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People's Care Holdings, Inc.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
SPRING STREET COURTHOUSE

JERRI JEANNETTE WINKEY, an individual,
on behalf of himself and all members of the
putative class,

Plaintiff,

vs.

PEOPLE'S CARE HOLDINGS, INC., a
California Corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 19STCV37183

CLASS ACTION

**CLASS AND REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

[Assigned for all purposes to
the Honorable Elihu M. Berle, Dept. 6]

Action Filed: October 17, 2019
Trial Date: None Set

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1 This Class and Representative Action Agreement and Release (“Agreement”) resolves the
2 action, *Jerri Jeannette Winkey v. People’s Care Holdings, Inc.*, Los Angeles County Superior
3 Court, Case No. 19STCV37183.

4 This Agreement is entered into between Plaintiff Jerri Jeannette Winkey (“Plaintiff”),
5 individually and on behalf of all others similarly situated, as well as on behalf of the State of
6 California with respect to the PAGA Members, and Defendant People’s Care Holdings, Inc.;
7 People’s Care, LLC; People’s Care Northern California, LLC; People’s Care Los Angeles, LLC;
8 People’s Care Central Valley, LLC; People’s Care Riverside, LLC; People’s Care San Diego, LLC;
9 People’s Care Autism Services, LLC; People’s Care Bliss, LLC; People’s Care Developmental
10 Services, LLC; People’s Care Healthcare Systems, LLC; People’s Care Holdings, LLC; People’s
11 Care Home Health, Inc.; People’s Care Hospice, Inc.; Inland Residential Services, LLC; Bartlett
12 Holdings, LLC; Lanterman Development Services, LLC; People’s Care Central Valley, LLC;
13 People’s Care, Inc.; and Person Centered Behavioral Health, LLC (“PC” or “Defendant”). The
14 Plaintiff and Defendant are collectively referred to as the “Parties.”

15 This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge
16 and settle the “Released Claims” (as defined below) on a class and representative action basis
17 pertaining to the “Released Parties” (as defined below) upon and subject to the terms and
18 conditions contained herein. This Agreement, which is contingent upon final Court approval,
19 contains the essential terms of the Parties’ agreement. Plaintiff and Class Counsel believe, and the
20 Parties have agreed, that the settlement set forth in this Agreement confers substantial benefits
21 upon the Class, PAGA Members, and the State of California.

22 **DEFINITIONS**

23 **1. Action**

24 “Action” means both (a) the civil action filed by Plaintiff entitled *Jerri Jeannette Winkey v.*
25 *People’s Care Holdings, Inc.*, Los Angeles County Superior Court, Case No. 19STCV37183,
26 which is the First Amended Complaint filed approximately three (3) calendar days after this
27 Agreement is fully executed, and (b) the related PAGA Notice Letter filed by Plaintiff three (3)
28 calendar days after this Agreement is fully executed. The Parties agree that the Action includes all

claims and causes of action alleged in the First Amended Complaint and in the related PAGA Notice Letter.

2. Class Counsel

“Class Counsel” means Parris Law Firm.

3. Class Counsel Award

“Class Counsel Award” means the attorneys’ fees for Class Counsel’s litigation and resolution of the Action, and Class Counsel’s actual expenses and costs incurred and to be incurred in connection with the Action.

4. Class Information

“Class Information” or “Class Data” means information on the Class Members compiled from Defendant’s records and provided to the Settlement Administrator in a Microsoft Excel spreadsheet including each Class Member’s full name; last known address; social security number; dates of employment; data available in Defendant’s electronic records regarding pay periods and workweeks, to the extent available based upon existing electronic records, to allow the Settlement Administrator to determine the Workweeks and Pay Periods for each Class Member and each PAGA Member.

5. Settlement Class Members

“Settlement Class Members” means “All current and former hourly-paid or non-exempt employees employed by Defendant People’s Care Holdings, Inc. within the State of California during the Covered Period, excluding those employees who have entered into arbitration and class action waiver agreements.”

6. Class Settlement

“Class Settlement” means the settlement and resolution of the Released Claims.

7. Class Settlement Period

“Class Settlement Period” means the period extending from October 17, 2015 through the earlier of: (a) the date of order approving Plaintiff’s Motion for Preliminary Approval of Class Action Settlement or (b) February 8, 2024.

8. Class Representative

“Class Representative” means Plaintiff Jerri Jeannette Winkey.

