

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Catalino Sotelo (“Plaintiff”) individually and in his representative capacity on behalf of the state of California and fellow Aggrieved Employees and defendant GHN, Inc., (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Catalino Sotelo, et al., v. GHN, Inc., et al.* initiated on December 7, 2023 and pending in Superior Court of the State of California, County of San Bernardino, Case No. CIVSB2331850 as well as Plaintiff’s written notice to the Labor and Workforce Development Agency (“PAGA Notice”) dated October 2, 2023 .
- 1.2. “Administrator” means APEX Class Action Settlement Administration (“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.
- 1.4. “Aggrieved Employees” means all current and former non-exempt or hourly paid employees of Defendant as well as those individuals who fall under the inside-salesperson exemptions that have worked for Defendant in the State of California at any time from October 2, 2022, through May 24, 2024 (PAGA Period defined in 1.19 below).
- 1.5. “Aggrieved Employee Data” means Aggrieved Employees’ 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. “Court” means the Superior Court of California, County of San Bernardino.
- 1.8. “Defense Counsel” means Fisher & Phillips LLP.
- 1.9. “Effective Date” means the date upon which the following has occurred: (i) the long form Settlement Agreement has been executed by Plaintiff, Defendant, PAGA Counsel and Defendant’s Counsel; (ii) Notice of the Settlement has been sent to the LWDA; (iii) the Court has given approval to the Settlement; (v) the Court has entered the Court’s Final Order and Judgment; and (vi) the later of the following events: (A) when the period for

filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (B) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) when any appeal, writ or other appellate proceeding has upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief. If the Court declines to approve the Settlement, the parties will cooperate to negotiate reasonable revisions to the settlement terms in order to seek approval. Should such attempts fail, then the entire Settlement Agreement is deemed void and unenforceable as if no settlement of any claim was ever reached. All negotiations, statements and proceedings and data relating thereto shall be protected by California Evidence Code §1152 and shall be without prejudice to the rights of any of the Parties.

- 1.10. "Gross PAGA Settlement Amount" means One Hundred Five Thousand Dollars and Zero Cents (\$105,000.00) that Defendant must pay into the QSF in connection with this Settlement except as provided in Paragraph 8 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, Enhancement Payment to Named Plaintiff, and the Administrator's Expenses Payment.
- 1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the Net Settlement Amount calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period based on the calculations set forth in paragraph 3.2.4.1 below.
- 1.12. "Judgment" means the judgment entered by the Court based upon approval of the Settlement.
- 1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. "LWDA PAGA Payment" means 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. "Net Settlement Amount" or "NSA" means the amount remaining from the Gross Settlement Amount after deducting the following payments in the amounts approved by the Court: the PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Named Plaintiff Enhancement Payment, and the Administration Expenses Payment. The Net Settlement Amount shall be used to satisfy the PAGA Representative's claims for civil penalties arising under PAGA asserted on behalf of the Aggrieved Employees and the LWDA. Twenty-five percent (25%) of the NSA shall be allocated to the Aggrieved Employees ("Individual PAGA Payments") and distributed based on the pro rata number of Pay Periods worked by each Aggrieved Employee during the PAGA Period. Seventy-five percent (75%) of the NSA shall be paid to the LWDA ("LWDA PAGA Payment").
- 1.16. "PAGA Counsel" means Otkupman Law Firm, A Law Corporation, the attorneys

representing the Plaintiff in the Action.

- 1.17. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19. “PAGA Period” means the period from October 2, 2022 through May 24, 2024.
- 1.20. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.21. “PAGA Notice” means Plaintiff’s October 2, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.22. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.23. “Plaintiff” means Catalino Sotelo, the named plaintiff in the Action.
- 1.24. "Approval Order" means the Court Order Granting Approval of PAGA Settlement.
- 1.25. “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.26. “Released Parties” means: Defendant and each of its past, present, and future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, staffing agencies, PEOs, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, and attorneys.
- 1.27. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.28. “Defendant” means named Defendant GHN, Inc.

