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

LILIANA GODINA, LISA HOWELL, and
BERT MERCADO, individually, and on
behalf of all persons similarly situated,

Plaintiff,

vs.

KAISER FOUNDATION HOSPITALS, a
California non-profit corporation, and DOES
1 through 50, inclusive,

Defendants.

Case No. 23STCV25366

**SUPPLEMENTAL DECLARATION OF
KYLE NORDREHAUG IN SUPPORT OF
MOTION FOR PRELIMINARY APPROVAL
OF CLASS SETTLEMENT**

Con't Hearing Date: September 8, 2025
Con't Hearing Time: 10:30 a.m.

Judge: Hon. David S. Cunningham III
Dept: SS-11

Date Filed: October 17, 2023
Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel of record for Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina (“Plaintiffs”) in this
4 matter. As such, I am fully familiar with the facts, pleadings and history of this matter. The
5 following facts are within my own personal knowledge, and if called as a witness, I could testify
6 competently to the matters stated herein.

7 2. This supplemental declaration is being submitted in support of the Plaintiffs’ motion
8 by for preliminary approval of the proposed class action settlement with Defendant Kaiser
9 Foundation Hospitals (“Defendant”) and in response to this Court’s ruling at the initial May 5, 2025
10 hearing.

11
12 3. **First Amended Class and Representative Action Settlement Agreement.** The
13 Parties have prepared a First Amended Class and Representative Action Settlement Agreement
14 (“Agreement”) to address the escalator issue identified by the Court. A true and correct copy of the
15 Agreement is attached hereto as Exhibit #1. A redline showing the revisions to the Agreement is
16 attached hereto as Exhibit #2.

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18 4. **Issue #1 - Kullar Analysis.** The Court’s ruling requested additional detail and
19 information as to why the Gross Settlement Amount of \$7,000,000 is fair and reasonable to the
20 Class. The following provides further information and explanation as to why the Gross Settlement
21 Amount is fair and reasonable:

22
23 A. Comparison to Prior Settlement. Initially, it is important to note that this
24 Settlement covers only one year of liability (January 1, 2024 to December 31, 2024), because of a
25 prior class settlement (*Halfhill v. Kaiser*, Alameda Superior Court Case No, RG21096610), which
26 resolved these claims arising prior to January 1, 2024. The prior *Halfhill* class settlement is also
27 important for another reason. First, following the *Halfhill* settlement, the Defendant improved its
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1 wage and hour compliance, such that the claims at issue in this Action during 2024 presented more
2 difficulties and less opportunity for liability as compared to prior years. Second, the *Halfill*
3 settlement was a Court approved class settlement which provided a workweek of less than \$0.43 per
4 workweek. Class Counsel was informed as to this prior settlement and the settlement negotiated
5 here (including both Net Settlement Amount and the FLSA Fund) provides for a net workweek
6 recovery to the Class Members of \$1.35 per workweek, which is three-times what was found to be
7 fair and reasonable in *Halfill*. This prior settlement, and the fact that this settlement provides a
8 better recovery on weaker claims, were important considerations for Plaintiffs in the negotiation and
9 acceptable of this settlement, which was based on a mediator's proposal.

10
11 B. Valuation of the Class Claims: The **maximum** valuation of the class claims
12 all combined (both damages and statutory penalties) was between \$268,407,492 and \$287,319,295.
13 The maximum valuation of the potential PAGA civil penalties was an additional amount of between
14 \$74,866,700 and \$149,733,400. The potential maximum PAGA civil penalties are separated
15 because these penalties are paid only partially to the Class, as 75% of a recovery under PAGA is
16 paid to the State of California. As such, Plaintiffs address these PAGA civil penalties separately
17 below. Defendant vigorously disputed Plaintiffs' calculations and exposure theories. Plaintiffs'
18 calculation of the potential maximum damages must be realistically risk rated in consideration for
19 both the risk of class certification, the risk of establishing class-wide liability on all claims, and the
20 risk of establishing the amount of class-wide damages. Specific details as to the calculation and
21 valuation (both maximum and discounted realistic) of the each of the class claims for purposes of
22 mediation and the negotiation of the Settlement are as follows:

23 A. **Alleged Unpaid Wages Due to Rounding**. Plaintiffs alleged that rounding
24 practices resulted in underpaid wages to the Class. Plaintiffs expert
25 determined the gross underpaid hours due to rounding and subtracted the
26 overpaid hours due to rounding, which resulting in a net number of over[paid
27 hours of 2.7 minutes per shift, which was a total of 301,211.2 hours for the
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1 Class. Based on this analysis the maximum amount of unpaid wages from
2 the alleged rounding was calculated to total \$29,887,684. The rounding
3 claim presents a difficulty in liability because the rounding worked both
4 ways, such that the gross average overpayment was 3.3 minutes per shift
5 while the gross average underpayment of 4.3 minutes per shift, resulting in a
6 net underpayment of 2.7 minutes per shift. As such, Plaintiffs believed the
7 rounding claims presented a good likelihood of certification (50%), but a low
8 likelihood of class-wide liability (25%). In addition, the risk of establishing
9 class wide damages presents an additional risk of 50%. Applying these
10 discounted valuations from the risks presented resulted in a discounted
11 realistic value of \$1,867,980.

12 **B. Alleged Meal Period Violations.** The meal period claim is based upon the
13 analysis of time punch records reflect a meal break violation rate in 51.1% of
14 all shifts. Because the vast majority of these breaks were for health care
15 workers which allows for legal waiver of 1 of 2 meals under *Gerard v.*
16 *Orange Coast Memorial*, 6 Cal. 5th 443 (2018), Plaintiffs applied a 90%
17 reduction to these violations. The damages for a missed period is one hour of
18 pay under Labor Code §§266.7 and 512. As a result, the maximum potential
19 damages for alleged meal period violations were estimated to be \$30,878,192.
20 The meal period claim presents a low likelihood of class certification, and a
21 low likelihood that liability could be obtained at trial, in light of the facially
22 compliant policies, and medium likelihood of establishing class-wide
23 damages. Plaintiffs discounted this maximum valuation for this claim by
24 25% for the risk of certification, 25% for the risks of liability, and 50% for
25 the risk of establishing damages, resulting in a discounted realistic value of
26 \$964,943. Notably, under the *Gerard v. Orange Coast Memorial* decision, a
27 real possible outcome on this claim is a defense verdict, which would result
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1 in no recovery to the Class.

2 **C. Alleged Rest Period Violations.** The rest period claim is difficult to
3 calculate because California law does not require rest periods to be recorded.
4 For this claim, because employees had the opportunity for a rest break both
5 in policy and practice, Plaintiff used the realistic assumption of 3% violation
6 rate for all shifts. The damages for a missed period is one hour of pay under
7 Labor Code §§266.7 and 512. As a result, the maximum potential damages
8 for alleged rest period violations using a 3% violation rate were estimated to
9 be \$17,867,816. The rest period claim presents a low likelihood of class
10 certification, a low likelihood that liability could be obtained at trial, and a
11 low likelihood both in light of the facially compliant policy and compliant
12 practices. Plaintiff discounted this maximum valuation for this claim by 25%
13 for the risk of certification, 10% for the risks of liability, and 25% for the
14 risks of establishing damages, resulting in a discounted realistic value of
15 \$111,674.

16 **D. Alleged Business Expenses Reimbursement.** The expense reimbursement
17 claim was based among other things, primarily upon the personal cellphone
18 usage for work purposes. The value of this claim used was \$5 per month with
19 a 10% violation rate for when phones / ipads were not provided for work to
20 calculate that the maximum potential damages for the alleged failure to
21 reimburse business expenses were \$389,597. Plaintiffs believe that there is a
22 medium likelihood of class certification for this claim, and low likelihood of
23 class-wide liability because Defendant provided for business expenses,
24 including a company phone / ipad, thus liability was primarily predicated on
25 the company phone being unavailable. Defendant maintains that it did not
26 fail to provide reimbursement for necessary business expenses because,
27 among other things, employees are not required to use their personal cell
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1 phones to perform their work and in light of the company phone / ipad
2 practices, Defendant contended that any personal cell phone usage was
3 merely convenient and voluntary such that reimbursement was not legally
4 required. These defenses could result in a denial of class certification and/or a
5 denial of liability on this claim. Plaintiffs discounted this maximum valuation
6 for this claim by 50% for the risk of certification, by 25% for the risks of
7 class-wide liability, and 50% for the risks of establishing damages, resulting
8 in a discounted realistic value of \$24,350.

9 **E. Alleged Waiting Time Penalties.** Waiting Time Penalties are calculated
10 assuming 3,642 terminated employees (calculated at 30 days per employee
11 with 8.5 hours per day x average rate of pay). An alternate Waiting Time
12 Penalty was calculated for 2,529 terminated employees with rounding issues .
13 As such, the maximum value of the potential waiting time penalties were
14 calculated to be between \$42,972,103 and \$61,883,906, depending on the
15 predicate violation. Given the above risks concerning the predicate claims,
16 the most realistic basis for waiting time penalties would be based on the
17 rounding claim. This claim is entirely derivative of the unpaid wage claims
18 above, and therefore suffers from the same risks as the rounding claim, plus
19 Defendant maintains additional defenses of a good faith defense specific to
20 this claim. The recent decision that good faith belief dispute as to wages
21 owed by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th
22 1056, 1065 (2024), could completely negate this claim even if wages were
23 owed to the class. In light of the state of the law, and applying not only the
24 above risk discounts from the predicate rounding claims, but also a risk
25 discount as a result of the good faith defense to the waiting penalties claim
26 presenting an additional 25% risk discount, Plaintiffs discounted ths claim
27 significantly to \$671,439. However, there was a real possibility that the
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1 realistic value of this claim could be \$0 under *Naranjo*.

