

## **PAGA SETTLEMENT AGREEMENT/STIPULATION OF SETTLEMENT**

This PAGA Settlement Agreement/Stipulation of Settlement (the “Agreement”) is made by and between plaintiff Cecilia Alcaraz (“Plaintiff”) and defendant HHM Facility Management, LLC (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as a “Party.”

### **1. DEFINITIONS.**

1.1 “Action” means Plaintiff’s lawsuit against Defendant captioned Cecilia Alcaraz v. HHM Facility Management LLC, Case No. 37-2023-00055133-CU-OE-CTL, filed on December 20, 2023, and pending in the Superior Court of the State of California, County of San Diego, including the Complaint.

1.2 “Administrator” means Apex 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 of Five Thousand Nine Hundred Dollars and Zero Cents (\$5,900.00) submitted to the Court in connection with approval of this Settlement.

1.4 “Aggrieved Employee” means all persons who are employed or were previously employed by HHM Facility Management, LLC, in California and are or were classified as non-exempt employees at any time during the PAGA Period.

1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession, including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee 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 Aggrieved Employees.

1.7 “Approval Order” means the Court Order Granting Approval of PAGA Settlement.

1.8 “Class Action” means Alcaraz v. HHM Facility Management LLC, United States District Court, Southern District of California, Case No. 3:23-cv-02103-DMS-JLB.

1.9 “Complaint” shall refer to the original complaint that Plaintiff filed in the Action on December 20, 2023.

1.10 “Court” means the Superior Court of California, County of San Diego.

1.11 “Defense Counsel” means Attorneys David A. Wimmer and Allison R. Musante at Swerdlow Florence Sanchez Swerdlow & Wimmer, A Law Corporation.

1.12 “Effective Date” means the date by when all of the following have occurred: (a) the Court enters Judgment on the Approval Order; (b) the Class Action is dismissed as discussed in Paragraph 9, below; and (c) the Judgment becomes final. The Judgment becomes final as of the latest of the following occurrences: (a) the day the Court entered Judgment assuming no appeal is filed; or (b) if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for writs of certiorari) resulting in final judicial approval of the Settlement.

1.13 “Gross Settlement Amount” or “GSA” means Ninety Eight Thousand Two Hundred Seventy Seven Dollars and Zero Cents (\$98,277.00), which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraphs 8 and 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees

Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

1.14 "Harassment Action" means Alcaraz v. HHM Facility Manager, LLC, California Superior Court for the County of Los Angeles, Case No. 24STCV10833.

1.15 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties, which shall be calculated based on the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.16 "Judgment" means the judgment entered by the Court based upon the Approval Order.

1.17 "LWDA" means the California Labor and Workforce Development Agency, the agency entitled under Labor Code section 2699, subd. (i).

1.18 "LWDA Letter" means Plaintiff's October 12, 2023, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.19 "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.20 "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administration Expenses Payment. The NSA is to be paid to Aggrieved Employees as follows: 25% of the NSA shall be paid to Aggrieved Employees as Individual PAGA Payments and 75% of the NSA shall be paid to the LWDA as the LWDA PAGA Payment.

1.21 "PAGA Counsel" means Attorneys Emil Davtyan, David Yeremian, Roman Shkodnik and Amanda Fazio at D.Law, Inc., the attorneys representing the Plaintiff in the Action.

1.22 "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for their reasonable

attorneys' fees and for the reimbursement of their reasonable expenses and costs not to exceed \$25,000, respectively, incurred to prosecute the Action.

1.23 "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.24 "PAGA Period" means the period from October 12, 2022 to the date of the Approval Order.

1.25 "PAGA" means the California Labor Code Private Attorneys General Act (Labor Code §§ 2698 *et seq.*)

1.26 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from, and shall equal, the Net Settlement Amount, which is estimated to be Forty Two Thousand Seven Hundred Twenty Three Dollars and Fifty Eight Cents (\$42,723.58). The PAGA Penalties are allocated 25% to the Aggrieved Employees (approximately \$10,680.90) as to their Individual PAGA Payments and the 75% to LWDA (approximately \$32,042.68) as the LWDA PAGA Payment in settlement of all PAGA claims.

1.27 "Plaintiff" means Cecilia Alcaraz, the named plaintiff in the Action.