2. RECITALS.

- 2.1. On December 7, 2023, Plaintiff filed a Complaint alleging one cause of action against GHN, Inc. for penalties and other relief pursuant to Labor Code sections 2699(f) and 2698 for violations of Labor Code sections 226.3, 226.7, 512, 558, 510, 1194, 1194.2, 1197, 226(a)(e), 1174(d), 201-203, 204(a)(b), 2802, 210, 218, 222, 6400, 6401, 6402, 6403, 6404, 6407, 8 CCR 3202, and 17200 (the “Complaint”). Defendant denies the allegations in the Operative Complaint and PAGA Notice, denies any failure to comply

with the laws identified in the Operative Complaint and PAGA Notice, and denies any and all liability for the causes of action alleged.

- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. Prior to settlement, Plaintiff obtained, through informal discovery, statistical data, including records of Defendant's employees, which consisted of wage statements, clock in and clock out times, times taken for meal breaks, wages earned during the relevant pay periods, written policies and procedures on meal breaks, rest breaks, overtime compensation, and reimbursement for business expenses, the number of pay periods in the PAGA Period, and the total number of aggrieved employees.
- 2.4. The Parties understand, acknowledge, and agree that this Agreement constitutes a compromise of the claims alleged in the Action, and that it is the desire and intention of the Parties to effect a final and complete resolution of the Action and the PAGA claims alleged therein against Defendant or any persons or companies affiliated with Defendant in relation to the PAGA claims.
- 2.5. 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 PAGA Settlement Amount. Except as otherwise provided by Paragraph 8 below, in full and complete settlement of the Action and in exchange for the releases set forth below, Defendant promises to pay the Gross PAGA Settlement Amount of One Hundred Five Thousand Dollars and Zero Cents (\$105,000.00) and no more. Defendant has no obligation to pay the Gross PAGA Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross PAGA Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross PAGA Settlement Amount. Subject to the Court's approval, the Administrator will make and deduct the following payments from the Gross PAGA Settlement Amount:
 - 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 35% of the Gross PAGA Settlement Amount, which is currently estimated to be \$36,750.00 and PAGA Counsel Litigation Expenses Payment of not more than \$10,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. In the event

that the Court reduces or does not approve the requested PAGA Counsel Fees Payment and/or PAGA Litigation Expenses Payment, Plaintiff and PAGA Counsel shall not have the right to rescind the Settlement, or to appeal such order, and the Settlement will remain binding. The Administrator will allocate any reduced amounts to 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 Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel 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 harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To Named Plaintiff: An Enhancement Payment of not more than \$7,500.00 (in addition to any Individual PAGA Payment the Named Plaintiff is entitled to receive as an Aggrieved Employee).

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$10,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$10,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$40,750.00 to be paid from the Gross PAGA Settlement Amount, with 75% (\$30,562.5) allocated to the LWDA PAGA Payment and 25% (\$10,187.50) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$10,187.50) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records, Defendant estimated that as of March 25, 2024, there were 61 Aggrieved Employees that collectively worked approximately 1,440 Pay Periods during the PAGA Period. In the event the number of pay periods worked increases by more than 10%, or more than 1,584 pay periods worked, then Defendant shall, at its option, either (a) increase the Gross PAGA Settlement Amount proportionally by the pay periods in excess of the 10%; or (b) cap the PAGA Release Period as of the date the number of pay periods reaches but does not exceed 10%. Under

option (a) an increase by more than 10% shall mean should the number of pay periods increase by more than 10% through the PAGA Period, this will increase the Gross PAGA Settlement Amount proportionally over the 10% increase. For example, if the number of pay periods increase by 11% through the PAGA Period, and Defendants elect option (a) set forth above, then the Gross PAGA Settlement Amount shall increase by 1%.

- 4.2. Aggrieved Employee Data. Within 15 days of the Effective Date, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' 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. In no event will Aggrieved Employee Data ever be shared with or provided to Plaintiff or PAGA Counsel unless necessary to ensure PAGA Counsel's ability to fulfill any obligations associated with this Settlement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross PAGA Settlement Amount by transmitting the funds to the Administrator no later than 15 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 15 days after Defendant funds the Gross PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Named Plaintiff Enhancement Payment, and the PAGA Counsel Fees and Expenses Payments. Disbursement of the PAGA Counsel Fees and Expenses Payments shall not precede disbursement of Individual PAGA Payments.
 - 4.4.1. 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.
 - 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the 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, requested by the Aggrieved Employee prior to the void date.