9. Class Representative Enhancement Award

“Class Representative Enhancement Award” means the amount that the Court authorizes to be paid to the Class Representative, in addition to her Individual Settlement Payment and/or Individual PAGA Payment, in recognition of her efforts and the risks attendant to assisting with the prosecution of the Action, and for executing a general release of claims with Defendant.

10. Court

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

11. Covered Period.

“Covered Period” means the period between October 17, 2015 and the date of the order approving Plaintiff’s Motion for Preliminary Approval of Class Action Settlement or February 8, 2024, whichever is sooner.

12. Defendant

“Defendant” means and includes People’s Care Holdings, Inc.; People’s Care, LLC; People’s Care Northern California, LLC; People’s Care Los Angeles, LLC; People’s Care Central Valley, LLC; People’s Care Riverside, LLC; People’s Care San Diego, LLC; People’s Care Autism Services, LLC; People’s Care Bliss, LLC; People’s Care Developmental Services, LLC; People’s Care Healthcare Systems, LLC; People’s Care Holdings, LLC; People’s Care Home Health, Inc.; People’s Care Hospice, Inc.; Inland Residential Services, LLC; Bartlett Holdings, LLC; Lanterman Development Services, LLC; People’s Care Central Valley, LLC; People’s Care, Inc.; and Person Centered Behavioral Health, LLC.

13. Effective Date

“Effective Date” means the date 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: (i) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (ii) if one or more Participating Class Member objects to the Settlement and no appeal was filed, the day after the

1 deadline for filing a notice of appeal from the Judgment has expired; or (iii) if a timely appeal from
2 the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur,
3 or the day after the appeal is dismissed, whichever is earlier.

4 **14. Final Approval Hearing**

5 “Final Approval Hearing” means the final hearing at which the Court reviews the fairness,
6 reasonableness, and adequacy of the Settlement, and decides whether the Settlement meets all
7 requirements for final approval.

8 **15. Final Judgment**

9 “Final Judgment” means a judgment issued by the Court approving this Agreement as binding
10 upon the Parties following the Final Approval Hearing.

11 **16. Gross Settlement Amount**

12 “Gross Settlement Amount” or “GSA” means the total maximum amount payable under the
13 terms of this Agreement by Defendant, which is the gross sum of \$5,500,000 (Five Million, Five-
14 Hundred Thousand Dollars and Zero Cents), subject to the “Modification Provision.” The GSA
15 includes all of the following: (a) the Individual Settlement Payments to Participating Class
16 Members; (b) payment of the Settlement Administration Costs as approved by the Court; (c) the
17 Class Representative Enhancement Award to Plaintiff, as approved by the Court; (d) a payment to
18 Class Counsel of attorneys’ fees and reasonable litigation costs, which shall be determined by
19 motion with the Court; and (e) the PAGA Payment.

20 Payment of the amount necessary to cover the employer’s portion of payroll taxes
21 associated with the portion of the settlement allocated to wages shall be made by Defendant,
22 separate and apart from the Gross Settlement Amount.

23 The Settlement Administrator will make all required tax deductions and payments using a
24 Qualified Settlement Fund. As set forth herein, the Settlement Administrator will issue all of the
25 above-referenced payments from the Qualified Settlement Fund in accordance with the applicable
26 provisions of this Agreement.

1 **17. Individual PAGA Payment**

2 “Individual PAGA Payment” means the amounts paid from the PAGA Payment to PAGA
3 Members, which in the aggregate shall be Fifty Thousand Dollars (\$50,000), constituting 25% of
4 the PAGA Payment, as consideration for Settlement of claims for civil penalties under the PAGA.

5 **18. Individual Settlement Payment**

6 “Individual Settlement Payment” means the amount paid from the Net Settlement Amount
7 to a Participating Class Member. Any Class Member who timely submits a valid Request for
8 Exclusion pursuant to the procedures set forth herein is not a Participating Class Member and is not
9 eligible to receive an Individual Settlement Payment.

10 **19. LWDA**

11 “LWDA” means the California Labor and Workforce Development Agency.

12 **20. LWDA PAGA Payment**

13 “LWDA PAGA Payment” means the amount of One Hundred and Fifty-Thousand Dollars
14 and Zero Cents (\$150,000.00) to be paid to the LWDA as its 75% share of the PAGA Payment, as
15 consideration for Settlement of claims for civil penalties under PAGA.