1.28 "Released PAGA Claims" means any and all claims for civil penalties under PAGA arising from the pleaded claims in the Complaint in the Action and the LWDA Letter for the entire duration of the PAGA Period, and from all other claims for civil penalties arising from, related to, or otherwise connected with the underlying factual allegations contained in the LWDA Letter and the Complaint in the Action, that Plaintiff, on behalf of herself, the LWDA and the Aggrieved Employees, alleged or could have alleged against Defendant and the Released Parties, and further includes all claims seeking civil penalties for (1) failure to pay minimum wages; (2) failure to pay wages and overtime under Labor Code Section 510; (3) failure to pay vacation wages; (4) failure to comply with Labor Code Sections 245 *et. seq* and 246; (5) meal period liability under Labor Code Section 226.7; (6) rest-break liability under Labor Code Section 226.7; (7) violation of Labor Code Section 221; (8) failure to reimburse necessary business expenditures under Labor Code Section 2802; (9) violation of Labor Code Section 226(a) and 1174; (10) failure to produce requested employment records under Labor Code Sections 226 and 1198.5; and (11) violation of Labor Code Sections 203 and 204, and further including all claims for civil penalties pursuant to California Labor Code Sections 201, 201.3, 201.5, 201.9, 202, 203, 204, 204b, 204.2, 205.5, 210, 212, 213, 221, 226, 226.3, 226.7, 227.3, 245 *et seq.*, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194 *et seq.*, 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 2698 *et seq.*, 2699 *et seq.*, 2699.3, 2699.5, and 2802, 2926, 2927, California Code of Regulations 11040, as well as any applicable IWC Wage Order

provisions and California Code of Regulations, Title 8, Section 11000 et seq., arising during the PAGA Period.

1.29 “Released Parties” means Defendant and each of its divisions, subsidiaries, partnerships, parents, affiliated companies, trusts, or other related entities, past and present, and each of them, as well as each of their directors, officers, shareholders, partners, members, representatives, executors, trustees, fiduciaries, administrators, beneficiaries, assignees, successors, business managers, agents, contractors, insurers, attorneys, and employees, past and present, and each of them and their marital community.

1.30 “Settlement” means the disposition of the Action effectuated by this Agreement and the Judgment.

## 2. **RECITALS.**

2.1 Pursuant to Labor Code Section 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the LWDA Letter. Specifically, on October 12, 2023, Plaintiff filed the LWDA Letter with the LWDA on behalf of herself and all Aggrieved Employees, alleging that Defendant committed various wage and hour violations under the California Labor Code and were entitled to civil penalties under PAGA.

2.2 On December 20, 2023, Plaintiff commenced this representative Action by filing the Complaint against Defendant, alleging claims for (1) failure to pay minimum wage; (2) failure to pay wages and overtime; (3) failure to pay vacation wages; (4) failure to comply with Labor Code Section 245 and 246; (5) meal period liability; (6) rest period liability; (7) violation of Labor Code Section 221; (8) failure to reimburse for necessary business expenses; (9) violation of Labor Code Sections 226 and 1174; (10) failure to produce employment records; and (11) violation of Labor Code Sections 203 and 204. On June 5, 2024, Plaintiff provided Defendant with the PAGA Lawsuit via Notice of Acknowledgment and Receipt.

2.3 Prior to Defendant answering the Complaint in the Action, the Parties agreed to attend an early mediation with the Honorable John Leo Wagner (Ret.), a retired judge and an experienced mediator, in an attempt to resolve the Action, as well as the Class Action and Harassment Action.

2.4 Prior to mediation, Plaintiff obtained, through informal discovery, among other things, electronic payroll and timekeeping data for all alleged Aggrieved Employees, Employee Handbooks and other policies, information and

documentation regarding Defendant's wage and hour policies, expense report data and information, and meal period information.

2.5 On June 11, 2024, the Parties participated in an all-day mediation presided over by Judge Wagner (Ret.), which led to a global settlement of this Action, the Class Action and the Harassment Action. The Parties executed a Memorandum of Agreement dated June 20, 2024, memorializing that settlement, as well as an individual settlement agreement with Plaintiff, which was fully executed on July 3, 2024, and for which Plaintiff will receive additional consideration (the "Individual Settlement Agreement"). As part of these settlements, the Class Action will be dismissed without prejudice, except for Plaintiff's individual claims, which will be dismissed with prejudice, and the Harassment Action will be dismissed with prejudice after the Court approves this Settlement and the Class Action is dismissed.

