Defendant shall not oppose the motion for final approval of the settlement so long as the motion and supporting papers are consistent with the terms of this Settlement Agreement. Plaintiff will request, and Defendant will concur in said request, that the Court enter, after the Final Approval Hearing, a Final Approval Order and Judgment drafted by Plaintiff in the form that is consistent with this Settlement Agreement and subject to prior review and approval by Defendant. Plaintiff will request that the Final Approval Order and Judgment find that this settlement is fair, just, equitable, reasonable, adequate and in the best interests of Settlement Class Members and PAGA Group Members, enter judgment in accordance with California Rules of Court, Rule 3.769, and require the Parties to carry out the provisions of this Settlement Agreement. Upon entry thereof, the Final Approval Order and Judgment shall be posted on the Settlement Administrator's website to provide notice to Class Members and PAGA Group Members.

70. **Voiding of Settlement Agreement if Settlement Not Finalized or for Failure to Satisfy Conditions.**

a. The Court may award less to Plaintiff, Class Counsel, Settlement Administrator, and/or the LWDA than is provided for herein, without impacting the validity and enforceability of this Settlement Agreement.

b. If for any reason the settlement set forth in this Settlement Agreement is terminated as provided under this paragraph or Paragraph 63, or does not otherwise become final:

i. The settlement shall be null and void and the orders and judgment to be entered pursuant to this Settlement Agreement shall be vacated; and the Parties will be returned

1 to the status quo prior to entering this Settlement Agreement with respect to the Lawsuit, as if the
2 Parties had never entered into this Settlement Agreement.

3 ii. The Settlement Agreement and all negotiations, court orders and
4 proceedings relating thereto shall be without prejudice to the rights of any and all Parties hereto,
5 Class Members, and PAGA Group Members, whom shall be restored to their respective positions
6 existing prior to the execution of this Settlement Agreement, and evidence relating to the Settlement
7 Agreement and all negotiations shall not be admissible or discoverable in the litigation and/or
8 Lawsuit or otherwise.

9 iii. Defendant will not have waived, and instead expressly reserves, its
10 right to challenge the continuing propriety of class certification or representative adjudication for
11 any purpose.

12 iv. Plaintiff and Class Counsel will not have waived, and instead
13 expressly reserve, their rights to move for collective and/or class certification and seek
14 representative adjudication.

15 v. To the extent one exists, the Preliminary Approval Order shall be
16 vacated in its entirety and neither this Settlement Agreement, the Preliminary Approval Order, nor
17 any other document in any way relating to any of the foregoing, shall be relied upon, referred to, or
18 used in any way for any purpose in connection with any further proceedings in this or any related
19 action, including class certification proceedings.

20 71. **No Publicity.** Plaintiff and Class Counsel agree not to disclose or publicize the
21 settlement, including the fact of the settlement, its terms or contents, and the negotiations underlying
22 the settlement, in any manner or form, directly or indirectly, to any person or entity, except potential
23 Class Members and as shall be contractually required to effectuate the terms of the settlement. If the
24 Parties or their counsel are contacted by the press, media or any industry association, they will
25 respond only that the case has been amicably resolved to the parties' mutual satisfaction. This
26 provision will not prevent Plaintiff or Class Counsel from discussing the allegations in the Lawsuit
27 or terms of the settlement with Class Members.

72. **Notices.** All notices, requests, demands, and other communications required or permitted to be given pursuant to this Settlement Agreement shall be in writing, and shall be delivered by first class U.S. mail as follows:

For Plaintiff, Class Members, and PAGA Group Members:

Anthony J. Orshansky
Email: anthony@counselonegroup.com
Justin Kachadoorian
Email: justin@counselonegroup.com
CounselOne, PC
9465 Wilshire Boulevard, Suite 300
Beverly Hills, California 90212

For Defendant:

Megan A. Childress
Email: mchildress@ohaganmeyer.com
Elizabeth M. Martin
Email: emartin@ohaganmeyer.com
O'Hagan Meyer LLP
550 S. Hope Street, Suite 2400
Los Angeles, California 90071

73. **Modification in Writing.** This Settlement Agreement may be altered, amended, modified or waived, in whole or in part, only in a writing signed by counsel for the Parties and approved by the Court. This Settlement Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

74. **Ongoing Cooperation.** Plaintiff and Defendant and their respective counsel shall execute all documents and perform all acts necessary and proper to effectuate the terms of this Settlement Agreement. The execution of documents must take place prior to the Final Approval Hearing.