16 **21. Modification Provision**

17 At the mediation, Defendant estimated that from October 17, 2015 to September 30, 2023
18 (the “Data Period”), there were 1,662 Settlement Class Members and 88,208 weeks in which
19 Settlement Class Members actually performed work in California. The Parties agree that if the
20 actual number of weeks in which Settlement Class Members actually performed work in California
21 during the Data Period is validated by the Settlement Administrator to be more than ten percent
22 (10%) greater than 88,208 (*i.e.*, 97,029 or greater workweeks), then the GSA shall increase by 1%.
23 For example, if the actual number of workweeks during the Data Period is 12% greater than
24 88,208, then the GSA will increase by 2%.

25 **22. Net Settlement Amount**

26 “Net Settlement Amount” or “NSA” means the Gross Settlement Amount less the Court-
27 approved Class Counsel Award, the Class Representative Enhancement Award, the PAGA
28 Payment, and the Settlement Administration Costs. The Net Settlement Amount is the total

amount that will be paid to Participating Class Members in the form of Individual Settlement Payments.

The NSA shall be allocated as follows: (a) 20% as wages and (b) 80% as penalties and interest. The Settlement Administrator will be responsible for issuing a form W-2 to each Class Member for the amount each receives for unpaid “wages” and any IRS Form 1099s for the portion designated as “penalties and interest” required by law.

23. Notice of Class Action Settlement

“Notice of Class Action Settlement” or “Notice” means the notice approved by the Parties and subject to Court approval, substantially in the form of **Exhibit A** hereto, explaining the terms of this Agreement and the settlement process, which the Settlement Administrator will mail to each Settlement Class Member.

24. PAGA

“PAGA” refers to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698 et seq.

25. PAGA Members

“PAGA Members” means: “All current and former hourly-paid or nonexempt employees employed by Defendant People’s Care Holdings, Inc. within the State of California at any time from March 9, 2022 through the date of the order approving Plaintiff’s Motion for Preliminary Approval of Class Action Settlement or February 8, 2024, whichever is sooner.

26. -PAGA Notice Letter

“PAGA Notice Letter” is the PAGA Notice Letter filed by Plaintiff Jerri Jeannette Winkey with the LWDA three (3) calendar days after this Agreement is fully executed.

27. PAGA Payment

“PAGA Payment” means the portion of the Gross Settlement Amount that shall be allocated to claims under the PAGA, which the Parties have agreed shall be Two-Hundred Thousand Dollars and Zero Cents (\$200,000.00). Of that sum, seventy-five percent (75%), i.e., \$150,000, shall be payable to the LWDA (i.e., the LWDA PAGA Payment) and the remaining twenty-five percent

(25%), *i.e.*, \$50,000, shall be used to pay the Individual PAGA Payments to PAGA Members in settlement of all claims for PAGA penalties as defined in this Agreement.

28. PAGA Settlement Period

“PAGA Settlement Period” means the period from March 9, 2022 through the date of the order approving Plaintiff’s Motion for Preliminary Approval of Class Action Settlement or February 8, 2024, whichever is sooner.

29. Participating Class Members

“Participating Class Members” means those Settlement Class Members who do not file a valid and timely Request for Exclusion.

30. Parties

“Parties” means Plaintiff and Defendant, collectively.

31. Pay Period

“Pay Period” means the number of Workweeks, as defined herein, divided by two (2).

32. Plaintiff

“Plaintiff” means Plaintiff Jerri Jeannette Winkey.

33. Plaintiff’s Released Claims

“Plaintiff’s Released Claims” means all known and unknown claims against the Released Parties, including the “Released Claims,” as well as any and all claims, demands, liens, agreements, contracts, covenants, actions, suits, causes of action, grievances, wages, vacation payments, severance payments, obligations, commissions, overtime payments, debts, profit sharing claims, expenses, damages, judgments, orders, and liabilities of whatever kind or nature in state or federal law, equity or otherwise, whether known or unknown, which Plaintiff now owns or holds or has at any time owned or held against the Released Parties, including specifically, but not exclusively, and without limiting the generality of the foregoing, any and all claims known or unknown, suspected or unsuspected: (1) arising out of Plaintiff’s employment with Defendant or termination of that employment; or (2) arising out of or in any way connected with any claim, loss, damage, or injury whatsoever, known or unknown, suspected or unsuspected, resulting from any act or omission by or on the part of Defendant or the Released Parties, committed or omitted by Defendant or the Released