4.4.3. 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.

4.4.4. The Individual PAGA Payments made to the Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross PAGA Settlement Amount Plaintiff, Aggrieved Employees and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff for himself and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, fully and finally waives, releases, acquits and forever discharges and promises to never assert in any forum against the Released Parties, any and all claims, charges complaints, liabilities obligations, promises, transactions, agreements, controversies, occurrences, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature and description whatsoever, whether known or unknown, suspected or unsuspected, asserted or that might have been asserted, whether in tort, contract, equity, or otherwise arising out of Plaintiff's employment with Defendant, payment of wages during that employment and the cessation of that employment, including but not limited to any and all wage claims, wrongful termination claims, disability claims, benefit claims, public policy claims, retaliation claims, statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum meruit claims, and/or any and all claims arising under any federal, state or local statute, rule, ordinance or regulation, including, but not limited to claims for violation of the Fair Labor Standards Act, the California Labor Code, the Wage Orders of California's Industrial Welfare Commission, the PAGA, other state wage and hour laws, California Civil Code, California Rules of Court, California Code of Civil Procedure, the Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's Whistleblower Protection Act, California

Business & Professions Code Section 17200 et seq., the California and U.S. Constitutions (“Plaintiff’s Released Claims”). Plaintiff’s Released Claims also include but are not limited to, all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys’ fees and costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination. Plaintiff’s Released Claims includes all claims, whether known or unknown. Even if Plaintiff discovers facts in addition to or different from those he now knows or believes to be true with respect to the subject matter of Plaintiff’s Release Claims, those claims will remain released and forever. Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the period of Plaintiff’s employment with Defendant. Plaintiff’s release under this Agreement specifically excludes Plaintiff’s individual settlement which is being memorialized in a different agreement. Nothing herein affects any rights or remedies that are available to Plaintiff in that settlement.

- 5.1.1 Plaintiff’s Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff’s Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff’s favor at the time of signing this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this Settlement Agreement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff’s choosing about this Settlement Agreement and specifically about the waiver of section 1542, and that Plaintiff understands this Settlement Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement Agreement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

Plaintiff's release under this Agreement specifically excludes Plaintiff's individual settlement which is being memorialized in a different agreement. Nothing herein affects any rights or remedies that are available to Plaintiff in that settlement.

5.2 Release by Aggrieved Employees. Aggrieved Employees on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, fully and finally waive, release, acquit and forever discharge and promises to never assert in any forum against the Released Parties any and all claims, charges complaints, liabilities, obligations, actions, causes of action, suits, rights, demands for PAGA penalties arising from the labor code violations occurring during the PAGA Period and alleged in Plaintiff's operative complaint and PAGA Notice, including but not limited to PAGA penalties arising from: claims for failure to pay overtime wages; failure to pay minimum wages; any claims for additional wages owed due to "off the clock" work; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due; failure to pay all wages earned at least twice during each calendar month; waiting time penalties; wage statement violations; failure to keep and maintain accurate payroll records; failure to reimburse business expenses; failure to provide a safe and healthful environment; violation of Labor Code sections 226.3, 226.7, 512, 558, 510, 1194, 1194.2, 1197, 226(a)(e), 1174(d), 201-203, 204(a)(b), 2802, 210, 218, 222, 6400, 6401, 6402, 6403, 6404, 6407, 8 CCR 3202, and 17200, and the applicable Wage Order. The release also includes any allegations brought in the Action (that includes Plaintiff's PAGA Notice), or any amended Complaint, including a release from the State of California (to the extent Plaintiff is permitted to provide such a release for the State of California for the PAGA Period) of all PAGA claims alleged or could have been alleged in the Action (which as defined includes Plaintiff's PAGA Notice of Claims to the LWDA) based on the facts alleged in the Action (which as defined includes Plaintiff's PAGA Notice of Claims to the LWDA) which occurred during the PAGA Period

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)).