75. **Binding on Successors.** This Settlement Agreement shall be binding and shall inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs, and legal representatives.

76. **Entire Agreement.** This Settlement Agreement constitutes the full, complete, and entire understanding, agreement, and arrangement between the Parties with respect to the settlement of the Lawsuit and Release of Claims. This Settlement Agreement supersedes any and all prior oral or written understandings, agreements, and arrangements between the Parties with respect to the

1 settlement of the Lawsuit and Release of Claims. Except as to those set forth and included expressly
2 in this Settlement Agreement, there are no other agreements, covenants, promises, representations,
3 or arrangements between the Parties with respect to the settlement of the Lawsuit.

4 77. **Execution in Counterparts.** This Settlement Agreement is subject only to the
5 execution of all Parties. However, this Settlement Agreement may be signed in one or more
6 counterparts and electronic signatures are acceptable. All executed copies of this Settlement
7 Agreement, and photocopies thereof (including facsimile copies of the signature pages), shall have
8 the same force and effect and shall be as legally binding and enforceable as the original.

9 78. **Captions.** The captions and section numbers in this Settlement Agreement are
10 inserted for the reader's convenience and in no way define, limit, construe, or describe the scope or
11 intent of the provisions of this Settlement Agreement.

12 79. **Governing Law.** This Settlement Agreement shall be interpreted, construed,
13 enforced, and administered in accordance with the laws of the State of California, without regard to
14 conflict of law rules.

15 80. **Reservation of Jurisdiction.** Notwithstanding entry and filing of the Final Approval
16 Order and Judgment, the Court shall retain jurisdiction for purposes of interpreting and enforcing
17 the terms of this Settlement Agreement.

18 81. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms
19 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement shall not be
20 construed more strictly against one Party than another merely by virtue of the fact that it may have
21 been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length
22 negotiations between the Parties, all Parties have contributed to the preparation of this Settlement
23 Agreement.

24 82. **Representation by Counsel.** The Parties acknowledge that they have been
25 represented by counsel throughout all negotiations that preceded the execution of this Settlement
26 Agreement and that this Settlement Agreement has been executed with the consent and advice of
27 counsel. Further, Plaintiff and Class Counsel warrant and represent, to their knowledge, that there
28 are no liens on this Settlement Agreement.

1 83. **Warranties and Representations.** With respect to themselves, each of the Parties
2 to this Settlement Agreement and/or their agents or counsel represent, covenant, and warrant that
3 (a) they have full power and authority to enter into and consummate all transactions contemplated
4 by this Settlement Agreement and have duly authorized the execution, delivery, and performance of
5 this Settlement Agreement and (b) the person executing this Settlement Agreement has the full right,
6 power, and authority to enter into this Settlement Agreement on behalf of the Party for whom he/she
7 has executed this Settlement Agreement, and the full right, power, and authority to execute any and
8 all necessary instruments in connection herewith, and to fully bind such Party to the terms and
9 obligations of this Settlement Agreement.

10 84. **No Prior Assignments.** The Parties and their counsel represent, covenant, and warrant
11 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
12 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
13 cause of action or right herein released and discharged.

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IT IS SO AGREED:

Dated: 10 / 08 / 2024



Plaintiff James Fryer

Dated: _____

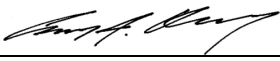
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Title: _____

On Behalf of Defendant T. E. Roberts, Inc.

APPROVED AS TO FORM:

Dated: September 8, 2024



Anthony J. Orshansky
Justin Kachadoorian
CounselOne, PC
Attorneys for Plaintiff

Dated: _____

Megan A. Childress
Elizabeth M. Martin
O'Hagan Meyer LLP
Attorneys for Defendant

1 **IT IS SO AGREED:**

2
3 Dated: _____

Plaintiff James Fryer

4
5
6 Dated: 10-7-24



7 Name: Timothy Roberts

8 Title: President

9 On Behalf of Defendant T. E. Roberts, Inc.

10 **APPROVED AS TO FORM:**

11
12 Dated: _____

13 Anthony J. Orshansky
14 Justin Kachadoorian
15 CounselOne, PC
16 Attorneys for Plaintiff

17 Dated: 10/9/2024



18 Megan A. Childress
19 Elizabeth M. Martin
20 O'Hagan Meyer LLP
21 Attorneys for Defendant

EXHIBIT A-2

**AMENDMENT TO STIPULATION OF CLASS AND REPRESENTATIVE
ACTION SETTLEMENT**

In furtherance of the Court’s tentative ruling on July 11, 2025, Plaintiff James Fryer, on behalf of himself and others similarly situated, on the one hand, and Defendant T. E. Roberts, Inc., (“Plaintiff”), on the other hand, hereby enter into this Amendment to modify the Stipulation of Class and Representative Action Settlement (“Settlement Agreement”). Deletions are shown with red strikethrough text, and additions are shown in plain red text.

