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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

ANDREA GARCIA SCHMIDT, individually,
and on behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

IN STEPPS, INC., a California corporation; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: 30-2022-01279489-CU-OE-CXC

**AMENDMENT TO THE JOINT
STIPULATION OF CLASS ACTION AND
PAGA SETTLEMENT AND RELEASE**

**AMENDMENT TO THE JOINT STIPULATION OF
CLASS ACTION AND PAGA SETTLEMENT AND RELEASE**

This amendment (“Amendment”) to the Joint Stipulation of Class Action and PAGA Settlement and Release entered into on or about January 16, 2024 (“Settlement Agreement”) is made and entered into by and between Plaintiff Andrea Garcia Schmidt (“Plaintiff” or “Class Representative”), as an individual and on behalf of the proposed Settlement Class, and Defendant In Stepps, Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”), pursuant to Paragraph 78 of the Settlement Agreement, which provides: “No amendment, change, or modification to this Settlement Agreement will be valid unless in writing and signed, either by the Parties or their counsel, and approved by the Court.”

This Amendment incorporates by reference all terms and conditions of the Settlement Agreement. But for those specific terms and conditions that this Amendment modifies, all Settlement terms and conditions will remain effective and enforceable. Any inconsistencies or differences between this Amendment and the Settlement will be interpreted and construed in favor of this Amendment.

On or about May 30, 2024, the Court issued an order on Plaintiff’s motion for preliminary approval of class action and PAGA settlement, in which the Court requested certain modifications to the Settlement Agreement and notice documents. The Parties have reviewed the Court’s comments and agreed to implement the modifications. The Parties hereby agree to amend the Settlement Agreement as follows:

Amended Paragraph 30—“Released Class Claims” means **all claims, rights, demands, liabilities, obligations, debts, penalties, and causes of action that are asserted in the First Amended Complaint, or that could be asserted based on the facts alleged in the First Amended Complaint, during the Class Period, including:** (a) Sections 510 and 1198 (unpaid overtime); (b) Sections 226.7 and 512(a) (unpaid meal period premiums); (c) Section 226.7 (unpaid rest period premiums); (d) Sections 1194, 1197, and 1197.1 (unpaid minimum wages); (e) Sections 201 and 202 (final wages not timely paid); (f) Section 204 (wages not timely paid during employment); (g) Section 226(a) (non-compliant wage statements); (h) Section 1174(d) (failure to keep requisite payroll records); (i) Sections 2800 and 2802 (unreimbursed business expenses); (j) California Business & Professions Code sections 17200, *et seq.* (unlawful business practices); (k) Sections 201, 202, 203, 204, 226, 226(a), 226.7, 510,

512, 558, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, the corresponding provisions of the applicable Wage Order of the Industrial Wage Commission, including without limitation all related claims for restitution and other equitable relief arising under California Business and Professions Code sections 17200, *et seq.*; and (l) interest on unpaid wages, unpaid wages, attorneys' fees or litigation costs based on the preceding claims. This release shall apply to claims arising during the Class Period.

Amended Paragraph 33—"Request for Exclusion" means the form that Class Members must complete and return to the Settlement Administrator to opt out of the Settlement Class.

Amended Paragraph 53—Disputed Information on Notices. Class Members will have an opportunity to dispute the information provided in their Class Notices. To the extent Class Members dispute their employment dates or the number of Workweeks on record, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Defendant's records will be presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute, and the Parties will work in good faith to resolve it, **but the Court ultimately will decide any unresolved dispute**. All disputes must be submitted by the Response Deadline, and will be decided within ten (10) business days after the Response Deadline.

Amended Paragraph 58—Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the Settlement. **The Parties intend** that entry of a final order approving settlement of this Action and Judgment which discharges Defendant and Released Parties from liability for any and all of the Released Class Claims will have a *res judicata* effect and bar Plaintiff and Class Members who did not submit a timely and valid Request for Exclusion from bringing any actions or claims asserting the Released Class Claims. The names of Class Members who have opted-out of the Settlement Class shall be disclosed to the Counsel for both Plaintiff and Defendant and noted in the proposed Judgment submitted to the Court. PAGA Members cannot opt out of the PAGA portion of the settlement, and shall be bound by that regardless of whether they opt out of the Settlement Class.