2 **F. Alleged Wage Statement Penalties.** Wage Statement Penalties are
3 calculated at \$50 for the initial violation and \$100 for each subsequent
4 violation with a max of \$4,000 per employee (assumes 100% violation). The
5 Wage Statement claim is predicated and is derivative of the above claims, so
6 the maximum valuation assumed there was a violation in every pay period
7 within the applicable one-year statute of limitation. The maximum value of
8 the potential wage statement penalties were therefore calculated to be
9 \$146,412,100. This claim is entirely derivative of the unpaid wage claims
10 above, and therefore suffers from the same risks, plus Defendant maintains
11 additional defenses of a lack of knowing and willful conduct specific to this
12 claim. The decision that good faith belief of compliance by the employer in
13 *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), also
14 applies to this wage statement claim and could completely negate this claim
15 even if wages were owed to the class. In light of the state of the law, and
16 applying not only the above risk discounts from the predicate rounding
17 claims, but also a risk discount as a result of the good faith defense to the
18 waiting penalties claim presenting an additional 25% risk discount, Plaintiffs
19 discounted this claim significantly to \$2,287,689. However, there was a real
20 possibility that the realistic value of this claim could be \$0 under *Naranjo*.

21 **G. Alleged PAGA Claim.** The PAGA claim is not a class claim and the PAGA
22 penalties are paid primarily (75%) to the State of California, and do not
23 compensate for or release the individual claims of the employees. As such,
24 the PAGA claim is not included in this above valuation, however, even if
25 considered, the PAGA claim would not significantly increase the recovery to
26 the class. For mediation, Plaintiffs calculated the value of the alleged PAGA
27 claim as to the Aggrieved Employees for civil penalties to be between
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1 \$74,866,700 and \$149,733,400 for a single violation in every one of the
2 estimated 1,497,334 pay periods at issue in the PAGA Period, depending on
3 whether the violation was \$50 per pay period as in the case of Labor Code §
4 558(a)(1) or the standard amount of \$100 per pay period for violation of
5 Labor Code § 1198. The PAGA Claim is predicated on the above wage
6 claims, so using the risk rating from the most viable liability - the rounding
7 claim (25%), and applying the additional risk of a penalty reduction of to only
8 5% of the maximum amount as demonstrated by *Carrington v. Starbucks*
9 *Corp.*, 30 Cal. App. 5th 504 (2018) (reduction of \$100 to \$5 per violation),
10 the Plaintiffs discounted this claim significantly to \$1,871,667. However,
11 only 25% of the PAGA recovery is paid to the aggrieved employees, which
12 means the discounted realistic recovery to employees would be \$467,917.

13 **H. Total Discounted Realistic Recovery.** Based upon the above discounted
14 valuations for each of the above class claims, the total discounted valuation
15 for all class claims would be \$5,928,075, which compares favorably to the
16 Gross Settlement Amount in this Settlement as the Gross Settlement Amount
17 is more than this discounted valuation. Even if the employee portion of the
18 realistic PAGA recovery from above is added in, the Gross Settlement
19 Amount still exceeds the total discounted realistic recovery to the Class.

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21 5. **Issue #2 - Notice Language.** The Parties have conferred and agree that the Class
22 Notice need only be provided to the Class in English. This is sufficient because Class Members, as
23 a condition of employment with the Defendant, are required to be able to understand English.
24 Therefore, all Class Members will be able to read the Class notice in English.

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26 6. **Issue #3 - Escalator Clause.** The language identified by the Court in paragraph 8 of
27 has been removed from the Agreement. There is no change to the Class Period because the
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1 escalator clause is not triggered in this Settlement. The final Class figures are: (1) 70,436 Class
2 Members; (2) 2,811,429 Workweeks; and, (3) 1,515,374 pay periods.

3
4 7. **Issue #4 - Service Awards.** Plaintiffs understand that the Court is not inclined to
5 award service payments in excess of \$5,000. The Agreement language that the service awards will
6 not exceed \$10,000 is consistent with this ruling, as it provides for a lower award and makes clear
7 that any difference will be retained in the Net Settlement Amount for distribution to the Class.
8 Plaintiffs respectfully request that they be able to address this issue at final approval and that the
9 final service award determination should be made at final approval when the views of the Class may
10 also be considered. The revised proposed order submitted for this motion includes the Court's
11 ruling that it preliminarily finds that service awards will not exceed \$5,000.

12
13 8. **Issue #5 - Submission to the LWDA.** The original motion for preliminary approval,
14 which included the supporting declarations and the initial Class and Representative Action
15 Settlement Agreement were submitted to the LWDA on January 31, 2025. A true and correct copy
16 of the email receipt for this service is attached hereto as Exhibit #3. This supplemental declaration,
17 including the Agreement, is also being served on the LWDA.

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19 I declare under penalty of perjury under the laws of the State of California that the foregoing
20 is true and correct. Executed this 13th day of June, 2025, at La Jolla, California.

21 /s/ Kyle Nordrehaug
22 Kyle Nordrehaug
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EXHIBIT #1

Lisa Howell v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV27614)
Lisa Howell v. Kaiser Foundation Hospitals
(Alameda Sup. Ct. Case No.: 24CV060679)
Bert Mercado, et al. v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV20894)
Liliana Godina v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV25366)

**FIRST AMENDED CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AGREEMENT AND CLASS NOTICE**

This First Amended Class and Representative Action Settlement Agreement (“Agreement”) is made by and between the Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina (collectively, “Plaintiffs” and “Class Representatives”) on behalf of themselves and the putative class and Defendant Kaiser Foundation Hospitals (“KFH” or “Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or to one of them individually as “Party.”

1. DEFINITIONS.

- 1.1 “Actions” means *Lisa Howell v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV27614) (the “*Howell* Class Action”), *Lisa Howell v. Kaiser Foundation Hospitals* (Alameda Sup. Ct. Case No.: 24CV060679) (the “*Howell* PAGA Action”), *Bert Mercado, et al. v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV20894) (the “*Mercado* Action”), *Liliana Godina v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV25366) (the “*Godina* Action”).
- 1.2 “Administrator” or “Settlement Administrator” means ILYM Group, 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. The Administration Expenses Payment is currently estimated to not exceed \$280,000.
- 1.4 “Aggrieved Employees” means all non-exempt persons who were employed by Defendant in the State of California at any time during the PAGA Period, defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.
- 1.5 “Class Members” means all non-exempt persons who were employed by Defendant in the State of California at any time during the Class Period, defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.
- 1.6 “Class Period” or “Settlement Period” means the period from January 1, 2024 through December 31, 2024.

- 1.7 “Class Counsel” means Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”) and Haig B. Kazandjian Lawyers APC (“HBK”).
- 1.8 “Class Counsel Fees Payment” means the amount allocated to Class Counsel for attorneys’ fees.
- 1.9 “Class Counsel Litigation Expenses Payment” means the amount allocated to Class Counsel for reimbursement of reasonable litigation expenses.
- 1.10 “Class Data” means personally identifying information in Defendant’s possession, including Class Member names, last-known mailing addresses, Social Security numbers, and the numbers of qualifying Workweeks and Pay Periods worked. The Class Data shall be provided to the Administrator confidentially. It shall not be provided to Plaintiffs or Class Counsel.
- 1.11 “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.
- 1.12 “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 the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.13 “Class Representatives” means the Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina.
- 1.14 “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Actions and providing services in support of the Actions.
- 1.15 “Court” means the Superior Court of California, County of Los Angeles.
- 1.16 “Defendant” means the named Defendant, Kaiser Foundation Hospitals.
- 1.17 “Defense Counsel” means Seyfarth Shaw LLP, acting through attorneys Christian Rowley, Kerry Friedrichs, and Par Vafaenia.
- 1.18 “Effective Date” means the date upon which both of the following have occurred: (i) final approval of the settlement is granted by the Court and (ii) the Court’s Judgment approving the settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court or other court in California assuming jurisdiction of this matter, or, (ii) if a petition for review filed, the date of denial of the petition, or the date the Court’s Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Court’s Judgment. If a timely objection to settlement is filed (including an objection from the LWDA), “Effective Date” shall be the

later of: (a) the date on which the time for all appeals relating to objections to Settlement and the Final Approval Order has expired; or (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the judgment) or affirming the judgment. Provided, however, if the California Labor & Workforce Development Agency (“LWDA”) has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA’s objection to the Settlement is resolved and no longer appealable.

- 1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “FLSA Subclass Members” means all non-exempt persons who were employed by Defendant in the State of California at any time during the FLSA Subclass Period.
- 1.22 “FLSA Subclass Period” means the period from January 1, 2024 through December 31, 2024.
- 1.23 “FLSA Settlement Fund” means the amount of the Settlement allocated for payment to Participating Class Members for settlement and release of claims under the FLSA. The FLSA Settlement Fund shall not exceed Two Hundred Thousand Dollars (\$200,000). The FLSA Settlement Fund shall be paid out of the Gross Value Fund.
- 1.24 “Gross Settlement Amount” means \$7,000,000.00, which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administrator’s Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.25 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked by that Participating Class Member during the relevant period.
- 1.26 “Individual FLSA Payment” means the FLSA Subclass Member’s pro rata share of the FLSA Settlement Fund calculated according to the number of Workweeks worked by that FLSA Subclass Member during the FLSA Subclass Period.
- 1.27 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked by that Aggrieved Employee during the PAGA Period.