2.6 Other than the Class Action and Harassment Action, the Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

### 3. **MONETARY TERMS.**

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Ninety Eight Thousand Two Hundred Seventy Seven Dollars and Zero Cents (\$98,277.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to forty five (45) days after the Effective Date, as stated in Paragraph 4.2 of this Agreement, except as otherwise noted in Paragraphs 9 and 10.1. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring 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 Approval Order:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the GSA, which is currently estimated to be Thirty Two Thousand Seven Hundred Fifty Five Dollars and Seventy Two Cents (\$32,755.72) and PAGA Counsel Litigation Expenses Payment of not more than Sixteen Thousand and One Hundred Sixty Five Thousand and Ninety-Seven Dollars and Seventy Cents (\$16,897.70). Defendant will not oppose requests for Court approval of these payments provided that they do not exceed

these amounts and/or percentage of the Gross Settlement Amount. Plaintiff will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the unincurred balance shall be included in the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will report the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant and all Released Parties harmless, and hereby indemnifies Defendant and all Released Parties from any dispute or controversy regarding any division or sharing of the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment.

- 3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed Five Thousand Nine Hundred Dollars and Zero Cents (\$5,900.00), except for a showing of good cause and as approved by the Court. To the extent the administration expenses are less or the Court approves payment less than Five Thousand Nine Hundred Dollars and Zero Cents (\$5,900.00), the balance shall be included in the Net Settlement Amount.

3.3 Payment from Net Settlement Amount/PAGA Penalties: After the payments from the Gross Settlement Amount are made as described in Paragraph 3.2 above, the remaining amount is the Net Settlement Amount, all of which shall be paid as PAGA Penalties by the Administrator to the LWDA and Aggrieved Employees in the amounts specified by the Court in the Approval Order:

- 3.3.1 To the LWDA and Aggrieved Employees: Of the Net Settlement Amount, 75% shall be allocated to the LWDA PAGA Payment and 25% shall be allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties in the aggregate by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying that result by each Aggrieved Employee's

individual PAGA Pay Periods to get the amount of each Individual PAGA Payment.

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

3.2.3.3. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

4.1 Aggrieved Employee Data. Within thirty (30) calendar days of the Court filing the Approval Order, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. Defendant shall make reasonable and good faith efforts based on Defendant's records to include the name, last known address, and social security number of each Aggrieved Employee on the List. The List will not be provided to Plaintiff's Counsel. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. The Parties and their counsel will expeditiously use good-faith efforts to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.2 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than forty five (45) days after the Effective Date, except as otherwise noted in Paragraphs 9 and 10.1.

4.3 Payments from the Gross Settlement Amount. Within thirty (30) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.3.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of

mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.3.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced if requested by the Aggrieved Employee prior to the void date.
- 4.3.3 For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 4.3.4 The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those expressly specified in this Agreement.
- 4.3.5 The Individual PAGA Payments shall not adjust or effect the regular rate of pay in any way for any and all Aggrieved Employees.
- 4.3.6 Whereas the Parties agree that there is no statutory obligation to provide notice of the Settlement to Aggrieved Employees, at the same time that the Administrator distributes the Individual PAGA Payments to the Aggrieved Employees, every Aggrieved Employee will be provided with the letter attached hereto as Exhibit A in the form evidenced by Exhibit A, which shall be addressed to the Aggrieved Employee and reference the Aggrieved Employee's Individual PAGA Payment.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the Gross Settlement Amount, Plaintiff, the LWDA and the Aggrieved Employees shall be deemed to have released claims against all Released Parties as follows:

### 5.1 Release by Plaintiff, Aggrieved Employees and the LWDA:

Plaintiff, standing in the shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and all Aggrieved Employees, for themselves and for their respective former and present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, forever completely releases and discharges the Released Parties from the Released PAGA Claims that have or could have arisen or accrued during the PAGA Period. It is the intent of the Parties that the Approval Order entered by the Court shall have full equitable and collateral estoppel and res judicata effect and be final and binding upon Plaintiff, the LWDA, and the Aggrieved Employees regarding the Released PAGA Claims. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

## 6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

6.1 Within thirty (30) business days of all Parties executing this Agreement, Plaintiff shall file a Motion for Approval of the Settlement.

6.2 Plaintiff's Responsibilities. No later than seven (7) days before the due date to file the Motion for Approval, Plaintiff will deliver to Defense Counsel near final drafts of all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2), including: (i) a draft, proposed Approval Order; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve, its competency, its operative procedures for protecting the security of Aggrieved Employee Data, its 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 Aggrieved Employees or the LWDA, and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; and (iii) a near final declaration from PAGA Counsel attesting to its timely transmission to the LWDA of all necessary documents required to be sent to the LWDA regarding the settlement of PAGA claims. PAGA Counsel's declaration shall also attach a copy of this Agreement and the Individual Settlement Agreement for Plaintiff, and it shall include all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel 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, except for the Class Action and Harassment Action.