Amended Paragraph 59—Releases by Participating Class Members. Upon the Funding Date,

and except as to such rights or claims as may be created by this Settlement Agreement, each Participating Class Member, together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the Released Claims arising during the Class Period. **The Parties intend** that the release of the Released Class Claims will have a res judicata effect against any Participating Class Member who makes a claim against any of the Released Parties for any of the Released Class Claims, files any actions, claims, complaints or proceedings regarding the Released Class Claims with the California Division of Labor Standards Enforcement, initiates any other proceedings against any of the Released Parties regarding any of the Released Class Claims, or seeks to participate in any judgment or settlement of claims that are the subject of the Released Class Claims in any other class, collective, or representative action against any of the Released Parties.

Amended Paragraph 60—Release by Plaintiff, State of California, LWDA and PAGA
Members: Upon the Funding Date, **the LWDA and the State of California shall be deemed to have fully and finally released and discharged the Released Parties from the Released PAGA Claims that arose during the PAGA Period. The Parties intend** for this release of the Released PAGA Claims to be claim and issue preclusive, and to bar representative actions by any aggrieved employee for any claim or cause of action encompassed by the Released PAGA Claims during the PAGA Period.

Amended Paragraph 63—Distribution Timing of Individual Settlement Payments. Within ten (10) calendar days of the Funding Date (**i.e., the date on which the entire Gross Settlement Amount is funded**), the Settlement Administrator will issue payments to: (a) Participating Class Members; (b) Plaintiff; (c) Class Counsel; and (d) LWDA Payment. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement.

Amended Paragraph 66—Treatment of Individual Settlement Payments. All Individual Settlement Payments will be allocated as follows: (a) **one-third (1/3)** of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued; and (b) **two-thirds (2/3)** will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. Individual Settlement Payments shall be paid exclusively from the QSF, pursuant to the settlement formula set forth herein. Also, for tax purposes, the Parties agree that 100% of each PAGA Members' payment from the PAGA

Fund shall constitute penalties and each PAGA Member will be issued an IRS Form-1099 for such payment to him or her, if required by law. Neither Counsel for Plaintiff nor Defendant intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

IT IS SO STIPULATED AND AGREED:

PLAINTIFF

Dated: 7/25/2024

DocuSigned by:
Andrea Garcia Schmidt
4FA310D9A41A4DB...
Andrea Garcia Schmidt

DEFENDANT

Dated: _____

Yvonne Bruinsma
In Steps, Inc.

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: _____

By: *Raul Perez*
Raul Perez

Attorneys for Plaintiff Andrea Garcia Schmidt

O'HAGAN MEYER

Dated: _____

By: _____
Katherine C. Den Bleyker

Attorneys for Defendant In Steps, Inc.

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5 Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

6 **IT IS SO STIPULATED AND AGREED:**

7
8 **PLAINTIFF**

9 Dated: _____

Andrea Garcia Schmidt

11
12 **DEFENDANT**

13 Dated: 7/23/2024


Yvonne Bruinsma
In Steps, Inc.

15
16 **APPROVED AS TO FORM**

17
18 **CAPSTONE LAW APC**

19 Dated: _____

By: _____
Raul Perez

21 Attorneys for Plaintiff Andrea Garcia Schmidt

22
23 **O'HAGAN MEYER**

24
25 Dated: _____

By: _____
Katherine C. Den Bleyker

27 Attorneys for Defendant In Steps, Inc.

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9 Dated: _____

Andrea Garcia Schmidt

11 **DEFENDANT**

12
13 Dated: _____

Yvonne Bruinsma
In Steps, Inc.

15
16 **APPROVED AS TO FORM**

17 **CAPSTONE LAW APC**

18
19 Dated: _____

By: _____
Raul Perez

Attorneys for Plaintiff Andrea Garcia Schmidt

22
23 **O'HAGAN MEYER**

24
25 Dated: July 30, 2024

By: 

Katherine C. Den Bleyker

Attorneys for Defendant In Steps, Inc.