6.2 Responsibilities of Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 60 days after the full execution of this Agreement and, if necessary, 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 Preliminary Approval to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or 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, 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 (as defined in Paragraph 10.2 below)

to this Agreement, PAGA 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 and otherwise satisfy the Court's concerns.

- 6.4 Notice of Settlement to LWDA. In connection with the Motion for Settlement Approval, Plaintiff's Counsel shall submit this Agreement to the LWDA pursuant to California Labor Code section 2699(1)(2). Plaintiff's Counsel shall within ten (10) days after the entry of the judgment or order approving this Settlement, submit the order approving the Settlement to the LWDA pursuant to California Labor Code section 2699(1)(3).

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected APEX to serve as the Administrator and 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 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 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.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE.** Defendant estimated that as of March 25, 2024, there were 61 Aggrieved Employees that collectively worked approximately 1,440 Pay Periods during the PAGA Period. In the event the number of pay periods worked increases by more than 10%, or more than 1,584 pay periods worked, then Defendant shall, at its option, either (a) increase the Gross PAGA Settlement Amount proportionally by the pay periods in excess of the 10%; or (b) cap the PAGA Release Period as of the date the number of pay periods reaches but does not exceed 10%. Under option (a) an increase by more than 10% shall mean should the number of pay periods increase by more than 10% through the PAGA Period, this will increase the Gross PAGA Settlement Amount proportionally over the 10% increase. For example, if the number of pay periods increase by 11% through the PAGA Period, and Defendants elect option (a) set forth above, then the Gross PAGA Settlement Amount shall increase by 1%.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. 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, 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 party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the claims in the Action of Plaintiff or the Aggrieved Employees have merit or that Defendant bears any liability to Plaintiff or the Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action has merit. Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Action is not appropriate for PAGA treatment. Defendant asserts a number of defenses to the claims and denies any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action, any federal, state or local law, violating any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements, breaching any contract, violating or breaching any duty, engaging in any misrepresentation or deception, or engaging in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any document referred to or contemplated herein, nor any statements, discussions or communications, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of the Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law. Nor should this Agreement be construed as an admission that the Action was properly brought as a representative action under PAGA. There has been no final determination by any court as to the merits of the claims asserted by Plaintiff against Defendant other

than for settlement purposes only. Finally, nothing in this Agreement or in the Court's Approval Order shall be deemed a waiver of Defendant's right to enforce arbitration agreements of Aggrieved Employees in the future. 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.

10.2 Nullification of Settlement Agreement. If this Settlement Agreement is (1) not approved by the Court, fails to become effective, or is reversed, withdrawn, or in any way prevents or prohibits Defendant from obtaining a complete resolution of the Released PAGA Claims, or (2) the Court does not approve a Material Term of the Settlement ("Material Term" includes the defined Defendant, the amount of the Gross PAGA Settlement Amount; the time period of the Released PAGA Claims; and any revisions to the escalator clause contained in Paragraph 8 above):

- (a) This Settlement Agreement shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
- (b) None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action.

10.3 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.

10.4 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.

10.5 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.6 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.

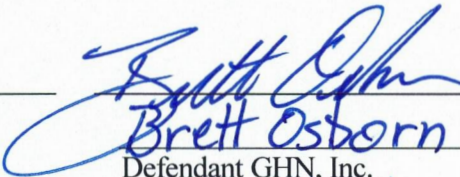
10.7 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are

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.

- 10.8 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.
- 10.9 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.10 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.
- 10.11 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.
- 10.12 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.
- 10.13 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. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant.
- 10.14 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.
- 10.15 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.
- 10.16 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 day sent by email.
- 10.17 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.

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

DocuSigned by:  5ABEBA74079C465... Plaintiff CATALINO SOTELO Dated: <u>5/22/2024</u>	 Brett Osborn For Defendant GHN, Inc. Dated: <u>5/23/24</u>
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Approved as to form:

DocuSigned by:  3B92904873A3487... Otkupman Law Firm, A Law Corporation Roman Otkupman Nidah Farishta Counsel for Plaintiff, Catalino Sotelo Dated: <u>5/22/2024</u>	 Fisher & Phillips LLP Christine Baran Counsel for Defendant, GHN, Inc. Dated: <u>5/28/2024</u>
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