- 1.28 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.29 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i), to 75% of the civil penalties recovered in connection with PAGA actions filed before June 20, 2024.
- 1.30 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.31 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is the “Net Settlement Amount” to be paid to Participating Class Members, Participating FLSA Subclass Members, and Aggrieved Employees as Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (which may be combined into a single payment).
- 1.32 “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. There will be no opportunity to opt out of the PAGA portion of the settlement.
- 1.33 “Operative Complaint” means the Amended Complaint that Plaintiff Godina shall, as part of this Settlement, file in the *Godina* Action. Plaintiff Godina agrees to amend her Complaint to add Plaintiffs Howell and Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina will also add the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. Defendant will stipulate to the filing of an Amended Complaint. Within 15 calendar days of the amendment of the Complaint, Plaintiffs Howell and Mercado will dismiss their respective lawsuits (the *Howell Class Action*, *Howell PAGA Action*, and *Mercado Action*) with prejudice as to the claims covered by the Settlement and without prejudice as to all other claims.
- 1.34 “PAGA Period” means the period from January 1, 2024 through December 31, 2024.
- 1.35 “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Lab. Code, § 2698 *et seq.*).
- 1.36 “PAGA Notice” means any and all letters submitted by Plaintiffs to Defendant and the LWDA in connection with the Actions, providing notice pursuant to Labor Code section 2699.3, subdivision (a). This includes the letters submitted by Plaintiffs on the following dates: June 19, 2023 for Plaintiff Bert Mercado, July 27, 2023 for Plaintiff Liliana Godina, and October 3, 2023 for Plaintiff Lisa Howell,
- 1.37 “PAGA Penalties” means the sum of \$500,000.00, the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which shall allocate 25% of the total PAGA Penalties to Aggrieved Employees (\$125,000.00) on a pro rata basis according to the number of Pay Periods worked by each Aggrieved Employee, and 75% shall be

allocated to the LWDA (\$375,000.00) (referred to herein as the “LWDA PAGA Payment” and defined in ¶1.30), in settlement of PAGA claims. The PAGA Penalties paid to the Aggrieved Employees shall be made regardless of whether an Aggrieved Employee requests to be excluded from the Settlement Class.

- 1.38 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.39 “Pay Period” means any two week pay cycle during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.
- 1.40 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.41 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of the Settlement.
- 1.42 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.43 “Released FLSA Claims” means the claims being released or precluded as described in Paragraph 5.3 below.
- 1.44 “Released PAGA Claims” means the claims being released or precluded as described in Paragraph 5.4 below.
- 1.45 “Released Parties” means Defendant and its present and former affiliates and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.
- 1.46 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the class portion of the Settlement signed by the Class Member. There will be no opportunity to opt out of the PAGA portion of the settlement.
- 1.47 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members, FLSA Subclass Members, and Aggrieved Employees (attached hereto as Exhibit A) (“Class Notices”), and shall be the last date on which Class Members may (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail objections to the Settlement. Class Members to whom Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline.
- 1.48 “Settlement” means the disposition of the Actions effected by this Agreement and the Judgment.

- 1.49 “Workweek” means any week during which a Class Member worked for Defendant for at least one day during the Class Period, defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.

2. RECITALS.

- 2.1 On August 30, 2023, Plaintiff Bert Mercado initiated the *Mercado* Action against Defendant in Los Angeles County Superior Court.
- 2.2 On October 17, 2023, Plaintiff Liliana Godina initiated the *Godina* Action against Defendant in Los Angeles County Superior Court. On February 23, 2024, Plaintiff Godina filed a First Amended Complaint.
- 2.3 On November 9, 2023, Plaintiff Lisa Howell initiated the *Howell Class Action* against Defendant in Los Angeles Superior Court. On November 19, 2023, Plaintiff Howell initiated the *Howell* PAGA Action against Defendant in Alameda County Superior Court. On March 19, 2024, Plaintiff Howell filed a First Amended Complaint in the *Howell* PAGA Action.
- 2.4 In connection with this Agreement, Plaintiff Godina filed a Second Amended Complaint in the *Godina* Action on February 5, 2025 to add Plaintiff Howell and Plaintiff Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina added the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. Per the terms of the original Agreement, Plaintiffs Howell and Mercado are now under obligation to dismiss the *Howell Class Action*, *Howell* PAGA Action, and *Mercado* Action without prejudice.
- 2.5 The Parties will treat the Second Amended Complaint as the Operative Complaint. Defendant denies all material allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.6 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notices.
- 2.7 On August 12, 2024, the Parties participated in mediation with mediator David Rotman, Esq. This mediation led to this Agreement to settle the Action.
- 2.8 Prior to mediation, Plaintiffs obtained both formal and informal discovery, including summary data from Defendant regarding the number of employees and Workweeks at issue. Plaintiffs’ investigation satisfies the criteria for court approval set forth in *Dunk v. Ford Motor Company*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-30 (2008) (“*Dunk/Kullar*”).
- 2.9 Class certification has not been adjudicated in any of the Actions.

3. MONETARY TERMS.

- 3.1 *Gross Settlement Amount.* Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$7,000,000.00 and no more as the Gross Settlement Amount. In addition to the Gross Settlement Amount, Defendant shall pay its share of any payroll taxes owed. Defendant need not pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.2 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 Plaintiffs:* Class Representative Service Payments to the Class Representatives of not more than \$10,000 each (in addition to any Individual Class Payment, Individual FLSA Payments, and any Individual PAGA Payment the Class Representatives are entitled to receive), for a total of \$30,000. Defendant will not oppose Plaintiffs' 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, Plaintiffs will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will issue IRS Form 1099s for the Class Representative Service Payments. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.
- 3.2.2 *To Class Counsel:* A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$2,333,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$50,000. Class Counsel Fees Payment shall be allocated among Class Counsel as follows: 60% to HBK and 40% to BNBD. Defendant will not oppose requests for these payments, provided that they do not exceed these amounts. Class Counsel will file a motion for Class Counsel Fees Payment and for 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 or a Class Counsel Litigation Expenses Payment in less than the amounts requested, then the Administrator will retain the remainder as part of the Net Settlement Amount. The Released Parties shall have no liability to Class Counsel or any other counsel arising from any claim to any portion of any Class Counsel Fee Payment or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for any taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. Class Counsel shall inform the Administrator

of the split between them regarding the Fees Payment and the Class Counsel Litigation Expenses Payment.

- 3.2.3 *To the Administrator:* An Administrator Expenses Payment will be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Administrator as being the maximum costs necessary to administer the Settlement. The Administration Expenses Payment is currently estimated to not exceed \$280,000.00. To the extent actual Administration Expenses Payment is greater than \$280,000.00, such excess amount will be deducted from the Gross Settlement Amount, subject to the Court's approval. Any portion of the Administration Expenses Payment allocated but not paid to the Administrator will be distributed to the Settlement Class pro rata.
- 3.2.4 *To Each Participating Class Member:* The Individual Class Payment shall be calculated as follows: Each Participating Class Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the Net Settlement Amount, calculated by (i) the number of the Participating Class Member's weeks worked during the Class Period, divided by (ii) the total weeks worked of all Participating Class Members during the Class Period. Determination of the number of weeks that a Participating Class Member worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.
- 3.2.4.1 *Tax Allocation of Individual Class Payments.* A total of one-third (1/3) 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. A total of two-thirds (2/3) of each Participating Class Member's Individual Class Payment will be allocated in equal portions to settlement of claims for interest and penalties (the "Interest and Penalties Portion"). The Interest and Penalties 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 Each Participating FLSA Subclass Member:* The Individual FLSA Payment shall be calculated as follows: Each FLSA Subclass Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a

proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the FLSA Subclass Member's attributed weeks worked during the FLSA Subclass Period, divided by (ii) the total weeks worked of all FLSA Subclass Members during the FLSA Subclass Period. Determination of the number of weeks that a Participating FLSA Subclass Member worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.5.1 *Tax Allocation of Individual FLSA Payments.* A total of one-third (1/3) of each Participating FLSA Subclass Member's Individual FLSA 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. A total of two-thirds (2/3) of each Participating FLSA Subclass Member's Individual FLSA Payment will be allocated to settlement of claims for 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 FLSA Subclass Members assume full responsibility and liability for any employee taxes owed on their Individual FLSA Payment.

3.2.6 *To the LWDA and Aggrieved Employees:* PAGA Penalties in the amount of \$500,000.00 to be paid from the Gross Settlement Amount, with 75% (\$375,000) allocated to the LWDA PAGA Payment and 25% (\$125,000) allocated to the Individual PAGA Payments.

3.2.6.1 The Individual PAGA Payments shall be paid to all Aggrieved Employees (regardless of whether they opt out of the Settlement Class) who worked for Defendant at any time during the PAGA Period, based on their proportional number of Pay Periods worked for Defendant during the PAGA Period. The Administrator will calculate each Individual PAGA Payment as follows: The amount of the payment will be calculated on a pro rata basis by the Settlement Administrator based on an Aggrieved Employee's individual Pay Periods worked during the PAGA Period in relation to the total Pay Periods worked by all Aggrieved Employees during the PAGA Period. Determination of the number of Pay Periods that an Aggrieved Employee worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the Pay Periods worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.6.2 Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.6.3 If the Court approves PAGA Penalties of less than the amount requested, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

- 4.1 *Class Data.* Not later than 15 business days after Preliminary Approval or January 20, 2025, whichever is later, Defendant will deliver the Class Data to the Administrator, in the form of a spreadsheet. 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 perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data has omitted identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. 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.
- 4.2 *Funding of Gross Settlement Amount.* Within 5 business days of the Effective Date, the Administrator shall provide Defendant with the documents and information necessary in order for Defendant to fund the settlement, including the information that Defendant will need in order to pay their share of the payroll taxes owed. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay their share of payroll taxes, by transmitting the funds to the Administrator no later than 25 calendar days after the Effective Date.
- 4.3 *Payments from the Gross Settlement Amount.* Within 14 calendar of date Defendant fully funds the Gross Value Fund, the Administrator will mail checks for all Individual Class Payments, all Individual FLSA Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments.
- 4.3.1 The Administrator will issue checks to cover the Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments and will send them to the Class Members/Aggrieved Employees/FLSA Subclass Members via First Class U.S. Mail, postage prepaid (including those for whom Class Notice was returned undelivered). 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 (including those for whom Class Notice was returned undelivered). The Administrator may send a single check combining the Individual Class Payment, the Individual FLSA 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. For any Class Member who opts out, the Administrator will send a check for only the Individual PAGA Payment.