6.3 Responsibilities of PAGA Counsel. Consistent with Paragraph 6.1 above, PAGA Counsel is responsible for expeditiously drafting, finalizing and filing the Motion for Approval and obtaining a prompt hearing date for the Motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone or videoconference, and in good faith, to resolve the disagreement. If the Court does not grant the Motion for Approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone or videoconference, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns, provided that Defendant shall not be required to contribute any additional funds to the Gross Settlement Amount.

## 7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Apex to serve as the Administrator. PAGA Counsel has verified that, as a condition of appointment, Apex 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 providing reports to 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 Administrator Duties. The Administrator has a duty to perform or observe all designated tasks contained in this Agreement or otherwise required by law.

**8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR**

**CLAUSE.** Based on its records, Defendant represents that there are approximately 1,927 Aggrieved Employee pay periods in the aggregate from October 12, 2022, through September 11, 2024. If the total number of Aggrieved Employee pay periods in the foregoing period increases by more than 10% (i.e., an increase of 193 or more), then Defendant will increase the GSA in proportion to the number of Aggrieved Employee pay periods in excess of 10%. For example, if the number of Aggrieved Employee pay periods increased by 15% over 1,927 employee pay periods, then the GSA will increase by 5%. If this provision is triggered and the GSA is increased, the Parties agree that the portion of the GSA allocated to attorneys’ fees will increase proportionally such that the total amount of attorneys’ fees remains one-third (1/3) of the GSA after the upward adjustment required by this provision is implemented.

**9. DISMISSAL OF CLASS ACTION.** As a material condition of the settlement of this Action, within twenty (20) days of all Parties fully executing this Agreement, Plaintiff shall file the appropriate pleadings to dismiss with prejudice Plaintiff’s individual claims and dismiss without prejudice all of Plaintiff’s class-action claims in the Class Action. The Gross Settlement Fund shall not be distributed unless and until the Class Action is dismissed in its entirety as provided herein.

**10. CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law pursuant to California Code of Civil Procedure Section 664.6. If any Party brings an action to enforce this Agreement, the prevailing party shall be entitled to its/her reasonable attorneys’ fees and costs.

10.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another individual or entity who is not a Party to this Agreement appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

10.2 Attorneys' Fees and Costs Appeal. The specific amount of the attorneys' fees and costs awards discussed herein shall be subject to Court approval, and the award of any amounts less than that requested by PAGA Counsel will not be grounds for Plaintiff or PAGA Counsel to terminate the Settlement, but may be subject to appeal by her. In the event of such an appeal, final funding and administration of the portion of the attorneys' fees and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review, additional amounts are distributable to the Aggrieved Employees, then the cost of administration of the additional payments to them will be paid out of such additional amounts and not by Defendant. Any amount not awarded in attorneys' fees and costs shall be added to the Net Settlement Amount for distribution to the Aggrieved Employees.

## 11. ADDITIONAL PROVISIONS.

11.1 No Admission of Liability. 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 LWDA Letter, Complaint and/or Action has merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. Defendant denies all liability in the Action, Class Action and Harassment Action. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement, and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

11.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits, if any, 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, as well as the prior Memorandum of Agreement executed by the Parties, except for the Individual Settlement Agreement signed by the Parties, which still remains in full force and effect.

11.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement that are consistent therewith.

11.4 Cooperation. The Parties and their counsel will cooperate with each other and use their good-faith efforts to implement the Settlement by, among other things, modifying the 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 Judge Wagner (Ret.) and/or the Court for resolution.

11.5 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.

11.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel is 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 C.F.R. Part 10, as amended) or otherwise.

11.7 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.

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

11.9 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.

11.10 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.

11.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

11.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Additionally, the Parties are under a continuing obligation to comply with the Court's *Order Granting Joint Motion To Stay Proceedings Pursuant to Private Mediation Agreement*.

11.13 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.

11.14 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.

11.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been

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

To Plaintiff:

Emil Davtyan, Esq.  
David Yeremian, Esq.  
Roman Shkodnik, Esq.  
Amanda Fazio, Esq  
D.Law, Inc.  
880 E. Broadway  
Glendale, California 91205

To Defendant:

David A. Wimmer, Esq.  
Allison R. Musante, Esq.  
Swerdlow Florence Sanchez Swerdlow & Wimmer,  
A Law Corporation  
10877 Wilshire Boulevard, Suite 1650  
Los Angeles, CA 90024

11.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign or AdobeSign), 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.