Parties on or before the date this Agreement is executed by Plaintiff. Furthermore, without limiting the generality of the foregoing, Plaintiff also specifically agrees and acknowledges she is waiving any right to recovery based on state or federal age, sex, race, color, national origin, marital status, religion, veteran status, disability, sexual orientation, medical condition, genetic condition, or other antidiscrimination laws, rules, regulations, or ordinances, including, but not limited to, Title VII of the Civil Rights Act of 1964, Sections 1981 and 1983 of the Civil Rights Act of 1866, the Fair Credit Reporting Act, the Americans with Disabilities Act, the WARN Act, the Equal Pay Act, the Employee Retirement Income Security Act, California Business and Professions Code section 17200, et seq., the Age Discrimination in Employment Act of 1967, as amended (“ADEA”), and the Older Workers Benefit Protection Act, as amended (“OWBPA”) (except a claim relating to whether this release or waiver is valid under the ADEA and except for any claims under the ADEA that may arise after the date this Agreement is executed by Plaintiff), the California Labor Code and any similar state or local laws, such as the California Fair Employment and Housing Act, California Family Medical Leave Act, the California Family Rights Act, and all of their implementing regulations and interpretive guidelines, as well as in common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to the Plaintiff’s relationship, or the termination of the relationship, with any Released Party through the date this Agreement is executed by Plaintiff for any type of relief. For the avoidance of doubt, this is a complete and general release of all claims to the maximum extent permitted by law.

The scope of this release does not include claims for unemployment insurance, disability, social security, and workers’ compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

ADEA Waiver. Without limiting the scope of this Agreement, Plaintiff Jerri Jeannette Winkey agrees this Agreement constitutes a knowing and voluntary waiver of any and all rights or claims that exist or that she may claim to have under the Age Discrimination in Employment Act of 1967 (“ADEA”). Plaintiff Winkey acknowledges she has been advised by this writing of all of the following, as required by the Older Workers’ Benefit Protection Act: (i) her waiver and release does

not apply to any rights or claims that may arise after she signs this Agreement; (ii) she should consult with an attorney prior to signing this Agreement; (iii) she has at least twenty-one (21) days to consider this Agreement (although she may by her own choice sign this Agreement earlier); (iv) she has seven (7) days following her signing of this Agreement to revoke the Agreement; and (v) this Agreement shall not be effective until the next business day following the expiration of this 7-day revocation period, and after all the other terms required for the Effective Date have been satisfied. Plaintiff may revoke this Agreement only by giving Defendant formal, written notice of her revocation of this Agreement, addressed to: Alexandra M. Asterlin, at Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 500 Capitol Mall, Suite 2500, Sacramento, California 95814. In the event Plaintiff Winkey revokes the waiver of ADEA claims, she understands and agrees that she will not be entitled to a Class Representative Enhancement Award.

As of the Effective Date and full funding of the Gross Settlement Amount, Plaintiff also releases the Released Parties from all of the Plaintiff's Released Claims, as well as the Released Claims. Plaintiff's release set forth herein includes a waiver of all rights under California Civil Code §1542, which provides:

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.

Plaintiff may hereafter discover claims or facts in addition to, or different from, those which she knows or believes to exist, but Plaintiff expressly agrees to fully, finally, and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist against the Released Parties at the time prior to the execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant.

34. Preliminary Approval Date

"Preliminary Approval Date" means the date on which the Court issues an order granting preliminary approval of the proposed Settlement.

35. Qualified Settlement Fund

“Qualified Settlement Fund” or “QSF” means the account established by the Settlement Administrator, which the Parties agree shall at all times be treated as a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1, *et seq.*

36. Released Claims

“Released Claims” shall mean all causes of action and factual or legal theories alleged in the operative Complaint as follows:

For the Class Settlement Period, the Released Claims shall include all of the following claims for relief: (a) Violation of Labor Code §1198 (unpaid overtime); (b) Violation of Labor Code §226.7 (unpaid meal period premiums); (c) Violation of Labor Code §226.7 (unpaid rest periods); (d) Violation of Labor Code §1194, 1197, and 1197.1 (unpaid minimum wages); (e) Violation of Labor Code §§201, 202 (final wages not timely paid); (f) Violation of Labor Code §226(a) (Non-Compliant Wage Statements); (g) Violation of Labor Code §2802 (unreimbursed business expenses); (h) Violation of California Business & Professions Code § 17200 (unfair business practices); (i) any other claims or penalties under the wage and hour laws pleaded in the Action; and (j) all damages, penalties, interest, attorneys’ fees and costs, and other amounts recoverable under said causes of action under California and federal law, to the extent permissible, including but not limited to the California Labor Code as to the facts alleged in the Action, the applicable Wage Orders as to the facts alleged in the proposed complaint, the California Unfair Competition Law. This release shall extend to the limits of the Class Settlement Period.

