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

STUART MICHAEL POPKIN, an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

BREVILLE USA, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Lead Case No. 23STCV27090
[Related Case No. 24STCV00250]

[Assigned for all purposes to the Hon. David S.
Cunningham III in Department 11]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: November 3, 2023
Trial Date: Not Set

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between
2 plaintiff Stuart Michael Popkin (“Plaintiff”), on behalf of himself and the Settlement Class, and
3 defendant Breville USA, Inc. (“Defendant”). Plaintiff and Defendant are referred to collectively as
4 the “Parties,” and individually as a “Party.”

5 **1. DEFINITIONS**

6 1.1. “Actions” means the lawsuits captioned *Popkin v. Breville USA, Inc.*, Los Angeles
7 County Superior Court Case No. 23STCV27090, and *Popkin v. Breville USA, Inc.*, Los Angeles
8 County Superior Court Case No. 24STCV00250, which are being resolved through this Settlement.

9 1.2. “Administrator” means Phoenix Settlement Administrators (“Phoenix”) the neutral
10 third-party settlement administrator selected by Plaintiff with approval of Defendant to administer
11 the Settlement consistent with the terms of this Agreement.

12 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
13 from the Gross Settlement Amount to reimburse its reasonable fees and expenses, estimated not to
14 exceed \$7,250.00, subject to Court approval.

15 1.4. “Aggrieved Employee” means all persons currently or formerly employed by
16 Defendant as non-exempt, hourly-paid employees in the State of California during the PAGA
17 Period.

18 1.5. “Class” or “Settlement Class” means all persons currently or formerly employed by
19 Defendant as non-exempt, hourly-paid employees in the State of California during the Class Period
20 (“Class Period” or “Settlement Class Period”).

21 1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law
22 Group, P.C.

23 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
24 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
25 litigation expenses, respectively, incurred to prosecute the Actions, subject to Court approval.

26 1.8. “Class Data” means Class Member identifying information in Defendant’s
27 possession, including each Class Member’s (1) name; (2) last known mailing address(es); (3) last
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known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, either as a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods, and means including, but not limited to, the National Change of Address database, skip tracing, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the Court-approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, to be mailed to Class Members in English [with a Spanish translation, if applicable], in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from November 3, 2019 through the date of Preliminary Approval.

1.13. “Class Representative” means Plaintiff Stuart Michael Popkin, the named plaintiff in the Actions seeking Court approval to serve as Class Representative.

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Actions and providing services in support of the Actions, in an amount not to exceed \$7,500.00, subject to Court approval.

1.15. “Court” means the Superior Court of the State of California, County of Los Angeles.

1.16. “Defendant” means Breville USA, Inc.

1.17. “Defense Counsel” means Robert K. Carrol and Saisruthi Paspulati of ArentFox Schiff LLP.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no

1 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one
2 or more Participating Class Members object to the Settlement, the day after the deadline for filing a
3 notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day
4 after the appellate court affirms the Judgment and issues a remittitur.

5 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

6 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final
7 Approval of the Settlement.

8 1.21. "Final Judgment" means the Judgment entered by the Court based upon Final
9 Approval.

10 1.22. "Gross Settlement Amount" or "GSA" means \$342,250.00, which is the total amount
11 Defendant agrees to pay under the Settlement, excluding employer-side payroll taxes, which shall
12 be paid separate and apart from the Gross Settlement Amount. The GSA will be used to pay
13 Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel
14 Fees, Class Counsel Expenses, the Class Representative Service Payment, and the Administrator's
15 Expenses.

16 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share
17 of the Net Settlement Amount calculated according to the number of Workweeks worked during the
18 Class Period.

19 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of
20 twenty-five percent (25%) of the PAGA Penalties, which is to be included in the payment to
21 Aggrieved Employees, calculated according to the number of PAGA Pay Periods worked during the
22 PAGA Period.

23 1.25. "Judgment" means the judgment entered by the Court based upon Final Approval.

24 1.26. "LWDA" means the California Labor and Workforce Development Agency.

25 1.27. "LWDA PAGA Payment" means seventy-five percent (75%) of the PAGA Penalties
26 paid to the LWDA under Labor Code section 2699, subdivision (i).

27 1.28. "Net Settlement Amount" means the Gross Settlement Amount less the following
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1 payments in the amounts approved by the Court: the LWDA PAGA Payment, Individual PAGA
2 Payments, the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
3 Litigation Expenses Payment, and Administration Expenses Payment. The remainder shall be paid
4 to Participating Class Members as Individual Class Payments. Any reduction by the Court of the
5 requested Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
6 Litigation Expenses Payment, Administration Expenses Payment, or PAGA allocation shall revert
7 to Participating Class Members.

8 1.29. "Non-Participating Class Member" means any Class Member who opts out of the
9 Settlement by sending the Administrator a valid and timely Request for Exclusion.

10 1.30. "Operative Complaint" means the amended complaint to be filed in the Class Action.

11 1.31. "PAGA Pay Period" means a pay period during which an Aggrieved Employee
12 worked for Defendant at least one day during the PAGA Period.

13 1.32. "PAGA Period" means the period from November 3, 2022 through the end of the
14 Class Period.

15 1.33. "PAGA" means the Labor Code Private Attorneys General Act of 2004, Labor Code
16 sections 2698, et seq.

17 1.34. "PAGA Notice" means Plaintiff's November 3, 2023 letter to Defendant and the
18 Labor and Workforce Development Agency ("LWDA") providing notice.

19 1.35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from
20 the Gross Settlement Amount, allocated seventy-five percent (75%) to the LWDA and twenty-five
21 percent (25%) to Aggrieved Employees, totaling \$34,200.00 in settlement of PAGA claims.

22 1.36. "Participating Class Member" means a Class Member who does not submit a valid
23 and timely Request for Exclusion from the Settlement.

24 1.37. "Plaintiff" means Stuart Michael Popkin, the named plaintiff in the Actions.

25 1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of
26 the Settlement.

27 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary
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1 Approval of the Settlement.

2 1.40. "Released Class Claims" means the claims being released as described in Paragraph
3 5.2 below.