4.3.1.1 Opt-in and release language regarding the release of the FLSA claim will be printed on the Individual settlement checks, with instructions that cashing such check constitutes consent under the FLSA to opt into the collective action. The language to be included will be substantially similar to the following:

“By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

4.3.2 The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without United States Postal Service (“USPS”) forwarding address. Within seven 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.

4.3.3 For any Class Member whose Individual Class Payment check, Individual FLSA 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 Unclaimed Property Fund in the name of the Participating Class Member, thereby leaving no “unpaid residue” subject to the requirements of Code of Civil Procedure section 384, subdivision (b).

4.3.4 The payment of Individual Class Payments, Individual FLSA 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 AND PRECLUSION OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer taxes owed on the wage portion of Individual Class payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 *Plaintiffs’ General Release.* Plaintiffs and the Plaintiffs’ former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge the Released Parties from all claims, transactions or occurrences that occurred through the date of final approval (“Plaintiffs’ Release”). Plaintiffs 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, or based on occurrences after the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1 *Plaintiffs' Waiver of Rights Under Civil Code Section 1542.* For purposes of Plaintiffs' General Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of Civil Code section 1542, 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 fully shall release Defendant and the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, combining of meal and rest periods, that Defendant's exemption permit from the DLSE is not valid or does not apply to Class Members, failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure to pay or properly calculate meal or rest period premiums, failure to pay or properly calculate paid sick leave, including paid sick leave under the Healthy Workplaces, Healthy Families Act, failure to provide suitable seating, donning and doffing, pre or post-shift testing or inspections, health status related activities including testing, reporting, and queuing for testing, reporting time pay, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that the Labor Code Section 514 exemption does not apply to Defendant's employees, pre and post-shift work and record-keeping violations, up to and including the date of preliminary approval by the Court. This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 245 et seq., 510, 511, 512, 517, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories arising under Labor Code Section 2802 as well as claims under Business and Professions Code section 17200 et seq. based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The release shall run from January 1, 2024 through December 31, 2024. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social

security, workers' compensation, or Class claims based on facts occurring outside the Class Period. The release shall also not include any Labor Code section 2802 claims released by Class Members in connection with the following actions: *Jones, et al. v. Kaiser Foundation Hospitals, et al.* (Los Angeles Sup. Ct. Case No. 23STCV04104), *Uribe, et al. v. Southern California Permanente Medical Group* (Los Angeles Sup. Ct. Case No. 22STCV11259), and *LeDoux v. The Permanente Medical Group, Inc.* (Alameda County Sup. Ct. Case No. 22CV019164).

- 5.3 *Release by FLSA Subclass Members:* FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Actions. The following language will be printed on the reverse of each check for their Individual Class Payment, or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act ("FLSA") portion of the [Action], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement." Only those FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and thereby release and waive any of their claims under the FLSA arising under or relating to the alleged claims. This release excludes the release of claims not permitted by law.
- 5.4 *Release by Aggrieved Employees:* All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Operative Complaint or PAGA Notices that arose during the PAGA Period (the "PAGA Release"). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph.
6. **MOTION FOR PRELIMINARY APPROVAL.** Upon full execution of the Agreement, Class Counsel will draft and file a Motion for Preliminary Approval of a class action settlement within 90 calendar days and will share their draft for comments by Defense Counsel at least 5 business days before filing. Class Counsel shall seriously consider in good faith Defense Counsel's comments on the draft of the motion before filing any motion.
- 6.1 *Defendant's Responsibilities.* Within 35 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Additionally, after December 31 2024, but before the hearing on Plaintiffs' Motion for

Preliminary Approval, Defendant will confirm in writing the number of Class Members and Workweeks and Pay Periods for the Class during the Class Period.

- 6.2 *Plaintiffs' Responsibilities.* Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval to be filed in the *Godina* Action, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (O(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members or the Administrator; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), this Agreement (Lab. Code, § 2699, subd. (1)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members or the Administrator.
- 6.3 *Responsibilities of Counsel.* Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 90 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval Order to the Administrator.
- 6.4 *Duty to Cooperate.* If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval, or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement or otherwise satisfy the Court’s concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 *Selection of Administrator.* The Parties have jointly selected ILYM Group to serve as the Administrator and have verified that, as a condition of appointment, that ILYM Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the

Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2 *Employer Identification Number.* The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 *Qualified Settlement Fund.* The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 *Notice to Class Members.*
- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 25 business days after preliminary approval of the Agreement, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the total dollar amount of any Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment payable to the Class Member, and the number of Workweeks and 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.
- 7.4.3 Not later than five business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 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.
- 7.4.5 If the Administrator, Defendant, or Class Counsel are contacted by or otherwise discover any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously confer, in good faith, in an effort to agree on whether to include them as Class Members. If

the Parties agree, then 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 is later.

7.5 *Requests for Exclusion (Opt Outs).*

- 7.5.1 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 the Class Member's 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.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified by 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, then 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.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release under Paragraphs 5.2 through 5.4 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for and will receive an Individual PAGA Payment.

7.6 *Challenges to Calculation of Pay Periods and/or 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 Pay Periods

and/or Workweeks 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 convincing contrary documentation, the Administrator is entitled to presume that the number of Pay Periods and/or Workweeks contained in the Class Notice is correct so long as it is consistent with the Class Data. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Pay Periods and/or Workweeks to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 *Objections to Settlement.*

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral 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).

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

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

7.8.1 *Website, Email Address, and Toll-Free Number.* The Administrator will establish and maintain 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 Order, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final Approval Order and the Judgment. The Administrator will include on the website page an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator will maintain the website and both motion monitor and respond to emails and calls from Class Members after disclosure to the attorneys from both sides and after consultation with the attorneys from both sides.

7.8.2 *Requests for Exclusion (Opt Outs) and Exclusion List.* The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity.

Not later than five 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”); and (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion.

- 7.8.3 *Weekly Reports.* The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received or resolved, and checks mailed for Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (“Weekly Report”). The Weekly Reports will provide the Administrator’s assessment of the validity of Requests for Exclusion.
- 7.8.4 *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 qualifying Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 *Administrator’s Declaration.* Not later than 14 days before the date by which Plaintiffs are 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), and the number of written objections, and will attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 *Final Report by Settlement Administrator.* Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator’s declaration in Court.

8. **ESCALATOR CLAUSE.** The parties recognize that the Gross Settlement Amount is predicated upon the number of Workweeks being not greater than 10 percent more than 2,750,000 for the period January 1, 2024 through December 31, 2024. In the event the

number of Workweeks worked by the Class Members during the Class Period increases by more than 10%, or by more than 3,025,000, then the Gross Settlement Amount shall be increased proportionally by the Workweeks worked in excess of 3,025,000 multiplied by the Workweek value. The Workweek value shall be calculated by dividing the Gross Settlement Amount by 2,750,000 Workweeks. The Parties agree that the Workweek value is \$2.55 (\$7,000,000.00 / 2,750,000 Workweeks). Thus, for example, should there be 3,100,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$191,250 $([3,100,000 \text{ Workweeks} - 3,025,000 \text{ Workweeks}] \times [\$2.55/\text{Workweek}])$.

9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 3.5% of the total of all Class Members, then Defendant may, but need not, elect to withdraw from the Settlement. The Parties agree that if Defendant withdraws, the Settlement shall be void ab initio, having no force or effect whatsoever, and that no Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of their election to withdraw not later than 15 business days after expiration of the opt-out period; late elections will have no effect on Defendant's right to withdraw.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subdivision (1), a Proposed Final Approval Order, and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than five business days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously confer, in good faith, to resolve any suggestions made by Defendant concerning the Motion for Final Approval.
 - 10.1 *Response to Objections.* Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 10.2 *Duty to Cooperate.* If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by 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. Any decision by the Court to award less than the amounts requested for the Class Representative Service Payments, for Class Counsel Fees Payment, for Class Counsel Litigation Expenses Payment, or for Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
 - 10.3 *Continuing Jurisdiction of the Court.* The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for

purposes of (i) enforcing this Agreement and Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law.

- 10.4 *Waiver of Right to Appeal.* Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment 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. This waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, then the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 *Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment.* If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be voidable. If a reviewing Court vacates, reverses or modifies the Judgment in a matter that requires a material modification of this Agreement, the Parties shall 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 Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
11. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.
12. **ADDITIONAL PROVISIONS.**
- 12.1 *No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes.* This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any allegation in the Operative Complaint has merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Actions have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or 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 Plaintiffs reserve the right to move for class certification on any grounds available and to contest

Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 12.2 *Confidentiality Prior to Preliminary Approval.* Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, 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) the Parties' attorneys, accountants or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3 *No Undue Publicity.* Neither Plaintiffs nor Class Counsel shall cause to be publicized, directly or indirectly, any discussion resulting in or the existence of this Agreement or its terms in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, website postings, messages on the Internet, Facebook, Twitter/X or any other social media. After the Effective Date, Class Counsel may state on their website that the case has been settled and provide a short and plain description of the claims that were settled, subject to Defendant's approval, which shall not be unreasonably withheld. This provision does not apply to any publications ordered by the Court.
- 12.4 *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.
- 12.5 *Integrated Agreement.* Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants or inducements made to or by any Party.
- 12.6 *Attorney Authorization.* Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs 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.