The Parties amend **paragraph 2**, as follows:

“Attorneys’ Fees and Costs” means the amount the Court authorizes to be paid to Class Counsel for attorneys’ fees, not to exceed ~~33 1/3%~~ **30%** of the Gross Settlement Amount, and litigation costs not to exceed \$20,000, paid from the Gross Settlement Amount.

The Parties amend **paragraph 7** as follows:

“Class/PAGA Period End Date” means March 29, 2024, ~~unless Defendant shortens the end of the release period pursuant to Paragraph 61 below.~~

The Parties amend **paragraph 54(a)**, as follows:

Plaintiff will apply to the Court for an award of attorneys’ fees of no more than thirty-~~three and one third~~ percent (~~33 1/3%~~**30%**) of the Gross Settlement Amount (*i.e.*, ~~\$250,000~~**\$225,000**) to Class Counsel and reimbursement of actual litigation costs up to twenty thousand dollars (\$20,000) to Class Counsel (again, “Attorneys’ Fees and Costs”). The Attorneys’ Fees and Costs are included in, and will be paid from, the Gross Settlement Amount. Defendant will not oppose such application.

The Parties amend **paragraph 56(a)**, as follows:

The Parties agree that ~~twenty percent (20%)~~ **33.33%** of each Individual Settlement Share will be considered taxable wages and will be reported as such to each Settlement Class Member on IRS Form W-2. The Parties agree that ~~eighty percent (80%)~~ **66.67%** of each Individual Settlement Share will be considered interest and penalties and will be reported as such to each Settlement Class Member on IRS Form 1099 (if required). The Parties agree that one hundred percent (100%) of each individual PAGA payment will be considered penalties and will be reported as such to each PAGA Group Member on IRS Form 1099 (if required).

The Parties amend **paragraph 60(b)**, as follows:

The Settlement Administrator will notify counsel for the Parties of any disputes via email. To the extent Class Members dispute their employment dates or the number of Workweeks on record, **the Settlement Administrator, in consultation with the Parties, may attempt to resolve any such dispute.** Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. The Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Parties and the Settlement Administrator will evaluate the evidence and discuss in good faith how many Workweeks to be credited in conformity with Paragraph 54(f). Defendant's records will be presumed correct. **However, the Court will ultimately decide any unresolved dispute.**

The Parties amend **paragraph 61**, as follows:

61. Pro-Rata Increase of Gross Settlement Amount.

There are approximately 23,670 Workweeks worked by all Class Members during the Class Period as of the date of mediation. If the number of the Workweeks is greater than the foregoing amounts by more than ten percent (10%), the Gross Settlement Amount will increase by a proportional amount in excess of the ten percent (10%) grace amount (e.g., if the number of Workweeks increases by 11%, the Gross Settlement Amount will increase by 1%). However, Defendant has discretion to stop the Class Period End Date at 26,037 [23,670 + 10%] Workweeks without triggering the escalator clause herein. **After reviewing the class data for the entire Class Period, the Settlement Administrator has determined that the escalator clause in not triggered.**

The Parties amend **paragraph 65**, as follows:

65. Settlement Proceeds Distribution Deadlines.

a. Defendant shall fund the Gross Settlement Amount within twenty (20) business days after the Effective Date. Defendant shall not be required to deposit the Gross Settlement Amount until the Effective Date. If the Gross Settlement Amount increases or changes pursuant to Paragraph 61, then the amount to be paid by Defendant will proportionally increase or change.

b. No later than ten (10) business days after Defendant fully funds the Gross Settlement Amount, the Settlement Administrator shall distribute payments in accordance with this Settlement Agreement and the Court's orders, as follows: (i) payment of the Enhancement Payment to Plaintiff; (ii) payment of the LWDA Payment to the LWDA; (iii) payment of Individual Settlement Payments to Settlement Class Members and PAGA Group Members; (iv) payment of Attorneys' Fees and Costs to Class Counsel; and (v) payment of Administration Costs to the Settlement Administrator.