4 1.41. "Released PAGA Claims" means the claims being released as described in Paragraph
5 5.3 below.

6 1.42. "Released Parties" means Defendant and each of its past, present, and future agents,
7 employees, officers, directors, partners, trustees, representatives, shareholders, attorneys, parents,
8 subsidiaries, related companies, corporations and/or partnerships, assigns, predecessors, successors,
9 insurers, joint employers, alleged joint employers, and affiliated organizations, and all of their
10 respective past, present, and future employees, directors, officers, agents, attorneys, stockholders,
11 fiduciaries, parents, subsidiaries, and assigns, as may be further modified in this Agreement if an
12 omission is identified.

13 1.43. "Request for Exclusion" means a Class Member's submission of a written request to
14 be excluded from the Class Settlement signed by the Class Member.

15 1.44. "Response Deadline" means forty-five (45) calendar days after the Administrator
16 first mails the Class Notice to Class Members and shall be the last date on which Class Members
17 may submit Requests for Exclusion from the Settlement or objections to the Settlement.

18 1.45. "Settlement" means the disposition of the Actions effected by this Agreement and
19 the Judgment.

20 1.46. "Workweek" means any week during which a Class Member worked for Defendant
21 at least one day during the Class Period, based on hire date(s), termination date(s), and re-hire
22 date(s).

23 **2. RECITALS**

24 2.1. On November 3, 2023, Plaintiff commenced a wage-and-hour class action lawsuit
25 captioned *Popkin v. Breville USA, Inc.*, Los Angeles County Superior Court Case No.
26 23STCV27090 (the "Class Action"), alleging claims for, among other things, failure to pay
27 minimum wages, failure to pay overtime wages, failure to pay double-time wages, failure to provide
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1 meal periods, failure to authorize and permit rest periods, failure to pay missed-break premiums,
2 failure to reimburse business expenses, failure to timely pay final wages, failure to furnish accurate
3 itemized wage statements, failure to pay interest on deposits, failure to indemnify, and unfair
4 competition. Defendant denies the allegations in the Class Action, denies any failure to comply
5 with the laws identified in in the Class Action, and denies any and all liability for the causes of
6 action alleged.

7 2.2. Pursuant to Labor Code section 2699.3, subdivision (a), on November 3, 2023,
8 Plaintiff provided written notice to Defendant and the California Labor and Workforce Development
9 Agency (“LWDA”) regarding the alleged Labor Code violations. Thereafter, Plaintiff commenced
10 a separate representative action captioned *Popkin v. Breville USA, Inc.*, Los Angeles County
11 Superior Court Case No. 24STCV00250 (the “PAGA Action”), seeking civil penalties under the
12 California Labor Code Private Attorneys General Act of 2004 (“PAGA”). Defendant denies the
13 allegations in the PAGA Action, denies any failure to comply with the laws identified in in the
14 PAGA Action, and denies any and all liability for the causes of action alleged.

15 2.3. On July 24, 2025, the Parties participated in an all-day private mediation before
16 mediator Hon. Brian C. Walsh (Ret.) in an effort to resolve the Actions, and thereafter continued
17 settlement discussions. Those efforts ultimately resulted in the Parties reaching an agreement to
18 resolve the Actions on a class and PAGA basis.

19 2.4. Prior to agreeing to settle, Plaintiff and Class Counsel conducted an investigation and
20 evaluated the merits of the claims and defenses, including by reviewing relevant facts, analyzing the
21 applicable law, and assessing the risks, expense, and delay of further litigation. Plaintiff and Class
22 Counsel also obtained and reviewed sufficient information to permit an informed evaluation of the
23 merits of the Actions and the fairness of the Settlement in accordance with *Dunk v. Foot Locker*
24 *Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168
25 Cal.App.4th 116, 129-130.

26 2.5. The Court has not granted class certification. Defendant has agreed to conditionally
27 stipulate to certification of the Class for settlement purposes only, without waiving any defenses or
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arguments against certification for any purpose in any other context. If the Court does not grant Preliminary Approval and Final Approval of the Settlement, for any reason, the stipulation to certify the Class shall be extinguished.

2.6. The Parties agree to stipulate to the filing of an amended complaint, in the Class Action or, to include the claims asserted in the PAGA action for purposes of effectively consolidating the two actions. That amended complaint shall be the “Operative Complaint.”

2.7. The Parties, Class 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 \$342,250.00 and no more as the Gross Settlement Amount (“GSA”) and to separately pay any and all employer payroll taxes owed on the wage portions of the Individual Class Payments. Defendant has no obligation to pay the GSA (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire GSA without requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the GSA will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: A Class Representative Service Payment to Plaintiff in an amount not to exceed \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment to which Plaintiff is entitled as a Participating Class Member). Defendant will not oppose Plaintiff’s request for a Class Representative Service Payment that does not exceed this amount. If the Court approves a lesser amount, the remainder shall be distributed to Participating Class Members. The Administrator shall issue the payment via IRS Form 1099, and Plaintiff assumes

responsibility for any associated tax obligations.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than thirty-five percent (35%) of the Gross Settlement Amount, which, unless increased pursuant to paragraph 8.1, is currently estimated to be \$119,875.00, and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendant will not oppose requests that do not exceed these amounts. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either of the Parties or request for additional consideration from either of the Parties for such work unless, one of the Parties materially breach this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel or Defense Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Notwithstanding the foregoing, no Party shall be deemed in material breach of this Agreement unless and until the non-breaching Party has (a) delivered written notice of the alleged breach to the breaching Party, specifically identify the provision(s) of this Agreement alleged to have been breached and the factual basis for such claim, delivered to the breaching Party's counsel by both email and United States Mail, and (b) the breaching Party has failed

1 to cure such alleged breach within thirty (30) days following receipt of such written
2 notice (the "Cure Period"). During the Cure Period, neither Party shall initiate any
3 action before the Court or otherwise seek judicial intervention to enforce or remedy
4 the alleged breach. In no event shall either of the Parties be liable for any additional
5 fees, costs, or expenses arising from or related to any dispute regarding the
6 interpretation or performance of this Agreement unless such fees are expressly
7 authorized by the Court upon a finding that Plaintiff or Defendant has breached a
8 material, enumerated obligation under this Agreement. Any request for additional
9 compensation by either of the Parties must be supported by contemporaneous
10 documentation demonstrating the necessity of such work and shall be subject to
11 approval by the Court prior to any obligation of payment by either Party.