- 12.7 *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 or the Court for resolution.
- 12.8 *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.
- 12.9 *No Tax Advice.* Neither Plaintiffs, 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.
- 12.10 *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.
- 12.11 *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.12 *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.
- 12.13 *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.
- 12.14 *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.
- 12.15 *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.
- 12.16 *Notice.* All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third

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

To Plaintiffs:

HAIG B. KAZANDJIAN LAWYERS, APC
Haig B. Kazandjian
haig@hbklawyers.com
Cathy Gonzalez
cathy@hbklawyers.com
Melissa Robinson
melissa@hbklawyers.com
801 North Brand Boulevard, Suite 970
Glendale, California 91203
Telephone: 1-818-696-2306
Facsimile: 1-818-696-2307

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
Norman B. Blumenthal
Kyle R. Nordrehaug
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858) 551-1223
Facsimile: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

SEYFARTH SHAW LLP
Christian J. Rowley
crowley@seyfarth.com
Kerry Friedrichs
kfriedrichs@seyfarth.com
Parnian Vafaenia
pvafaenia@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

- 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 Actions shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that, upon the signing of this Agreement, pursuant to Code of Civil Procedure section

583.330, the Parties agree to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

IT IS SO AGREED:

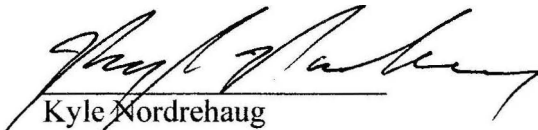
FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES

Dated: 06/13/2025


lisa howell (Jun 13, 2025 08:06 PDT)

Plaintiff/Class Representative Lisa Howell

Dated: 6/13/25


Kyle Nordrehaug
Class Counsel BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

Dated: _____

Plaintiff/Class Representative Bert Mercado

Dated: _____

Plaintiff/Class Representative Liliana Godina

Dated: _____

Class Counsel HAIG B. KAZANDJIAN
LAWYERS, APC

FOR DEFENDANT:

Dated: _____

For Defendant Kaiser Foundation Hospitals

Dated: _____

Defendant's Counsel Christian J. Rowley (as to form
only)

583.330, the Parties agree to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

IT IS SO AGREED:

FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES

Dated: _____

Plaintiff/Class Representative Lisa Howell

Dated: _____

Class Counsel BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

Dated: 06 / 12 / 2025



Plaintiff/Class Representative Bert Mercado

Dated: _____

Plaintiff/Class Representative Lilitana Godina

Dated: 6/13/25



Class Counsel HAIG B. KAZANDJIAN
LAWYERS, APC

FOR DEFENDANT:

Dated: _____

For Defendant Kaiser Foundation Hospitals

Dated: _____

Defendant's Counsel Christian J. Rowley (as to form
only)

583.330, the Parties agree to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

IT IS SO AGREED:

FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES

Dated: _____

Plaintiff/Class Representative Lisa Howell

Dated: _____

Class Counsel BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

Dated: _____

Plaintiff/Class Representative Bert Mercado

Dated: 06 / 12 / 2025

Liliana Godina

Plaintiff/Class Representative Liliana Godina

Dated: _____

Class Counsel HAIG B. KAZANDJIAN
LAWYERS, APC

FOR DEFENDANT:

Dated: _____

For Defendant Kaiser Foundation Hospitals

Dated: June 13, 2025

Christian J. Rowley

Defendant's Counsel Christian J. Rowley (as to form
only)

EXHIBIT A

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

Godina v. Kaiser Foundation Hospitals,
Los Angeles County Superior Court, Case No. 23STCV25366

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Kaiser Foundation Hospitals (“KFH”) for alleged wage and hour violations. The Action was filed by KFH employees Lisa Howell, Bert Mercado, and Liliana Godina (“Plaintiffs”) and seeks payment of wages, damages, and equitable relief for a class of nonexempt employees (“Class Members”) who worked for KFH in California during the Relevant Time Period (defined as January 1, 2024 to December 31, 2024). The Settlement also includes an FLSA Subclass, composed of nonexempt employees who worked for KFH in California during the Relevant Time Period (“FLSA Subclass Members”) and a Private Attorneys General Act (“PAGA”) Subclass, composed of nonexempt employees who worked for KFH in California during the Relevant Time Period (“Aggrieved Employees”).

The proposed Settlement is a Class Settlement requiring KFH to fund Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (collectively, “Individual Settlement Shares”).

Based on KFH’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding), your Individual FLSA Payment is estimated to be \$ [REDACTED], and your Individual PAGA Payment is estimated to be \$ [REDACTED].** The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on KFH’s records showing that **you worked [REDACTED] workweeks and [REDACTED] pay periods** during the Relevant Time Period. If you believe that you worked more workweeks and/or pay periods during this period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for KFH during the Relevant Time Period you have two basic options under the Settlement:

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Settlement Share. In exchange, you will give up your right to assert the wage claims against KFH that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement The Opt-out Deadline is [DATE]. If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment or an Individual FLSA Payment. However, you will still receive an Individual PAGA Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. KFH must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue claims covered by the PAGA Release (defined below).

Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by [DATE]. If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [DATE] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [DATE] at the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 11 before Judge David S. Cunningham III. This hearing may change as explained below in Section 8. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks and/or Pay Periods Written Challenges Must be Submitted by [DATE]. If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day as a nonexempt KFH employee in California during the Relevant Time Period (“Class Workweeks”). The amount of your Individual FLSA Payment depends on how many workweeks you worked at least one day as a nonexempt KFH employee in California during the Relevant Time Period (“FLSA Subclass Workweeks”). The amount of your Individual PAGA Payment depends on how many pay periods you worked at least one day as a nonexempt KFH employee in California during the Relevant Time Period (“PAGA Pay Periods”). The number of Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods you worked according to KFH’s records is stated on the first page of this Notice. If you disagree with these numbers, you must challenge them by 60 days after Notice is sent. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are KFH employees. The Action accuses KFH of violating California labor laws by failing to pay overtime wages, minimum wages, waiting time penalties, earned wages, reporting time pay, and split shift wages; violating California labor laws by failing to provide meal periods,

rest periods, itemized wages statements, sick pay, and notice of paid sick time; violating California's Unfair Competition Law; and owing penalties under the Private Attorneys General Act ("PAGA"). Plaintiffs are represented by attorneys in the Action: Blumenthal Nordrehaug Bhowmik De Blouw LLP ("BNBD") and Haig B. Kazandjian Lawyers APC ("HBK") (collectively, "Class Counsel.")

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

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

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

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

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

1. KFH Will Pay \$7,000,000 as the Gross Settlement Amount (Gross Settlement). KFH has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administrator's Expenses Payment. Assuming the Court grants Final Approval, KFH will fund the Gross Settlement not more than 25 calendar days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$2,333,333.33 (one-third (1/3) of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$50,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$30,000 (\$10,000 per Plaintiff) to Plaintiffs as Class Representative Service Payments for filing the Action, working with Class Counsel and representing the Class. Class Representative Service Payments will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments.
- C. Up to \$280,000 to the Administrator for services administering the Settlement.

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

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments to Participating Class Members based on their Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods.
- 4. Taxes Owed on Payments to Class Members. Plaintiffs and KFH are asking the Court to approve an allocation of one-third (1/3) of each Individual Class Payment and Individual FLSA Payment to taxable wages ("Wage Portion") and two-thirds (2/3) in equal portions to settlement of claims for interest and penalties ("Interest and Penalties Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. (KFH will separately pay employer payroll taxes it owes on the Wage Portion.) The Administrator will report the Interest and Penalties Portion of the Individual Class Payments and the Individual FLSA Payments on IRS 1099 Forms. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms as well.

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

- 5. Need to Promptly Cash Payment Checks. Each Class Member's Individual Settlement Share will be provided to them in a single check. The front of every check issued for Individual Settlement Shares will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be

automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money - https://www.sco.ca.gov/upd_msg.html.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than 60 days after the Administrator mails this Notice, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline, which is **DATE**. (If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.) The Request for Exclusion should be a letter from a Class Member or their representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments or Individual FLSA Subclass Payments, but will receive Individual PAGA Payments, and will preserve their rights to personally pursue wage and hour claims against KFH.
7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and KFH have agreed that, in either case, the Settlement will be void: KFH will not pay any money and Class Members will not release any claims against KFH.
8. Administrator. Plaintiffs and KFH have jointly selected ILYM Group (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Class Members' Release. After the Judgment is final and KFH has fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against KFH or related entities for wages based on the Relevant Time Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members fully shall release Defendant and the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, combining of meal and rest periods, that Defendant's exemption permit from the DLSE is not valid or does not apply to Class Members, failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure to pay or properly calculate meal or rest period premiums, failure to pay or properly calculate paid sick leave, including paid sick leave under the Healthy Workplaces, Healthy Families Act, failure to provide suitable seating, donning and doffing, pre or post-shift testing or inspections, health status related activities including testing, reporting, and queuing for testing, reporting time pay, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that the Labor Code Section 514 exemption does not apply to Defendant's employees, pre and post-shift work and record-keeping violations, up to and including the date of preliminary approval by the Court. This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 245 et seq., 510, 511, 512, 517, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories arising under Labor Code Section 2802 as well as claims under Business and Professions Code section 17200 et seq. based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The release shall run from January 1, 2024 through December 31, 2024. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or Class claims based on facts occurring outside the Relevant Time Period. The release shall also not include any Labor Code section 2802 claims released by Class Members in connection with the following actions: *Jones, et al. v. Kaiser Foundation Hospitals, et al.* (Los Angeles Sup. Ct. Case No. 23STCV04104), *Uribe, et al. v. Southern California Permanente Medical Group* (Los Angeles Sup. Ct. Case No. 22STCV11259), and *LeDoux v. The Permanente Medical Group, Inc.* (Alameda County Sup. Ct. Case No. 22CV019164).