For the PAGA Settlement Period, the Released Claims shall include claims for civil penalties interest, attorneys’ fees and costs, and other amounts recoverable under PAGA. The PAGA Released Claims shall be limited to the PAGA Settlement Period.

37. Released Parties

“Released Parties” means Defendant People’s Care Holdings, Inc.; People’s Care, LLC; People’s Care Northern California, LLC; People’s Care Los Angeles, LLC; People’s Care Central Valley, LLC; People’s Care Riverside, LLC; People’s Care San Diego, LLC; People’s Care Autism Services, LLC; People’s Care Bliss, LLC; People’s Care Developmental Services, LLC; People’s

Care Healthcare Systems, LLC; People’s Care Holdings, LLC; People’s Care Home Health, Inc.; People’s Care Hospice, Inc.; Inland Residential Services, LLC; Bartlett Holdings, LLC; Lanterman Development Services, LLC; People’s Care Central Valley, LLC; People’s Care, Inc.; and Person Centered Behavioral Health, LLC.; and its past and present direct and/or indirect, officers, directors, members, managers, employees, attorneys, affiliates, successors, and assigns.

38. Request for Exclusion

“Request for Exclusion” means a Settlement Class Member’s written letter indicating a request to be excluded from the Class Settlement.

39. Response Deadline

“Response Deadline” means the date thirty (30) calendar days after the Settlement Administrator mails the Notice of Class Action Settlement to Settlement Class Members, which is the last date on which Settlement Class Members may timely: (a) submit a Request for Exclusion; (b) submit objections to the Settlement; or (c) dispute the information contained in the Notice of Class Action Settlement. If the thirtieth (30th) day falls on a Sunday or State or Federal holiday, then the deadline is extended to the next business day.

40. Settlement

“Settlement” or “Agreement” means this Class and Representative Action Settlement Agreement and Release.

41. Settlement Administrator

“Settlement Administrator” means Phoenix Settlement Administrators, the third-party company that is responsible for administering the settlement, mutually agreed to by the Parties and appointed by the Court upon Class Counsel’s Motion for Preliminary Approval of this Settlement.

42. Settlement Administrator Costs

“Settlement Administrator Costs” means the amount to be paid to the Settlement Administrator from the Gross Settlement Amount for administration of this Settlement.

1 **43. Workweek**

2 “Workweek” means any week during the Class Settlement Period in which a Settlement Class
3 Member recorded performing any compensable work for Defendant as an hourly-paid or non-exempt
4 employee, according to Defendant’s records.

5 **44. Workweeks and/or Pay Periods Dispute**

6 “Workweeks and/or Pay Periods Dispute” means a Settlement Class Member’s written letter
7 disputing the pre-printed information on the Notice of Class Action Settlement as to the number of
8 the Settlement Class Member’s Workweeks worked during the Class Settlement Period or the PAGA
9 Class Member’s number of Pay Periods worked during the PAGA Settlement Period, and the dispute
10 must: (a) contain the case name and number of the Action; (b) contain the Class/PAGA Member’s
11 full name, signature, address, telephone number, and last four (4) digits of Social Security number;
12 (c) clearly state the dispute about the Workweeks/Pay Periods credited and what the Class/PAGA
13 Member contends is the correct number; (d) attach any documentation that supports Class/PAGA
14 Member’s position; and (e) be timely submitted by mail to the Settlement Administrator at the
15 specified address, postmarked on or before the Response Deadline.

16 **43. Procedural History**

17 On October 17, 2019, Plaintiff Jerri Jeannette Winkey filed a class action entitled *Jerri*
18 *Jeannette Winkey v. People’s Care Holdings, Inc.*, Los Angeles County Superior Court, Case No.
19 19STCV37183.