12 3.2.3. To the Administrator: An Administration Expenses Payment in the amount
13 approved by the Court, estimated not to exceed \$7,250.00. Any unapproved or
14 unused portion shall be distributed to Participating Class Members.

15 3.2.4. To Each Participating Class Member: An Individual Class Payment
16 calculated by (a) dividing the Net Settlement Amount by the total number of
17 Workweeks worked by all Participating Class Members during the Class Period and
18 (b) multiplying the result by each Participating Class Member's Workweeks.

19 3.2.4.1. Tax Allocation of Individual Class Payments. Twenty percent
20 (20%) of each Participating Class Member's Individual Class Payment will
21 be allocated to wages (the "Wage Portion"). The Wage Portion is subject
22 to applicable tax withholdings and will be reported on an IRS Form W-2.
23 The remaining eighty percent (80%) of each Participating Class Member's
24 Individual Class Payment will be allocated to penalties, interest, and any
25 other non-taxable items (the "Non-Wage Portion") and will be reported on
26 an IRS Form 1099. Participating Class Members assume full responsibility
27 and liability for any taxes owed on their Individual Class Payment.
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3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the total amount of \$34,200.00, to be paid from the GSA, with seventy-five percent (75%) (\$25,650.00) allocated to the LWDA and twenty-five percent (25%) (\$8,550.00) allocated to Aggrieved Employees. Because Aggrieved Employees are a subset of the Class, the Aggrieved Employees' twenty-five percent (25%) share shall be distributed by the Administrator to Aggrieved Employees (including Aggrieved Employees who submit valid Requests for Exclusion) as part of the settlement payments mailed to Class Members, without any claims process.

3.2.5.1. The Administrator shall calculate Individual PAGA Payments by dividing the Aggrieved Employees' twenty-five percent (25%) share of the PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and multiplying the result by each Aggrieved Employee's PAGA Pay Periods worked during the PAGA Period. Individual PAGA Payments shall be reported on IRS Form 1099.

3.2.5.2. If the Court approves PAGA Penalties in an amount less than the amount requested, the Administrator will allocate the remainder to Participating Class Members on a pro rata basis as part of the Individual Class Payments. The Administrator will report the Individual PAGA Payments on IRS Form 1099s.

4. **SETTLEMENT FUNDING AND PAYMENTS**

4.1. Class Workweeks and Aggrieved Employee Workweeks. Based on a review of its

1 records to date, Defendant estimates there are 125 Class Members who collectively worked a total
2 of 13,827 Workweeks, and 98 Aggrieved Employees who worked a total of 3,685 PAGA Pay
3 Periods.

4 4.2. Class Data. Not later than thirty (30) calendar days after the Court grants Preliminary
5 Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form
6 of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator shall
7 maintain the Class Data in confidence, use the Class Data solely for purposes of this Settlement and
8 for no other purpose, and restrict access to the Class Data to Administrator employees who
9 reasonably need access to the Class Data to effectuate and perform under this Agreement. Defendant
10 has a continuing duty to promptly notify Class Counsel if it discovers that the Class Data omitted
11 Class Member identifying information and to provide corrected or updated Class Data as soon as
12 reasonably feasible. Without extending the deadline by which Defendant must send the Class Data
13 to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith,
14 to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

15 4.3. Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement
16 Amount within fourteen (14) days of the Effective Date and shall also pay Defendant's share of
17 payroll taxes owed on the wage portion of the settlement separate and apart from the Gross
18 Settlement Amount.

19 4.4. Payments from the Gross Settlement Amount. Within fourteen days (14) days after
20 Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual
21 Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
22 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
23 Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees
24 Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service
25 Payment shall not precede disbursement of Individual Class Payments and Individual PAGA
26 Payments.

27 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
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1 Individual PAGA Payments and send them to the Class Members via First Class
2 U.S. Mail, postage prepaid. The face of each check shall prominently state the date,
3 one hundred eighty (180) calendar days after the date of mailing, when the check
4 will be voided. The Administrator will cancel all checks not cashed by the void date.
5 The Administrator will send checks for Individual Class Payments to all
6 Participating Class Members (including those for whom Class Notice was returned
7 undelivered). The Administrator will send checks for Individual PAGA Payments
8 to all Aggrieved Employees including Non-Participating Class Members who
9 qualify as Aggrieved Employees (including those for whom Class Notice was
10 returned undelivered). The Administrator may send Participating Class Members a
11 single check combining the Individual Class Payment and the Individual PAGA
12 Payment. Before mailing any checks, the Administrator must update the recipients'
13 mailing addresses using the National Change of Address Database.

14 4.4.2. The Administrator must conduct a Class Member Address Search for all other
15 Class Members whose checks are returned undelivered without United States Postal
16 Service ("USPS") forwarding address. Within seven (7) days of receiving a returned
17 check, the Administrator must re-mail checks to the USPS forwarding address
18 provided or to an address ascertained through the Class Member Address Search.
19 The Administrator need not take further steps to deliver checks to Class Members
20 whose re-mailed checks are returned as undelivered. The Administrator shall
21 promptly send a replacement check to any Class Member whose original check was
22 lost or misplaced, upon request by the Class Member prior to the void date.

23 4.4.3. For any Class Member whose Individual Class Payment check and/or
24 Individual PAGA Payment check is uncashed and cancelled after the void date, the
25 Administrator shall transmit the funds represented by such check(s) to the California
26 Controller's Unclaimed Property Fund in the name of the Class Member, consistent
27 with applicable law.
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1 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments
2 shall not obligate Defendant to confer any additional benefits or make any additional
3 payments to Class Members, such as 401(k) contributions or bonuses, beyond those
4 specified in this Agreement.