The Participating FLSA Subclass Members will be bound by the following release:

FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, et seq. of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Action. The following language will be printed on the reverse of each check for their Individual Class Payment, or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the [Action], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.” Only those FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and thereby release and waive any of their claims under the FLSA arising under or relating to the alleged claims. This release excludes the release of claims not permitted by law.

The Participating Aggrieved Employees will be bound by the following release:

All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Action or PAGA Notices that arose during the Relevant Time Period (the “PAGA Release”). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Net Settlement Share. The Administrator will calculate a Class Member’s Individual Settlement Share by adding together a Class Member’s Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment.
 - A. Individual Class Payments. The Administrator will calculate Individual Class Payments as follows: Each Participating Class Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the Net Settlement Amount, calculated by (i) the number of the Participating Class Member’s Class

Workweeks, divided by (ii) the total Class Workweeks of all Participating Class Members during the Relevant Time Period.

- B. Individual FLSA Payments. The Administrator will calculate Individual FLSA Payments as follows: Each FLSA Subclass Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the FLSA Subclass Member's FLSA Subclass Workweeks, divided by (ii) the total FLSA Subclass Workweeks of all FLSA Subclass Members during the Relevant Time Period. The FLSA Settlement Fund shall not exceed Two Hundred Thousand Dollars (\$200,000).
- C. Individual PAGA Payments. \$125,000 has been allocated to the Individual PAGA Payments. The Individual PAGA Payments shall be paid to all Aggrieved Employees (regardless of whether they opt out of the Class) who worked for Defendant at any time during the Relevant Time Period, based on their proportional number of PAGA Pay Periods. The Administrator will calculate Individual PAGA Payments as follows: The amount of the payment will be calculated on a pro rata basis by the Settlement Administrator based on an Aggrieved Employee's individual PAGA Pay Periods worked during the Relevant Time Period in relation to the total PAGA Pay Periods worked by all Aggrieved Employees during the Relevant Time Period.

- 2. Workweek and/or Pay Period Challenges. The number of Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods you worked during the Relevant Time Period, as recorded in KFH's records, are stated in the first page of this Notice. You have until 60 days after this Notice is sent, and if a Notice is returned as undeliverable and resent, this deadline is extended by 14 days, to challenge the number of Class Workweeks, FLSA Workweeks, and/or PAGA Pay Periods. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) containing their Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment. Non-Participating Class Members will receive, by U.S. mail, a single check containing their Individual PAGA Payment.

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Godina, et al. vs. Kaiser Foundation Hospitals, et al.*, Case No. 23STCV25366, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [DATE]** (if a Notice is returned as undeliverable and resent, this deadline is extended by 14 days), **or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [DATE].** (If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.) Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Godina, et al. vs. Kaiser Foundation Hospitals, et al.*, Case No. 23STCV25366, and include your name, current address, telephone number, and approximate dates of employment for KFH and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

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

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything KFH and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at „_____>> where these documents will be posted as they are available. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 23STCV25366. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

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norm@bamlawca.com
kyle@bamlawca.com

Settlement Administrator:

ILYM Group
Email Address: _____
2832 Walnut Ave. Suite C
Tustin, CA, 92780
Telephone: 888-250-6810
Fax Number: 888-845-6185
Settlement Website: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT #2

Lisa Howell v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV27614)
Lisa Howell v. Kaiser Foundation Hospitals
(Alameda Sup. Ct. Case No.: 24CV060679)
Bert Mercado, et al. v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV20894)
Liliana Godina v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV25366)

**FIRST AMENDED CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AGREEMENT AND CLASS NOTICE**

This First Amended Class and Representative Action Settlement Agreement (“Agreement”) is made by and between the Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina (collectively, “Plaintiffs” and “Class Representatives”) on behalf of themselves and the putative class and Defendant Kaiser Foundation Hospitals (“KFH” or “Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or to one of them individually as “Party.”

1. DEFINITIONS.

- 1.1 “Actions” means *Lisa Howell v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV27614) (the “*Howell* Class Action”), *Lisa Howell v. Kaiser Foundation Hospitals* (Alameda Sup. Ct. Case No.: 24CV060679) (the “*Howell* PAGA Action”), *Bert Mercado, et al. v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV20894) (the “*Mercado* Action”), *Liliana Godina v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV25366) (the “*Godina* Action”).
- 1.2 “Administrator” or “Settlement Administrator” means ILYM Group, 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. The Administration Expenses Payment is currently estimated to not exceed \$280,000.
- 1.4 “Aggrieved Employees” means all non-exempt persons who were employed by Defendant in the State of California at any time during the PAGA Period, defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.
- 1.5 “Class Members” means all non-exempt persons who were employed by Defendant in the State of California at any time during the Class Period, defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.
- 1.6 “Class Period” or “Settlement Period” means the period from January 1, 2024 through December 31, 2024.

- 1.7 “Class Counsel” means Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”) and Haig B. Kazandjian Lawyers APC (“HBK”).
- 1.8 “Class Counsel Fees Payment” means the amount allocated to Class Counsel for attorneys’ fees.
- 1.9 “Class Counsel Litigation Expenses Payment” means the amount allocated to Class Counsel for reimbursement of reasonable litigation expenses.
- 1.10 “Class Data” means personally identifying information in Defendant’s possession, including Class Member names, last-known mailing addresses, Social Security numbers, and the numbers of qualifying Workweeks and Pay Periods worked. The Class Data shall be provided to the Administrator confidentially. It shall not be provided to Plaintiffs or Class Counsel.
- 1.11 “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.
- 1.12 “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 the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.13 “Class Representatives” means the Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina.
- 1.14 “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Actions and providing services in support of the Actions.
- 1.15 “Court” means the Superior Court of California, County of Los Angeles.
- 1.16 “Defendant” means the named Defendant, Kaiser Foundation Hospitals.
- 1.17 “Defense Counsel” means Seyfarth Shaw LLP, acting through attorneys Christian Rowley, Kerry Friedrichs, and Par Vafaenia.
- 1.18 “Effective Date” means the date upon which both of the following have occurred: (i) final approval of the settlement is granted by the Court and (ii) the Court’s Judgment approving the settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court or other court in California assuming jurisdiction of this matter, or, (ii) if a petition for review filed, the date of denial of the petition, or the date the Court’s Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Court’s Judgment. If a timely objection to settlement is filed (including an objection from the LWDA), “Effective Date” shall be the

later of: (a) the date on which the time for all appeals relating to objections to Settlement and the Final Approval Order has expired; or (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the judgment) or affirming the judgment. Provided, however, if the California Labor & Workforce Development Agency (“LWDA”) has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA’s objection to the Settlement is resolved and no longer appealable.

- 1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “FLSA Subclass Members” means all non-exempt persons who were employed by Defendant in the State of California at any time during the FLSA Subclass Period.
- 1.22 “FLSA Subclass Period” means the period from January 1, 2024 through December 31, 2024.
- 1.23 “FLSA Settlement Fund” means the amount of the Settlement allocated for payment to Participating Class Members for settlement and release of claims under the FLSA. The FLSA Settlement Fund shall not exceed Two Hundred Thousand Dollars (\$200,000). The FLSA Settlement Fund shall be paid out of the Gross Value Fund.
- 1.24 “Gross Settlement Amount” means \$7,000,000.00, which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administrator’s Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.25 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked by that Participating Class Member during the relevant period.
- 1.26 “Individual FLSA Payment” means the FLSA Subclass Member’s pro rata share of the FLSA Settlement Fund calculated according to the number of Workweeks worked by that FLSA Subclass Member during the FLSA Subclass Period.
- 1.27 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked by that Aggrieved Employee during the PAGA Period.

- 1.28 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.29 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i), to 75% of the civil penalties recovered in connection with PAGA actions filed before June 20, 2024.
- 1.30 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.31 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is the “Net Settlement Amount” to be paid to Participating Class Members, Participating FLSA Subclass Members, and Aggrieved Employees as Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (which may be combined into a single payment).
- 1.32 “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. There will be no opportunity to opt out of the PAGA portion of the settlement.
- 1.33 “Operative Complaint” means the Amended Complaint that Plaintiff Godina shall, as part of this Settlement, file in the *Godina* Action. Plaintiff Godina agrees to amend her Complaint to add Plaintiffs Howell and Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina will also add the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. Defendant will stipulate to the filing of an Amended Complaint. Within 15 calendar days of the amendment of the Complaint, Plaintiffs Howell and Mercado will dismiss their respective lawsuits (the *Howell Class Action*, *Howell PAGA Action*, and *Mercado Action*) with prejudice as to the claims covered by the Settlement and without prejudice as to all other claims.
- 1.34 “PAGA Period” means the period from January 1, 2024 through December 31, 2024.
- 1.35 “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Lab. Code, § 2698 *et seq.*).
- 1.36 “PAGA Notice” means any and all letters submitted by Plaintiffs to Defendant and the LWDA in connection with the Actions, providing notice pursuant to Labor Code section 2699.3, subdivision (a). This includes the letters submitted by Plaintiffs on the following dates: June 19, 2023 for Plaintiff Bert Mercado, July 27, 2023 for Plaintiff Liliana Godina, and October 3, 2023 for Plaintiff Lisa Howell,
- 1.37 “PAGA Penalties” means the sum of \$500,000.00, the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which shall allocate 25% of the total PAGA Penalties to Aggrieved Employees (\$125,000.00) on a pro rata basis according to the number of Pay Periods worked by each Aggrieved Employee, and 75% shall be

allocated to the LWDA (\$375,000.00) (referred to herein as the “LWDA PAGA Payment” and defined in ¶1.30), in settlement of PAGA claims. The PAGA Penalties paid to the Aggrieved Employees shall be made regardless of whether an Aggrieved Employee requests to be excluded from the Settlement Class.