20 On November 10, 2023, the Parties participated in a mediation session with Lou Marlin,
21 Esq., a prominent mediator experienced in resolving wage-and-hour class and representative
22 actions. As a result of the mediator’s efforts, the Parties reached an agreement to settle all claims
23 and causes of action alleged in the Action by the Plaintiff under the California Labor Code, the
24 California Business and Professions Code, and the applicable California Wage Order. The Parties
25 further agreed to a settlement of related PAGA claims and in doing so, agreed Plaintiff would file a
26 PAGA letter with the LWDA and a First Amended Complaint to add the cause of action under the
27 PAGA.

Before the mediation, Defendant produced extensive documentation including time and pay data, policy documents, class size information, PAGA size information, pay period and workweek information, and information regarding the hourly rates of the Settlement Class Members. Defendant provided data, information, and documents sufficient to enable Plaintiff and Class Counsel to rigorously evaluate the strengths and risks of the case and perform an analysis of the potential damages arising from the claims made in this case.

44. No Admission

Defendant denies any liability or wrongdoing of any kind associated with the claims asserted in the Action. Defendant also disputes the damages and penalties claimed by Plaintiff, and further contends that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or representative treatment. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, no documents referred to herein, and no action taken to carry out this Settlement, shall be construed or used as an admission by or against Defendant as to the merits of the claims asserted in the Action or in any other proceeding.

Defendant contends that, at all times, it has complied with all applicable state, federal, and local laws related to the Settlement Class Members' employment. Defendant has entered into this Settlement to avoid the cost, risk and inconvenience of further litigation. Nothing contained in this Settlement, nor the fact of this Settlement itself, shall be construed or deemed as an admission of liability, or wrongdoing on the part of the Defendant, collectively or individually. The Parties agree that this Settlement cannot be used to support any claim for subsequent penalty violation rates under the PAGA in any subsequent PAGA litigation.

Pursuant to California Evidence Code sections 1152 and 1154, this Settlement shall be inadmissible as evidence in any proceeding; except that the Settlement may be filed and used in this litigation or any related litigation as necessary to approve, interpret, or enforce this Settlement, or in any subsequent action against or by Defendant to support a stay of such subsequent action, or to establish a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

1 **45. Benefits of Settlement to Class and PAGA Members**

2 Class Counsel investigated the facts relevant to the Action, including reviewing documents
3 and information provided by Defendant. Based on their own independent investigation and
4 evaluation, Class Counsel believes the Settlement with Defendant is fair, reasonable, and adequate,
5 and in the best interest of the Settlement Class, in light of all known facts and circumstances,
6 including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a
7 class trial, and numerous potential appellate issues. Accordingly, the Parties and their counsel
8 desire to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising
9 from or relating to the Action on the terms set forth herein.

10 Defendant has concluded that any further defense of this litigation would be protracted and
11 expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have
12 been and, unless this Settlement is completed, will continue to be devoted to, the defense of the
13 claims asserted by Plaintiff in the Action. Defendant has also taken into account the risks of further
14 litigation in reaching the decision to enter into this Settlement. Even though Defendant continues
15 to contend that it is not liable for any of the claims set forth by Plaintiff in the Action, Defendant
16 has agreed, nonetheless, to settle in the manner and upon the terms set forth in this Agreement to
17 put to rest the claims in the Action.

18 **46. Settlement of Disputed Claims**

19 This Agreement is a compromise of disputed claims. Defendant has claimed and continues
20 to claim that the Released Claims have no merit and do not give rise to liability. Plaintiff and
21 Participating Class Members and PAGA Members have claimed and continue to claim that the
22 Released Claims have merit and give rise to liability on the part of Defendant. Nothing contained
23 in this Agreement, no documents referred to herein, and no action taken to carry out this
24 Agreement, may be construed or used as an admission by or against the Participating Class
25 Members or Class Counsel as to the merits or lack thereof of the claims asserted in this Action.

26 **47. Release for All Participating Class Members**

27 Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff and all
28 Participating Class Members hereby do and shall be deemed to have fully, finally, and forever

released, settled, compromised, relinquished, and discharged any and all of the Released Parties of and from any and all Released Claims. This release will take effect whether or not a Participating Class Member receives his or her Individual Settlement Payment or cashes and deposits any Individual Settlement Payment check.

48. Release by the Plaintiff

Upon the Effective Date and full funding of the Gross Settlement Amount, the Plaintiff fully and finally releases the Released Parties from the Plaintiff's Released Claims.