5 **5. RELEASE OF CLAIMS**

6 Effective as of the date of Judgment and after Defendant funds all amounts due under the
7 terms of the Settlement, Plaintiff, Participating Class Members, and Aggrieved Employees will
8 release claims against the Released Parties as set forth below:

9 5.1. Plaintiff's Release. Plaintiff, on behalf of himself and his respective former and
10 present representatives, spouse, agents, attorneys, heirs, administrators, successors, and assigns,
11 generally release and discharge the Released Parties, from any and all claims, known and unknown,
12 transactions, or occurrences under federal, state, and/or local law, statute, ordinance, regulation,
13 common law, or other source of law ("Plaintiff's Released Claims"). Plaintiff's Released Claims
14 include, but are not limited to, all claims arising from or related to the facts and claims alleged in
15 the Actions, or that could have been raised in the Actions based on the facts and claims alleged in
16 the Operative Complaint or the PAGA Notice or based on any facts discovered in the course of
17 litigating the Actions. Plaintiffs' Released Claims include all claims for unpaid wages, including,
18 but not limited to, failure to pay minimum wages, straight time compensation, overtime, double-
19 time, and interest; the calculation of the regular rate of pay; missed meal period and rest period
20 premiums, including failure to pay premiums at the regular rate of compensation; reimbursement
21 for all necessary business expenses; payment for all hours worked, including off-the-clock work;
22 wage statements; deductions; failure to keep accurate records; unfair business practices; penalties,
23 including, but not limited to, civil penalties, statutory penalties, recordkeeping penalties, wage
24 statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and
25 costs. Plaintiff's Released Claims include all claims arising under the California Labor Code
26 (including, but not limited to, sections 201, 202, 203, 204 *et seq.*, 210, 213, 218.5, 221, 223, 226,
27 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
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1 2698 *et seq.*, 2800, and 2802); all claims arising under: the Wage Orders of the California Industrial
2 Welfare Commission; California Business and Professions Code sections 17200, *et seq.*; the
3 California Civil Code, to include but not limited to, sections 3287, 3336, and 3294; California Code
4 of Civil Procedure section 1021.5; the California common law of contract; the Fair Labor Standards
5 Act; 29 CFR 778.315; 29 CFR 778.223; and the Employee Retirement Income Security Act
6 (“ERISA”). Plaintiffs’ Released Claims also include all claims for emotional distress, retaliation,
7 punitive damages, and attorneys’ fees and costs arising under federal, state, or local laws for
8 discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only,
9 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities
10 Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing
11 Act; and the law of contract and tort. This release excludes the release of claims not permitted by
12 law.

13 5.1.1. Plaintiff’s Waiver of Rights Under California Civil Code Section 1542.

14 Plaintiff’s Released Claims include all claims, whether known or unknown. Even if
15 Plaintiff discovers facts in addition to or different from those that he now knows or
16 believes to be true with respect to the subject matter of Plaintiff’s Released Claims,
17 those claims will remain released and forever barred. Thus, Plaintiff expressly
18 waives and relinquishes the provisions, rights, and benefits of section 1542 of the
19 California Civil Code, which reads:

20 “A general release does not extend to claims that the creditor or releasing party does
21 not know or suspect to exist in his or her favor at the time of executing the release
22 and that, if known by him or her, would have materially affected his or her
settlement with the debtor or released party.”

23 5.2. Release by Participating Class Members: All Participating Class Members, on behalf
24 of themselves and their respective former and present representatives, spouses, agents, attorneys,
25 heirs, administrators, successors, and assigns, fully and finally release Defendant and the Released
26 Parties from all claims that were alleged, or could have been alleged based on the facts asserted, in
27 the Operative Complaint, as amended, that could have been raised in the Actions based on the facts
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1 and claims alleged, or based on any facts discovered in the course of litigating the Actions (“Class
2 Released Claims”). The Class Released Claims include, but are not limited to, all claims for failure
3 to pay minimum wages, including claims for off-the-clock work; failure to pay overtime
4 compensation, including any failure to properly calculate the regular rate, as well as any claims for
5 off-the-clock work; failure to pay double-time wages; failure to provide meal periods; failure to
6 authorize and permit rest breaks; failure to pay missed-break premiums, including failure to pay
7 missed-break premiums at the regular rate of compensation; failure to indemnify for business
8 expenses; failure to timely pay final wages upon termination; failure to provide accurate itemized
9 wage statements; and unfair business practices. The Class Released Claims include all claims,
10 including all claims for fees or costs, arising under the Labor Code (including, but not limited to,
11 sections 201, 202, 203, 204 *et seq.*, 210, 213, 218.5, 221, 223, 226, 226.3, 226.7, 510, 512, 558,
12 558.1, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800, and 2802)
13 asserted in the Operative Complaint, as amended, as well as all related claims arising under: the
14 applicable Wage Orders of the Industrial Welfare Commission; Business and Professions Code
15 section 17200, *et seq.*; 8 CCR §§ 11070, 11040; and Code of Civil Procedure section 1021.5. The
16 Class Released Claims include all claims for interest, costs, attorneys’ fees, and penalties based on
17 the claims pled in the Operative Complaint, as amended. The Class Released Claims are limited to
18 the Settlement Class Period.

19 5.3. Release by Aggrieved Employees: All Aggrieved Employees, including those
20 individuals who timely and effectively exclude themselves from the Class Released Claims, shall
21 nevertheless be bound by the Released PAGA Claims and shall receive a pro rata portion of the
22 twenty-five percent (25%) of the PAGA penalties. All Aggrieved Employees, on behalf of
23 themselves and their respective former and present representatives, spouses, agents, attorneys, heirs,
24 administrators, successors, and assigns, fully and finally release Defendant and the Released Parties
25 from all claims for civil penalties under PAGA that were alleged, or could have been alleged based
26 on the facts asserted in the Operative Complaint, as amended, and/or in the PAGA Notice. The
27 Released PAGA Claims include, but are not limited to, civil penalties under PAGA for failure to
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1 pay minimum wages, including claims for off-the-clock work; failure to pay overtime
2 compensation, including any failure to properly calculate the regular rate, as well as any claims for
3 off-the-clock work; failure to pay double-time wages; failure to provide meal periods; failure to
4 authorize and permit rest breaks; failure to pay missed-break premiums, including failure to pay
5 missed-break premiums at the regular rate of compensation; failure to indemnify for business
6 expenses; failure to timely pay final wages upon termination; and failure to provide accurate
7 itemized wage statements. The Released PAGA Claims include all claims arising under the Labor
8 Code asserted in the Operative Complaint, as amended, (including claims arising under sections
9 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
10 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800, 2802, and 2698 *et seq.*, and 2699 *et seq.*) and
11 all claims for violations of the applicable Wage Orders of the Industrial Welfare Commission. The
12 Released PAGA Claims are limited to the PAGA Period.