- 1.38 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.39 “Pay Period” means any two week pay cycle during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.
- 1.40 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.41 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of the Settlement.
- 1.42 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.43 “Released FLSA Claims” means the claims being released or precluded as described in Paragraph 5.3 below.
- 1.44 “Released PAGA Claims” means the claims being released or precluded as described in Paragraph 5.4 below.
- 1.45 “Released Parties” means Defendant and its present and former affiliates and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.
- 1.46 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the class portion of the Settlement signed by the Class Member. There will be no opportunity to opt out of the PAGA portion of the settlement.
- 1.47 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members, FLSA Subclass Members, and Aggrieved Employees (attached hereto as Exhibit A) (“Class Notices”), and shall be the last date on which Class Members may (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail objections to the Settlement. Class Members to whom Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline.
- 1.48 “Settlement” means the disposition of the Actions effected by this Agreement and the Judgment.

1.49 “Workweek” means any week during which a Class Member worked for Defendant for at least one day during the Class Period, defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.

2. RECITALS.

2.1 On August 30, 2023, Plaintiff Bert Mercado initiated the *Mercado* Action against Defendant in Los Angeles County Superior Court.

2.2 On October 17, 2023, Plaintiff Liliana Godina initiated the *Godina* Action against Defendant in Los Angeles County Superior Court. On February 23, 2024, Plaintiff Godina filed a First Amended Complaint.

2.3 On November 9, 2023, Plaintiff Lisa Howell initiated the *Howell Class Action* against Defendant in Los Angeles Superior Court. On November 19, 2023, Plaintiff Howell initiated the *Howell* PAGA Action against Defendant in Alameda County Superior Court. On March 19, 2024, Plaintiff Howell filed a First Amended Complaint in the *Howell* PAGA Action.

2.4 In connection with this Agreement, Plaintiff Godina ~~agrees to file~~filed a Second Amended Complaint in the *Godina* Action on [DATE] to add Plaintiff Howell and Plaintiff Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina ~~will also add~~added the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. ~~Defendant will stipulate to the filing of the Second Amended Complaint. W~~Per the terms of the original Agreement,~~ithin 15 calendar days of the amendment of the Complaint,~~Plaintiffs Howell and Mercado~~will are now under obligation to~~ dismiss the *Howell Class Action*, *Howell* PAGA Action, and *Mercado* Action without prejudice.

~~The request for permission to file the Second Amended Complaint shall be filed on or before the date of the filing of the motion for preliminary approval. Class Counsel will share the draft Second Amended Complaint for comments by Defense Counsel with reasonable notice before filing the request with the Court to file same. Class Counsel shall seriously consider in good faith Defense Counsel's comments before filing.~~

2.62.5 The Parties will treat the Second Amended Complaint as the Operative Complaint. Defendant denies all material allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.72.6 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notices.

2.82.7 On August 12, 2024, the Parties participated in mediation with mediator David Rotman, Esq. This mediation led to this Agreement to settle the Action.

2.92.8 Prior to mediation, Plaintiffs obtained both formal and informal discovery, including summary data from Defendant regarding the number of employees and Workweeks at

issue. Plaintiffs' investigation satisfies the criteria for court approval set forth in *Dunk v. Ford Motor Company*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-30 (2008) ("*Dunk/Kullar*").

~~2.102.9~~ Class certification has not been adjudicated in any of the Actions.

3. MONETARY TERMS.

- 3.1 *Gross Settlement Amount.* Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$7,000,000.00 and no more as the Gross Settlement Amount. In addition to the Gross Settlement Amount, Defendant shall pay its share of any payroll taxes owed. Defendant need not pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.2 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 Plaintiffs:* Class Representative Service Payments to the Class Representatives of not more than \$10,000 each (in addition to any Individual Class Payment, Individual FLSA Payments, and any Individual PAGA Payment the Class Representatives are entitled to receive), for a total of \$30,000. Defendant will not oppose Plaintiffs' 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, Plaintiffs will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will issue IRS Form 1099s for the Class Representative Service Payments. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.
- 3.2.2 *To Class Counsel:* A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$2,333,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$50,000. Class Counsel Fees Payment shall be allocated among Class Counsel as follows: 60% to HBK and 40% to BNBD. Defendant will not oppose requests for these payments, provided that they do not exceed these amounts. Class Counsel will file a motion for Class Counsel Fees Payment and for 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 or a Class Counsel Litigation Expenses Payment in less than the amounts requested, then the Administrator will retain the remainder as part of the Net Settlement Amount. The Released Parties shall have no liability to Class Counsel or any other counsel arising from any claim to any portion of any

Class Counsel Fee Payment or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for any taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. Class Counsel shall inform the Administrator of the split between them regarding the Fees Payment and the Class Counsel Litigation Expenses Payment.

3.2.3 *To the Administrator:* An Administrator Expenses Payment will be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Administrator as being the maximum costs necessary to administer the Settlement. The Administration Expenses Payment is currently estimated to not exceed \$280,000.00. To the extent actual Administration Expenses Payment is greater than \$280,000.00, such excess amount will be deducted from the Gross Settlement Amount, subject to the Court's approval. Any portion of the Administration Expenses Payment allocated but not paid to the Administrator will be distributed to the Settlement Class pro rata.

3.2.4 *To Each Participating Class Member:* The Individual Class Payment shall be calculated as follows: Each Participating Class Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the Net Settlement Amount, calculated by (i) the number of the Participating Class Member's weeks worked during the Class Period, divided by (ii) the total weeks worked of all Participating Class Members during the Class Period. Determination of the number of weeks that a Participating Class Member worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.4.1 *Tax Allocation of Individual Class Payments.* A total of one-third (1/3) 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. A total of two-thirds (2/3) of each Participating Class Member's Individual Class Payment will be allocated in equal portions to settlement of claims for interest and penalties (the "Interest and Penalties Portion"). The Interest and Penalties 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 Each Participating FLSA Subclass Member:* The Individual FLSA Payment shall be calculated as follows: Each FLSA Subclass Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the FLSA Subclass Member's attributed weeks worked during the FLSA Subclass Period, divided by (ii) the total weeks worked of all FLSA Subclass Members during the FLSA Subclass Period. Determination of the number of weeks that a Participating FLSA Subclass Member worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.5.1 *Tax Allocation of Individual FLSA Payments.* A total of one-third (1/3) of each Participating FLSA Subclass Member's Individual FLSA 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. A total of two-thirds (2/3) of each Participating FLSA Subclass Member's Individual FLSA Payment will be allocated to settlement of claims for 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 FLSA Subclass Members assume full responsibility and liability for any employee taxes owed on their Individual FLSA Payment.

3.2.6 *To the LWDA and Aggrieved Employees:* PAGA Penalties in the amount of \$500,000.00 to be paid from the Gross Settlement Amount, with 75% (\$375,000) allocated to the LWDA PAGA Payment and 25% (\$125,000) allocated to the Individual PAGA Payments.

3.2.6.1 The Individual PAGA Payments shall be paid to all Aggrieved Employees (regardless of whether they opt out of the Settlement Class) who worked for Defendant at any time during the PAGA Period, based on their proportional number of Pay Periods worked for Defendant during the PAGA Period. The Administrator will calculate each Individual PAGA Payment as follows: The amount of the payment will be calculated on a pro rata basis by the Settlement Administrator based on an Aggrieved Employee's individual Pay Periods worked during the PAGA Period in relation to the total Pay Periods worked by all Aggrieved Employees during the PAGA Period. Determination of the number of Pay Periods that an Aggrieved Employee worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the Pay Periods worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator

shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.6.2 Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.6.3 If the Court approves PAGA Penalties of less than the amount requested, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1 *Class Data.* Not later than 15 business days after Preliminary Approval or January 20, 2025, whichever is later, Defendant will deliver the Class Data to the Administrator, in the form of a spreadsheet. 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 perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data has omitted identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. 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.

4.2 *Funding of Gross Settlement Amount.* Within 5 business days of the Effective Date, the Administrator shall provide Defendant with the documents and information necessary in order for Defendant to fund the settlement, including the information that Defendant will need in order to pay their share of the payroll taxes owed. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay their share of payroll taxes, by transmitting the funds to the Administrator no later than 25 calendar days after the Effective Date.

4.3 *Payments from the Gross Settlement Amount.* Within 14 calendar of date Defendant fully funds the Gross Value Fund, the Administrator will mail checks for all Individual Class Payments, all Individual FLSA Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments.

4.3.1 The Administrator will issue checks to cover the Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments and will send them to the Class Members/Aggrieved Employees/FLSA Subclass Members via First Class U.S. Mail, postage prepaid (including those for whom Class Notice was returned undelivered). 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 (including those for whom Class Notice was returned undelivered). The Administrator may send a single check combining the Individual Class Payment, the Individual FLSA 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. For any Class Member who opts out, the Administrator will send a check for only the Individual PAGA Payment.

4.3.1.1 Opt-in and release language regarding the release of the FLSA claim will be printed on the Individual settlement checks, with instructions that cashing such check constitutes consent under the FLSA to opt into the collective action. The language to be included will be substantially similar to the following:

“By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

4.3.2 The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without United States Postal Service (“USPS”) forwarding address. Within seven 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.

4.3.3 For any Class Member whose Individual Class Payment check, Individual FLSA 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 Unclaimed Property Fund in the name of the Participating Class Member, thereby leaving no “unpaid residue” subject to the requirements of Code of Civil Procedure section 384, subdivision (b).