11.17 Stay of Litigation. The Parties agree that, upon the execution of this Agreement, the litigation shall continue to be stayed, except to effectuate the terms of this Agreement. The Parties further agree that, upon the signing of this Agreement and, pursuant to CCP Section 583.330, the date to bring a case to trial under CCP Section 583.310 shall be extended for the entire period of this settlement process.

EXECUTED this 14th day of August 2024, at Los Angeles County,  
California.

Signed by:  
*Cecilia Alcaraz*  
BB96BF6D95144E8...

Cecilia Alcaraz

EXECUTED this 15 day of August 2024, at Branson, Missouri.

DEFENDANT HHM FACILITY MANAGEMENT, LLC

DocuSigned by:  
*Penny Campbell*  
476C29A7D5494B6...

By: \_\_\_\_\_

Penny Campbell

Its: Vice President of Business Services

APPROVED AS TO FORM:

**D.LAW, INC.**

Signed by:  
*Roman Shkodnik*  
1191B7A5A7E6410...

By: \_\_\_\_\_

Roman Shkodnik, Esq.

Attorneys for Plaintiff, Cecilia Alcaraz

8/14/2024

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

**SWERDLOW FLORENCE SANCHEZ**

**SWERDLOW & WIMMER, A LAW CORPORATION**

Signed by:  
*David Wimmer*  
900A289960F64D3...

By: \_\_\_\_\_

David A. Wimmer, Esq.

Attorneys for Defendant HHM

Facility Management, LLC

8/14/2024

Dated: \_\_\_\_\_

# EXHIBIT A

<<DATE>>

<<FIRST\_NAME>> <<LAST\_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

**Re: Payment from *Alcaraz v. HHM Facility Management, LLC***

Dear <<FIRST\_NAME>> <<LAST\_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Alcaraz v. HHM Facility Management, LLC*, San Diego Superior Court Case No. 37-2023-00055133-CU-OE-CTL.

### **WHAT IS THE CASE ABOUT?**

This case was brought by Plaintiff, Cecilia Alcaraz (“Plaintiff”), and filed against HHM Facility Management, LLC (“Defendant”), pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”). Plaintiff filed the lawsuit on behalf of herself, the State of California and all persons who are employed or were previously employed by HHM Facility Management, LLC, in California and are or were classified as non-exempt employees at any time during the “PAGA Period,” which covers the time period of October 12, 2024, to [REDACTED], 2024 [Approval Date]. The group of employees referenced above are called the “Aggrieved Employees,” and you have been identified as an Aggrieved Employee.

### **WHAT ARE THE IMPORTANT TERMS OF THE SETTLEMENT?**

In this case, Plaintiff claimed that Defendant owed civil penalties under PAGA for certain California Labor Code (the “Labor Code”) violations because Defendant allegedly (1) failed to pay minimum wage; (2) failed to pay wages and overtime; (3) failed to pay vacation wages; (4) failed to comply with Labor Code Section 245 and 246; (5) failed to comply with meal-period laws; (6) failed to comply with rest-period laws; (7) violated Labor Code Section 221; (8) failed to reimburse for necessary business expenses; (9) violated of Labor Code Sections 226 and 1174; (10) failed to produce employment records; and (11) violated Labor Code Sections 203 and 204. Defendant denies the allegations in the Complaint, denies any failure to comply with the laws identified in the Complaint and denies any and all liability for the causes of action alleged.

The Parties agreed to resolve the case, and as part of that settlement, Defendant agreed to pay \$98,277.00, which is called the Gross Settlement Amount. From the Gross Settlement Amount, and as approved by the Court, Plaintiff’s counsel will receive a PAGA Counsel Fees Payment of \$[REDACTED] for attorneys’ fees and a PAGA Counsel Litigation Expenses Payment of \$[REDACTED] for litigation costs. In addition, and as approved by the Court, the Settlement Administrator will receive an Administrator Expenses Payment of \$[REDACTED] for helping to

administer the settlement. The balance of the monies, called the Net Settlement Fund, in the amount of \$ [REDACTED], represents the PAGA Penalties.