13 **6. MOTION FOR PRELIMINARY APPROVAL**

14 The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for
15 Preliminary Approval”) that complies with the Court’s applicable rules and any current checklist or
16 guidance for preliminary approval of PAGA settlements.

17 6.1. Defendant’s Declaration in Support of Preliminary Approval. Within twenty-one
18 (21) days of the full execution of this Agreement, Defendant will prepare and deliver to Class
19 Counsel signed declarations from Defendant and Defense Counsel disclosing all facts relevant to
20 any actual or potential conflicts of interest with the Administrator. In their declarations, Defense
21 Counsel and Defendant shall further aver that they are not aware of any other pending matter or
22 action asserting claims that will be extinguished or adversely affected by the Settlement.

23 6.2. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
24 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice and
25 memorandum in support of the Motion for Preliminary Approval that includes an analysis of the
26 Settlement under *Dunk* and *Kullar* and a request for approval of the PAGA Settlement under Labor
27 Code section 2699, subdivision (s)(2); (ii) a draft proposed Order Granting Preliminary Approval
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1 and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration
2 from the Administrator attaching its “not to exceed” bid for administering the Settlement and
3 attesting to its willingness to serve; competency; operative procedures for protecting the security of
4 Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
5 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members
6 and Aggrieved Employees; and the nature and extent of any financial relationship with Plaintiff,
7 Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness
8 and competency to serve and disclosing all facts relevant to any actual or potential conflicts of
9 interest with Class Members and Aggrieved Employees or the Administrator and further averring
10 that he is not aware of any other pending matter or action asserting claims that will be extinguished
11 or adversely affected by the Settlement; (vi) a signed declaration from each Class Counsel firm
12 attesting to its competency to represent the Class Members and Aggrieved Employees and to its
13 timely transmission to the LWDA of all necessary PAGA documents, including the initial notice of
14 violations (Lab. Code, § 2699.3, subd. (a)), the operative complaint (Lab. Code, § 2699, subd.
15 (l)(1)), and this Agreement (Lab. Code, § 2699, subd. (l)(2)), and the Operative Complaint; (vii) a
16 redlined version of the Parties’ Agreement showing all material modifications made to prior drafts
17 of the Agreement; and (viii) declarations averring that Plaintiff and Class Counsel are not aware of
18 any other pending matter or action asserting claims that will be extinguished or adversely affected
19 by the Settlement.

20 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
21 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than
22 sixty (60) days after full execution of this Agreement, obtaining a hearing date for the Motion for
23 Preliminary Approval, and appearing in Court to advocate in favor of Preliminary Approval. Class
24 Counsel is responsible for providing the Administrator with a copy of the Court’s Preliminary
25 Approval Order.

26 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
27 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
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1 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
2 conferring, and in good faith, to resolve the disagreement. Any dispute between the Parties as to the
3 remaining terms of the Settlement shall be presented to the Court for resolution only after first
4 attempting to resolve the matter with the mediator. If the Court does not grant Preliminary Approval
5 or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and
6 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
7 conferring, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8 7. **SETTLEMENT ADMINISTRATION**

9 7.1. Selection of Administrator. Plaintiff has selected Phoenix Settlement Administrators
10 ("Phoenix") to serve as the Settlement Administrator ("Administrator"), and Defendant does not
11 object to such selection. The Parties have verified that, as a condition of appointment, Phoenix
12 agrees to be bound by this Agreement and to perform all duties specified in this Agreement in
13 exchange for payment of Administration Expenses. The Parties and their Counsel represent that they
14 have no interest or relationship, financial or otherwise, with the Administrator other than a
15 professional relationship arising out of prior experiences administering settlements.

16 7.2. Employer Identification Number. The Administrator shall have and use its own
17 Employer Identification Number for purposes of calculating tax reporting and providing reports to
18 state and federal tax authorities.

19 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that
20 meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation
21 section 468B-1.

22 7.4. Notice to Class Members

23 7.4.1. No later than three (3) business days after receipt of the Class Data, the
24 Administrator shall notify Class Counsel and Defense Counsel that the data has been
25 received and shall report the total number of Class Members, total number of Class
26 Period Workweeks, total number of Aggrieved Employees, and total number of
27 PAGA Pay Periods reflected in the data.
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1 7.4.2. Using best efforts to perform as soon as possible, and in no event later than
2 14 calendar days after receiving the Class Data, after receiving the Class Data, the
3 Administrator will send to all Class Members identified in the Class Data, via first-
4 class United States Postal Service (“USPS”) mail, the Class Notice, with Spanish
5 translation if applicable, substantially in the form attached to this Agreement as
6 Exhibit A. The Class Notice shall prominently set forth the estimated amount of
7 each Class Member’s Individual Class Payment, the estimated amount of any
8 Individual PAGA Payment, the number of Class Period Workweeks attributed to
9 that individual, the number of PAGA Pay Periods attributed to that individual, and
10 the procedures and deadlines for requesting exclusion, objecting, or disputing the
11 calculations. Before mailing the Class Notice, the Administrator shall update
12 mailing addresses using the National Change of Address database.

13 7.4.3. Not later than three (3) business days after the Administrator’s receipt of any
14 Class Notice returned by the USPS as undelivered, the Administrator shall re-mail
15 the Class Notice using any forwarding address provided by the USPS. If the USPS
16 does not provide a forwarding address, the Administrator shall conduct a skip trace
17 and re-mail the Class Notice to the most current address obtained. The
18 Administrator has no obligation to make further attempts to locate Class Members
19 whose Class Notice is returned by the USPS a second time.