4.3.4 The payment of Individual Class Payments, Individual FLSA 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 AND PRECLUSION OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer taxes owed on the

wage portion of Individual Class payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

- 5.1 *Plaintiffs' General Release.* Plaintiffs and the Plaintiffs' former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge the Released Parties from all claims, transactions or occurrences that occurred through the date of final approval ("Plaintiffs' Release"). Plaintiffs 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, or based on occurrences after the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

- 5.1.1 *Plaintiffs' Waiver of Rights Under Civil Code Section 1542.* For purposes of Plaintiffs' General Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of Civil Code section 1542, 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 fully shall release Defendant and the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, combining of meal and rest periods, that Defendant's exemption permit from the DLSE is not valid or does not apply to Class Members, failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure to pay or properly calculate meal or rest period premiums, failure to pay or properly calculate paid sick leave, including paid sick leave under the Healthy Workplaces, Healthy Families Act, failure to provide suitable seating, donning and doffing, pre or post-shift testing or inspections, health status related activities including testing, reporting, and queuing for testing, reporting time pay, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that the Labor Code Section 514 exemption does not apply to Defendant's employees, pre and post-shift work and record-keeping violations, up to and including the date of preliminary approval by the Court. This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 245 et seq., 510, 511, 512, 517, 551, 552, 558, 1174, 1175, 1182.12,

1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories arising under Labor Code Section 2802 as well as claims under Business and Professions Code section 17200 et seq. based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The release shall run from January 1, 2024 through December 31, 2024. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or Class claims based on facts occurring outside the Class Period. The release shall also not include any Labor Code section 2802 claims released by Class Members in connection with the following actions: *Jones, et al. v. Kaiser Foundation Hospitals, et al.* (Los Angeles Sup. Ct. Case No. 23STCV04104), *Uribe, et al. v. Southern California Permanente Medical Group* (Los Angeles Sup. Ct. Case No. 22STCV11259), and *LeDoux v. The Permanente Medical Group, Inc.* (Alameda County Sup. Ct. Case No. 22CV019164).

- 5.3 *Release by FLSA Subclass Members:* FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Actions. The following language will be printed on the reverse of each check for their Individual Class Payment, or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act ("FLSA") portion of the [Action], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement." Only those FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and thereby release and waive any of their claims under the FLSA arising under or relating to the alleged claims. This release excludes the release of claims not permitted by law.
- 5.4 *Release by Aggrieved Employees:* All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Operative Complaint or PAGA Notices that arose during the PAGA Period (the "PAGA Release"). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph.
6. **MOTION FOR PRELIMINARY APPROVAL.** Upon full execution of the Agreement, Class Counsel will draft and file a Motion for Preliminary Approval of a class action settlement within 90 calendar days and will share their draft for comments by Defense Counsel at least 5 business days before filing. Class Counsel shall seriously consider in good faith Defense Counsel's comments on the draft of the motion before filing any motion.

- 6.1 *Defendant's Responsibilities.* Within 35 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Additionally, after December 31 2024, but before the hearing on Plaintiffs' Motion for Preliminary Approval, Defendant will confirm in writing the number of Class Members and Workweeks and Pay Periods for the Class during the Class Period.
- 6.2 *Plaintiffs' Responsibilities.* Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval to be filed in the *Godina* Action, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (O(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members or the Administrator; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), this Agreement (Lab. Code, § 2699, subd. (1)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members or the Administrator.
- 6.3 *Responsibilities of Counsel.* Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 90 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator.
- 6.4 *Duty to Cooperate.* If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval, or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement or otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 *Selection of Administrator.* The Parties have jointly selected ILYM Group to serve as the Administrator and have verified that, as a condition of appointment, that ILYM Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 *Employer Identification Number.* The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 *Qualified Settlement Fund.* The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 *Notice to Class Members.*
- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 25 business days after preliminary approval of the Agreement, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the total dollar amount of any Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment payable to the Class Member, and the number of Workweeks and 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.
- 7.4.3 Not later than five business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 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.

- 7.4.5 If the Administrator, Defendant, or Class Counsel are contacted by or otherwise discover any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously confer, in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, then 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 is later.

7.5 *Requests for Exclusion (Opt Outs).*

- 7.5.1 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 the Class Member's 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.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified by 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, then 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.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release under Paragraphs 5.2 through 5.4 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment,

Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for and will receive an Individual PAGA Payment.

7.6 *Challenges to Calculation of Pay Periods and/or 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 Pay Periods and/or Workweeks 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 convincing contrary documentation, the Administrator is entitled to presume that the number of Pay Periods and/or Workweeks contained in the Class Notice is correct so long as it is consistent with the Class Data. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Pay Periods and/or Workweeks to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 *Objections to Settlement.*

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral 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).

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

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

7.8.1 *Website, Email Address, and Toll-Free Number.* The Administrator will establish and maintain 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 Order, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final Approval Order and the Judgment. The Administrator will include on the website page an email address and

a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator will maintain the website and both monitor and respond to emails and calls from Class Members after disclosure to the attorneys from both sides and after consultation with the attorneys from both sides.

- 7.8.2 *Requests for Exclusion (Opt Outs) and Exclusion List.* The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five 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”); and (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion.
- 7.8.3 *Weekly Reports.* The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received or resolved, and checks mailed for Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (“Weekly Report”). The Weekly Reports will provide the Administrator’s assessment of the validity of Requests for Exclusion.
- 7.8.4 *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 qualifying Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 *Administrator’s Declaration.* Not later than 14 days before the date by which Plaintiffs are 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), and the number of written objections, and will attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 *Final Report by Settlement Administrator.* Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed

declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **ESCALATOR CLAUSE.** The parties recognize that the Gross Settlement Amount is predicated upon the number of Workweeks being not greater than 10 percent more than 2,750,000 for the period January 1, 2024 through December 31, 2024. In the event the number of Workweeks worked by the Class Members during the Class Period increases by more than 10%, or by more than 3,025,000, then the Gross Settlement Amount shall be increased proportionally by the Workweeks worked in excess of 3,025,000 multiplied by the Workweek value. The Workweek value shall be calculated by dividing the Gross Settlement Amount by 2,750,000 Workweeks. The Parties agree that the Workweek value is \$2.55 (\$7,000,000.00 / 2,750,000 Workweeks). Thus, for example, should there be 3,100,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$191,250 $([3,100,000 \text{ Workweeks} - 3,025,000 \text{ Workweeks}] \times \$2.55/\text{Workweek})$. ~~Defendant may elect to not contribute more and keep the covered Workweeks capped at 3,025,000. Should Defendant elect to cap the Workweeks at 3,025,000 and not contribute more to the Gross Settlement Amount, the Class Period will close on the date the Workweeks reach 3,025,000.~~
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 3.5% of the total of all Class Members, then Defendant may, but need not, elect to withdraw from the Settlement. The Parties agree that if Defendant withdraws, the Settlement shall be void ab initio, having no force or effect whatsoever, and that no Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of their election to withdraw not later than 15 business days after expiration of the opt-out period; late elections will have no effect on Defendant's right to withdraw.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subdivision (1), a Proposed Final Approval Order, and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than five business days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously confer, in good faith, to resolve any suggestions made by Defendant concerning the Motion for Final Approval.
- 10.1 *Response to Objections.* Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

- 10.2 *Duty to Cooperate.* If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by 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. Any decision by the Court to award less than the amounts requested for the Class Representative Service Payments, for Class Counsel Fees Payment, for Class Counsel Litigation Expenses Payment, or for Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 *Continuing Jurisdiction of the Court.* The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law.
- 10.4 *Waiver of Right to Appeal.* Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment 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. This waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, then the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 *Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment.* If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be voidable. If a reviewing Court vacates, reverses or modifies the Judgment in a matter that requires a material modification of this Agreement, the Parties shall 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 Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
11. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

12. **ADDITIONAL PROVISIONS.**

- 12.1 *No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes.* This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any allegation in the Operative Complaint has merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Actions have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or 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 Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 12.2 *Confidentiality Prior to Preliminary Approval.* Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, 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) the Parties' attorneys, accountants or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3 *No Undue Publicity.* Neither Plaintiffs nor Class Counsel shall cause to be publicized, directly or indirectly, any discussion resulting in or the existence of this Agreement or its terms in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, website postings, messages on the Internet, Facebook, Twitter/X or any other social media. After the Effective Date, Class Counsel may state on their website that the case has been settled and provide a short and plain description of the claims that were settled, subject to Defendant's approval, which shall not be unreasonably withheld. This provision does not apply to any publications ordered by the Court.
- 12.4 *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.

- 12.5 *Integrated Agreement.* Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants or inducements made to or by any Party.
- 12.6 *Attorney Authorization.* Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs 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.
- 12.7 *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 or the Court for resolution.
- 12.8 *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.
- 12.9 *No Tax Advice.* Neither Plaintiffs, 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.
- 12.10 *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.
- 12.11 *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.12 *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.
- 12.13 *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.

- 12.14 *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.
- 12.15 *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.
- 12.16 *Notice*. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

HAIG B. KAZANDJIAN LAWYERS, APC
Haig B. Kazandjian
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Melissa Robinson
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BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
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La Jolla, CA 92037
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E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

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Kerry Friedrichs
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Parnian Vafaenia
pvafeaenia@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

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 Actions shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that, upon the signing of this Agreement, pursuant to Code of Civil Procedure section 583.330, the Parties agree to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

IT IS SO AGREED:

FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES

Dated: _____

Plaintiff/Class Representative Lisa Howell

Dated: _____

Class Counsel BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

Dated: _____

Plaintiff/Class Representative Bert Mercado

Dated: _____

Plaintiff/Class Representative Liliana Godina

Dated: _____

Class Counsel HAIG B. KAZANDJIAN
LAWYERS, APC

FOR DEFENDANT:

Dated: _____

For Defendant Kaiser Foundation Hospitals

Dated: _____

Defendant's Counsel Christian J. Rowley (as to form
only)

EXHIBIT #3

From: [DIR PAGA Unit](#)
To: kyle@bamlawca.com
Subject: Thank you for your Proposed Settlement Submission
Date: Friday, January 31, 2025 3:49:55 PM

01/31/2025 03:48:42 PM

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

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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