Under PAGA, the law requires that PAGA Penalties get divided between the California Labor and Workforce Development Agency (the LWDA”) and the Aggrieved Employees, with 75% of the settlement going to the LWDA and 25% being divided amongst the Aggrieved Employees. As a result, and as approved by the Court, \$ [REDACTED] will be paid to the LWDA for its share of PAGA penalties, and \$ [REDACTED] will be paid to the Aggrieved Employees as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties (\$ [REDACTED]) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods, which is any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

As an Aggrieved Employee, you will assume full responsibility and liability for any taxes owed on your Individual PAGA Payment. The Administrator will report all Individual PAGA Payments on IRS 1099 Forms.

The settlement of this action does not constitute an admission by Defendant of any of the matters alleged in the case or an admission of liability. Defendant strongly denies violating any laws or failing to pay any wages. Defendant contends it complied with all applicable laws.

## **YOUR SETTLEMENT CHECK AND THE RELEASE OF CLAIMS**

The enclosed check, in the amount of \$ [REDACTED].00, represents your Individual PAGA Payment, which is based on the number of pay periods you worked during the PAGA Period.

As an Aggrieved Employee, you are legally barred from asserting any of the claims released under the Settlement. This means that you, along with all Aggrieved Employees, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or its related entities based on the facts alleged in the case to have occurred during the PAGA Period and resolved by this settlement. The Aggrieved Employees’ Release is as follows:

Plaintiff, standing in the shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and all Aggrieved Employees, for themselves and for their respective former and present representatives, agents, attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and assigns, forever completely releases and discharges the Released Parties from the Released PAGA Claims that have or could have arisen or accrued during the PAGA Period. It is the intent of the Parties that the Approval Order entered by the Court shall have full equitable and collateral estoppel and res judicata effect and be final and binding upon Plaintiff, the LWDA, and the Aggrieved Employees regarding the Released PAGA Claims. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

The “Released PAGA Claims” means any and all claims for civil penalties under PAGA arising from the pleaded claims in the Complaint in the Action and the LWDA Letter for the entire duration of the PAGA Period, and from all other claims for civil penalties arising from, related to, or otherwise connected with the underlying factual allegations contained in the LWDA Letter and the Complaint in the Action, that Plaintiff, on behalf of herself, the LWDA and the Aggrieved Employees, alleged or could have alleged against Defendant and the Released Parties, and further includes all claims seeking civil penalties for (1) failure to pay minimum wages; (2) failure to pay wages and overtime under Labor Code Section 510; (3) failure to pay vacation wages; (4) failure to comply with Labor Code Sections 245 et. seq and 246; (5) meal period liability under Labor Code Section 226.7; (6) rest-break liability under Labor Code Section 226.7; (7) violation of Labor Code Section 221; (8) failure to reimburse necessary business expenditures under Labor Code Section 2802; (9) violation of Labor Code Section 226(a) and 1174; (10) failure to produce requested employment records under Labor Code Sections 226 and 1198.5; and (11) violation of Labor Code Sections 203 and 204, and further including all claims for civil penalties pursuant to California Labor Code Sections 201, 201.3, 201.5, 201.9, 202, 203, 204, 204b, 204.2, 205.5, 210, 212, 213, 221, 226, 226.3, 226.7, 227.3, 245 et seq., 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194 et seq., 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 2698 et seq., 2699 et seq., 2699.3, 2699.5, and 2802, 2926, 2927, California Code of Regulations 11040, as well as any applicable IWC Wage Order provisions and California Code of Regulations, Title 8, Section 11000 et seq., arising during the PAGA Period.

The “Released Parties” means Defendant and each of its divisions, subsidiaries, partnerships, parents, affiliated companies, trusts, or other related entities, past and present, and each of them, as well as each of their directors, officers, shareholders, partners, members, representatives, executors, trustees, fiduciaries, administrators, beneficiaries, assignees, successors, business managers, agents, contractors, insurers, attorneys, and employees, past and present, and each of them and their marital community.

This release applies to you, regardless of whether you cash your check, and regardless of whether this letter can be delivered to you. **Aggrieved Employees have no right to object to this settlement, and they cannot opt out of this settlement. You will be bound by this release whether you cash your check or not.**

## QUESTIONS?

If you have any questions, you can contact the Settlement Administrator (whose contact information is at the top of this letter) or Plaintiff’s counsel, whose contact information is as follows:

### *Counsel for Plaintiff:*

Emil Davtyan, Esq.

David Yeremian, Esq.  
Roman Shkodnik, Esq.  
Amanda Fazio, Esq  
D.Law, Inc.  
880 E. Broadway  
Glendale, California 91205

Very Truly Yours,

Apex Administrators  
[INSERT CONTACT INFORMATION]