20 7.4.4. If the Administrator, Defendant, or Class Counsel becomes aware of any
21 person who reasonably appears to have been omitted from the Class Data but who
22 may qualify as a Class Member or Aggrieved Employee, the Parties shall promptly
23 meet and confer in good faith to determine whether such person should be included.
24 If the Parties agree that the person qualifies, such persons will be Class Members
25 entitled to the same rights as other Class Members, the Administrator shall mail a
26 Class Notice to that person, via email or overnight delivery, a Class Notice requiring
27 them to exercise options under this Agreement not later than 14 calendar days after
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1 receipt of Class Notice, or the deadline dates in the Class Notice, whichever are
2 later.

3 7.4.5. Each Class Member shall have forty-five (45) days after the Administrator
4 first mails the Class Notice to dispute the number of Class Period Workweeks and/or
5 PAGA Pay Periods attributed to that individual, to request exclusion from the Class
6 Settlement, or to object to the Settlement. Any dispute must be submitted to the
7 Administrator by mail or email and should include supporting documentation. In
8 the absence of documentation demonstrating a discrepancy, the Administrator may
9 rely on Defendant's payroll records. The Administrator shall promptly provide
10 copies of any disputes, requests for exclusion, or objections to Defense Counsel and
11 Class Counsel.

12 7.5. Requests for Exclusion (Opt-Outs)

13 7.5.1. Class Members who wish to exclude themselves from (i.e., opt-out of) the
14 Class Settlement must send the Administrator, by fax, email, or mail, a signed written
15 Request for Exclusion not later than 60 calendar days after the Administrator mails
16 the Class Notice (plus an additional 14 calendar days for Class Members whose Class
17 Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or
18 his/her representative that reasonably communicates the Class Member's election to
19 be excluded from the Settlement and includes the Class Member's name, address,
20 and email address or telephone number. To be valid, a Request for Exclusion must
21 be timely faxed, emailed, or postmarked by the Response Deadline.

22 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because
23 it fails to contain all the information specified in the Class Notice. The Administrator
24 shall accept any Request for Exclusion as valid if the Administrator can reasonably
25 ascertain the identity of the person as a Class Member and the Class Member's desire
26 to be excluded. The Administrator's determination shall be final and not appealable
27 or otherwise susceptible to challenge. If the Administrator has reason to question the
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1 authenticity of a Request for Exclusion, the Administrator may demand additional
2 proof of the Class Member's identity. The Administrator's determination of
3 authenticity shall be final and not appealable or otherwise susceptible to challenge.

4 7.5.3. Every Class Member who does not submit a timely and valid Request for
5 Exclusion is deemed to be a Participating Class Member under this Agreement,
6 entitled to all benefits and bound by all terms and conditions of the Settlement,
7 including the Participating Class Members' Releases under Paragraph 5.2 and 5.3 of
8 this Agreement, regardless whether the Participating Class Member actually receives
9 the Class Notice or objects to the Settlement.

10 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion
11 is a Non-Participating Class Member and shall not receive an Individual Class
12 Payment or have the right to object to the class action components of the Settlement.
13 Because future PAGA claims are subject to claim preclusion upon entry of the
14 Judgment, Non-Participating Class Members who are PAGA Group Members are
15 deemed to release the claims identified in Paragraph 5.3 of this Agreement and are
16 eligible for an Individual PAGA Payment. PAGA Group Members are unable to
17 exclude themselves from the PAGA Settlement, even if they have excluded
18 themselves from the Class Settlement and, thus, are Non-Participating Class
19 Members.

20 7.6. Challenges to Calculation of Workweeks and/or PAGA Pay Periods. Each Class
21 Member and PAGA Group Member shall have 60 calendar days after the Administrator mails the
22 Class Notice (plus an additional 14 calendar days for Class Members whose Class Notice is re-
23 mailed) to challenge the number of Class Workweeks and/or PAGA Pay Periods (if any) allocated
24 in the Class Notice. The Class Member or PAGA Group Member may challenge the allocation by
25 communicating with the Administrator via fax, email, or mail. The Administrator must encourage
26 the challenging Class Member or PAGA Group Member to submit supporting documentation. In
27 the absence of any contrary documentation, the Administrator is entitled to presume that the
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1 Workweeks contained in the Class Notice are correct, so long as they are consistent with the Class
2 Data. The Administrator's determination of each Class Member's allocation of Workweeks and
3 each PAGA Group Member's allocation of PAGA Pay Periods shall be final and not appealable or
4 otherwise susceptible to challenge. The Administrator shall promptly provide copies of all
5 challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class
6 Counsel and the Administrator's determination of the challenges

7 7.7. Objections to Settlement

8 7.7.1. Only Participating Class Members may object to the class action components
9 of the Settlement and/or this Agreement, including contesting the fairness of the
10 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
11 Counsel Litigation Expenses Payment, and/or Class Representative Service
12 Payment.

13 7.7.2. Participating Class Members may send written objections to the
14 Administrator, by fax, email, or mail. In the alternative, Participating Class Members
15 may appear in Court (or hire an attorney to appear in Court) to present verbal
16 objections at the Final Approval Hearing. A Participating Class Member who elects
17 to send a written objection to the Administrator must do so not later than 60 calendar
18 days after the Administrator's mailing of the Class Notice (plus an additional 14
19 calendar days for Class Members whose Class Notice was re-mailed).

20 7.7.3. Non-Participating Class Members have no right to object to any of the class
21 action components of the Settlement. PAGA Group Members are unable to object to
22 the PAGA Settlement, regardless of whether they are Participating Class Members
23 or Non-Participating Class Members

24 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks
25 to be performed or observed by the Administrator contained in this Agreement or otherwise.

26 7.8.1. Website, Email Address and Toll-Free Number. The Administrator shall
27 establish and maintain a settlement website and toll-free telephone number to
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1 provide information regarding the Settlement, including the date, time, and location
2 for the Final Approval Hearing. The website shall include copies of the Settlement
3 Agreement, the Motion for Preliminary Approval, the Court’s Preliminary Approval
4 Order, the Class Notice, the Motion for Final Approval, and the Court’s Final
5 Approval Order and Judgment. The Administrator shall also maintain an email
6 address to receive communications regarding the Settlement.