c. Settlement checks will be valid for a period of one hundred and eighty (180) calendar days from the date of issuance, after which any uncashed check(s) will be cancelled, and the funds associated with such cancelled checks will be transmitted to the Public Law Center of Orange County as the cy pres beneficiary in conformity with the requirements of California Code of Civil Procedure section 384. The Parties, Class Counsel, and Defendant's Counsel represent that they have no affiliation or relationship with the cy pres beneficiary.

d. The remittance of all Court ordered and approved payments under this Settlement Agreement to the Settlement Administrator shall constitute the full and complete discharge of the entire obligation of Defendant under this Settlement Agreement.

1 ~~designated by Plaintiff or Defendant based upon the distribution of payments made~~
2 ~~in accordance with this Settlement Agreement or further orders of the Court.~~

3 f.e. Defendant shall not be obligated to make any payments contemplated by this
4 Settlement Agreement unless and until the Court enters the Final Approval Order and
Judgment, and after the Effective Date, and no amounts will be owed or payable until
all appeals or other collateral attack have been lapsed or have been favorably resolved
in favor of the settlement and no further challenge to the settlement is possible.

5 **IT IS SO AGREED:**

6
7 Dated: 09 / 06 / 2025


Plaintiff James Fryer

8
9
10 Dated: _____

Name: _____

Title: _____

13
14 On Behalf of Defendant T. E. Roberts, Inc.

15 **APPROVED AS TO FORM:**

16
17 Dated: September 5, 2025


Anthony J. Orshansky
P. Bartholomew Quintans
CounselOne, PC
Attorneys for Plaintiff

18
19
20
21 Dated: _____

Megan A. Childress
Elizabeth M. Martin
O'Hagan Meyer LLP
Attorneys for Defendant

1 ~~e. No person shall have any claim against the Settlement Administrator,~~
2 ~~Defendant, Plaintiff, Class Counsel, Defendant's Counsel, or any other agent~~
3 ~~designated by Plaintiff or Defendant based upon the distribution of payments made~~
4 ~~in accordance with this Settlement Agreement or further orders of the Court.~~

5 f.e. Defendant shall not be obligated to make any payments contemplated by this
6 Settlement Agreement unless and until the Court enters the Final Approval Order and
7 Judgment, and after the Effective Date, and no amounts will be owed or payable until
8 all appeals or other collateral attack have been lapsed or have been favorably resolved
9 in favor of the settlement and no further challenge to the settlement is possible.

10 **IT IS SO AGREED:**

11 Dated: _____

12 Plaintiff James Fryer

13 Dated: 9-5-25

14 

15 Name: Timothy Roberts

16 Title: President

17 On Behalf of Defendant T. E. Roberts, Inc.

18 **APPROVED AS TO FORM:**

19 Dated: _____

20 Anthony J. Orshansky
21 P. Bartholomew Quintans
22 CounselOne, PC
23 Attorneys for Plaintiff

24 Dated: _____

25 Megan A. Childress
26 Elizabeth M. Martin
27 O'Hagan Meyer LLP
28 Attorneys for Defendant

~~e. No person shall have any claim against the Settlement Administrator, Defendant, Plaintiff, Class Counsel, Defendant's Counsel, or any other agent designated by Plaintiff or Defendant based upon the distribution of payments made in accordance with this Settlement Agreement or further orders of the Court.~~

f.e. Defendant shall not be obligated to make any payments contemplated by this Settlement Agreement unless and until the Court enters the Final Approval Order and Judgment, and after the Effective Date, and no amounts will be owed or payable until all appeals or other collateral attack have been lapsed or have been favorably resolved in favor of the settlement and no further challenge to the settlement is possible.

IT IS SO AGREED:

Dated: _____

Plaintiff James Fryer

Dated: _____

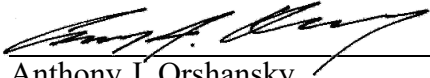
Name: _____

Title: _____

On Behalf of Defendant T. E. Roberts, Inc.

APPROVED AS TO FORM:

Dated: September 5, 2025



Anthony J. Orshansky
P. Bartholomew Quintans
CounselOne, PC
Attorneys for Plaintiff

Dated: September 5, 2025



Megan A. Childress
Elizabeth M. Martin
O'Hagan Meyer LLP
Attorneys for Defendant