7 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
8 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
9 Not later than 5 calendar days after the expiration of the deadline for submitting
10 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
11 Defense Counsel containing (a) the names and other identifying information of
12 Class Members who have timely submitted valid Requests for Exclusion
13 (“Exclusion List”); (b) the names and other identifying information of Class
14 Members who have submitted invalid Requests for Exclusion; (c) copies of all
15 Requests for Exclusion from Settlement submitted (whether valid or invalid).

16 7.8.3. Weekly Reports. The Administrator shall provide weekly written reports to
17 Class Counsel and Defense Counsel summarizing settlement administration
18 activities, including the number of Class Notices mailed and re-mailed, Class
19 Notices returned as undeliverable, Requests for Exclusion received, objections
20 received, and any workweek or pay-period disputes received or resolved, and checks
21 mailed for Individual Class Payments and Individual PAGA Payments (“Weekly
22 Report”). The Weekly Reports must include the Administrator’s assessment of the
23 validity of Requests for Exclusion and attach copies of all Requests for Exclusion
24 and objections received.

25 7.8.4. Pay-Period Disputes. The Administrator shall have authority to address
26 disputes over the calculation of PAGA Pay Periods in accordance with this
27 Agreement.
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1 7.8.5. Administrator's Declaration. Before the date on which Plaintiff must file the
2 Motion for Final Approval of the Settlement, the Administrator shall provide Class
3 Counsel and Defense Counsel with a declaration suitable for filing with the Court
4 attesting to its due diligence and compliance with its obligations under this
5 Agreement, including the mailing of Class Notices, returned mail, re-mailing
6 efforts, attempts to locate Class Members, Requests for Exclusion received,
7 objections received, and any workweek or pay-period disputes received and
8 resolved. The declaration will also attach the Exclusion List. The Administrator will
9 supplement its declaration as needed or requested by the Parties and/or the Court.
10 Class Counsel shall file the Administrator's declaration with the Court.

11 7.8.6. Final Report by Settlement Administrator. Within 10 calendar days after the
12 Administrator disburses all funds in the Gross Settlement Amount, the
13 Administrator will provide Class Counsel and Defense Counsel with a final report
14 detailing its disbursements, by employee identification number only, of all
15 payments made under this Agreement. Not later than fourteen (14) days before the
16 deadline for filing the Motion for Final Approval, the Administrator shall provide a
17 final declaration suitable for filing with the Court summarizing all settlement
18 administration activities, including mailing of Class Notices, returned mail, re-
19 mailing efforts, Requests for Exclusion, objections, workweek and pay-period
20 disputes, and distribution readiness. The Administrator shall supplement its
21 declaration as necessary or as requested by the Parties or the Court. Class Counsel
22 is responsible for filing the Administrator's declaration in Court.

23 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

24 Based on a review of its records to date, Defendants estimate there are 125 Class Members
25 who collectively worked a total of 13,827 Workweeks, and 98 of Aggrieved Employees who worked
26 a total of 3,685 PAGA Pay Periods.

27 8.1. Increase in Workweeks. Defendant estimates that, as of the date of mediation, Class
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1 Members worked 13,827 workweeks during the Class Period. In the event the number of
2 workweeks during the Class Period increases by more than 10%, or 1,383 workweeks, then
3 Defendant shall have the option to either end the Class Period as of the date that the workweeks
4 reach 15,210 or increase the GSA on a proportional basis equal to the percentage increase in the
5 workweeks above 10% (i.e., if there is a 12% increase in the number of workweeks during the
6 Settlement Class Period, Defendant has the option to increase the GSA by 2% to cover the entire
7 Class Period). The workweek value shall be calculated by dividing the GSA by 13,827. The Parties
8 agree that the workweek value amounts to \$25.00 per workweek ($\$342,250 / 13,827$ workweeks).

9 **9. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for
10 Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant
11 may elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the
12 Settlement shall be void ab initio and have no force or effect whatsoever, and neither Party will have
13 any further obligation to perform under this Agreement; provided, however, Defendant will remain
14 responsible for paying all Settlement Administration Expenses incurred to that point. Defendant
15 must notify Class Counsel and the Court of its election to withdraw not later than seven (7) calendar
16 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will
17 have no effect.

18 **10. MOTION FOR FINAL APPROVAL**

19 Plaintiff will file in Court a motion for final approval of the Settlement that includes a request
20 for approval of the PAGA settlement under Labor Code section 2699, subdivision (l), a Proposed
21 Final Approval Order and a proposed Judgment (collectively, the “Motion for Final Approval”).
22 Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior
23 to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet
24 and confer in person or by telephone, and in good faith, to resolve any disagreements concerning
25 the Motion for Final Approval.

26 **10.1. Response to Objections.** Each Party retains the right to respond to any objection
27 raised by a Participating Class Member, including the right to file responsive documents in Court
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1 no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
2 by the Court.

3 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
4 Approval on any material change to the Settlement (including, but not limited to, the scope of release
5 to be granted by Class Members), the Parties will expeditiously work together in good faith to
6 address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The
7 Court's decision to award less than the amounts requested for the Class Representative Service
8 Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, or
9 Administrator Expenses Payment shall not constitute a material modification to the Agreement
10 within the meaning of this paragraph.

11 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,
12 the Court will retain jurisdiction over the Parties, the Actions, and the Settlement solely for purposes
13 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
14 and (iii) addressing such post-Judgment matters as are permitted by law.

15 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
16 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
17 Counsel Litigation Expenses Payment set forth in this Settlement, the Parties and their respective
18 counsel, and all Participating Class Members who did not object to the Settlement as provided in
19 this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment
20 and appellate proceedings, the right to file motions to vacate judgment, motions for new trial,
21 extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to
22 oppose such motions, writs, or appeals. If an objector appeals the Judgment, the Parties' obligations
23 to perform under this Agreement will be suspended until such time as the appeal is finally resolved
24 and the Judgment becomes final, except as to matters that do not affect the amount of the Net
25 Settlement Amount.

26 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
27 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
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1 modification of this Agreement (including, but not limited to, the scope of release to be granted by
2 Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously
3 work together in good faith to address the appellate court's concerns and to obtain Final Approval
4 and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses
5 reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's
6 award of the Class Representative Service Payment or any payments to Class Counsel shall not
7 constitute a material modification of the Judgment within the meaning of this paragraph, as long as
8 the Gross Settlement Amount remains unchanged.

9 **11. AMENDED JUDGMENT**

10 If the Court requires any amended judgment or additional filing to effectuate the
11 transmission of uncashed settlement checks to the California Controller's Unclaimed Property Fund
12 consistent with this Agreement and applicable law, the Parties will work together in good faith to
13 jointly submit a proposed amended judgment or other appropriate filing.

14 **12. ADDITIONAL PROVISIONS**

15 12.1. No Admission of Liability, Class Certification or Representative Manageability for
16 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
17 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
18 any of the allegations in the Operative Complaint or the PAGA Notice have merit or that Defendant
19 has any liability for any claims asserted; nor should it be intended or construed as an admission by
20 Plaintiff that Defendant's defenses in the Actions have merit. The Parties agree that class
21 certification and representative treatment are for purposes of this Settlement only. If, for any reason,
22 the Court does not grant Preliminary Approval, Final Approval, or enter Judgment, Defendant
23 reserves the right to contest certification of any class for any reason and reserve all available
24 defenses to the claims in the Actions, and Plaintiff reserves the right to move for class certification
25 on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and
26 the Parties' willingness to settle the Actions will have no bearing on, and will not be admissible in
27 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and
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1 this Agreement).

2 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant,
3 and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
4 is filed, they and each of them will not disclose, disseminate, or publicize, or cause or permit another
5 person to disclose, disseminate, or publicize, any of the terms of this Agreement directly or
6 indirectly, specifically or generally, to any person or entity except: (1) the Parties' attorneys,
7 accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2)
8 counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing
9 authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena
10 issued by a state or federal government agency. Each Party agrees to immediately notify the other
11 Parties of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff,
12 Class Counsel, Defendant, and Defense Counsel separately agree not to initiate any communication
13 with third parties regarding this Agreement or the matters giving rise to this Agreement, except to
14 state only that "the matter was resolved," or words to that effect. This paragraph does not restrict
15 Class Counsel's communication with Class Members consistent with ethical obligations.

16 12.3. No Solicitation. The Parties separately agree that they and their respective counsel
17 and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
18 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability
19 to communicate with Class Members in accordance with Class Counsel's ethical obligations owed
20 to Class Members.

21 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this
22 Agreement together with its attached exhibits shall constitute the entire agreement between the
23 Parties relating to the Settlement, superseding any and all oral representations, warranties,
24 covenants, or inducements made to or by any Party.

25 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately represent
26 that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
27 required or permitted pursuant to this Agreement to effectuate its terms and to execute any
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documents reasonably required to do so, including amendments to this Agreement.

12.6. 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.

12.7. 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 any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed or agreed to by all Parties or their representatives, and approved by the Court. Plaintiff and Defendant expressly agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any amendments of this Agreement, amended Agreements, or amendments to the Agreement, on behalf of the Parties once fully executed, which includes, but is not limited to, authorization of the use of signatures previously provided by the Parties.

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

12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be

1 governed by and interpreted according to the internal laws of the state of California, without regard
2 to conflict of law principles.

3 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
4 of this Agreement. This Agreement will not be construed against any Party on the basis that the
5 Party was the drafter or participated in the drafting.

6 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders
7 entered during the Actions and in this Agreement relating to the confidentiality of information shall
8 survive the execution of this Agreement.

9 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to
10 Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class
11 Counsel by Defendant in connection with the mediation, other settlement negotiations, or in
12 connection with the Settlement, may be used only with respect to this Settlement, and no other
13 purpose, and may not be used in any way that violates any existing contractual agreement, statute
14 or California Rules of Court rule. Not later than 90 calendar days after the date when the Court
15 discharges the Administrator's obligation to provide a declaration confirming the final payout of all
16 Settlement funds, Plaintiff and Class Counsel shall destroy all paper and electronic versions of Class
17 Data received from Defendant unless, prior to the Court's discharge of the Administrator's
18 obligation, Defendant makes a written request to Class Counsel for the return, rather than the
19 destruction, of Class Data.

20 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
21 inserted for convenience of reference only and does not constitute a part of this Agreement.

22 12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
23 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
24 weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

25 12.17. Notice. All notices, demands or other communications between the Parties in
26 connection with this Agreement will be in writing and deemed to have been duly given as of the
27 third business day after mailing by United States mail, or the day sent by email or messenger,
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addressed as follows:

To Plaintiff:	BIBIYAN LAW GROUP, P.C. David D. Bibiyan (Cal. Bar No. 287811) <i>david@tomorrowlaw.com</i> Vedang J. Patel (Cal. Bar No. 328647) <i>vedang@tomorrowlaw.com</i> 1460 Westwood Boulevard Los Angeles, California 90024 Tel: (310) 438-5555; Fax: (310) 300-1705
To Defendant:	ARENTFOX SCHIFF LLP Robert K. Carrol (SBN 81277) robert.carrol@afslaw.com Saisruthi Paspulati (SBN 319879) saisruthi.paspulati@afslaw.com 44 Montgomery Street, 38 th Floor San Francisco, CA 94104 Telephone: (415) 757-5500 Fax: (415) 757-5501

12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.19. 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.

12.20. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way affect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included

1 in this Agreement.

2 **IT IS SO AGREED:**

3 *Stuart Popkin*

08/05/2026

4 Plaintiff, STUART MICHAEL POPKIN

For Defendant, BREVILLE USA, INC.

6
7 **AGREED AS TO FORM ONLY:**

8 *David D. Bibiyan*

08/05/2026

9 David D. Bibiyan
10 Vedang J. Patel
Counsel for Plaintiff

Robert K. Carrol
Saisruthi Paspulati
Counsel for Defendant