49. Release for All PAGA Members

Upon the Effective Date and full funding of the Gross Settlement Amount, as Representatives of the State of California and on behalf of the LWDA, Plaintiff and all PAGA Members fully and finally release the Released Parties from the Released Claims during the PAGA Settlement Period. These releases will take effect whether or not a PAGA Member receives his or her Individual PAGA Payment or cashes and deposits any Individual PAGA Payment check.

50. Motion for Preliminary Approval

Class Counsel shall be responsible for preparing the Motion for Preliminary Approval. Class Counsel agrees to provide Counsel for Defendant with drafts of all documents they intend to submit in support of their Motion for Preliminary Approval at least five (5) calendar days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such papers. Class Counsel further agrees to reasonably incorporate the comments from Counsel for Defendant.

51. Settlement Administrator

Within five (5) calendar days following the date the Court grants Preliminary Approval of this Agreement, Defendant shall provide the Settlement Administrator with the Class Information for purposes of mailing the Notice of Class Action Settlement to the Settlement Class Members. The Settlement Administrator shall maintain the Class Information as private and confidential and shall not disclose such data to any persons or entities, other than Counsel for Defendant, except relevant information can be provided to Class Counsel, on an individual basis only, and only when

1 necessary for Class Counsel to respond to specific inquiries or requests from individual Class
2 Members.

3 The Class Information is being supplied solely for purposes of the administration of the
4 Settlement set forth in this Agreement and cannot be used by the Settlement Administrator or Class
5 Counsel for any other purpose. The Parties agree that the Class Information will not be used to
6 solicit Class Members to file any claim, charge, or complaint of any kind whatsoever against
7 Defendant and will only be used to administer the Settlement under the terms provided herein.

8 Notwithstanding the above, within five (5) calendar days of receipt of the Class
9 Information, the Settlement Administrator shall verify in writing to Class Counsel and Counsel for
10 Defendant the total number of Settlement Class Members, PAGA Members, Workweeks, and Pay
11 Periods for purposes of determining whether the Modification Provision is triggered.

12 **a. Notice by First Class U.S. Mail.**

13 Upon receipt of the Class Information, the Settlement Administrator will perform a search
14 based on the National Change of Address Database to update and correct any known or identifiable
15 address changes. Within five (5) calendar days of receipt of the Class Information, the Settlement
16 Administrator will mail copies of the Notice of Class Action Settlement to all Settlement Class
17 Members via regular First-Class U.S. Mail. The Settlement Administrator shall exercise its best
18 judgment to determine the current mailing address for each Settlement Class Member, including
19 performing a skip-trace to identify any updated addresses. The address identified by the Settlement
20 Administrator as the current mailing address shall be presumed to be the best mailing address for
21 each Settlement Class Member. The form of the proposed Notice of Class Action Settlement will
22 be agreed to by the Parties, and subject to Court approval and modification as necessary to fulfill
23 the Parties desire to resolve the case.

24 **b. Undeliverable Notices.**

25 Any Notice of Class Action Settlement returned to the Settlement Administrator as
26 undeliverable on or before the Response Deadline shall be re-mailed once to the forwarding
27 address affixed thereto. If no forwarding address is affixed, the Settlement Administrator shall
28 promptly attempt to determine a correct address by use of skip-tracing, or other search using the

1 name, address and/or Social Security Number of the Class Member whose notice was
2 undeliverable, and shall then re-mail all returned, undelivered mail within five (5) calendar days of
3 receiving notice that a Notice of Class Action Settlement was undeliverable. Class Members who
4 receive a re-mailed Notice of Class Action Settlement shall have their Response Deadline extended
5 five (5) calendar days from the date of re-mailing or original Response Deadline.

6 **c. Disputes Regarding Individual Settlement Payments and Individual PAGA**
7 **Payments.**

8 Class Members and PAGA Members will have the opportunity, should they disagree with
9 the number of Workweeks or Pay Periods stated on their Notice of Class Action Settlement by
10 submitting a Workweeks Dispute, postmarked on or before the Response Deadline. If there is a
11 Workweeks Dispute, the Settlement Administrator will consult with the Parties to determine
12 whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility of
13 each Class and PAGA Member's eligibility for, and the amounts of, their Individual Settlement
14 Payment and Individual PAGA Payment under the terms of this Agreement. The Settlement
15 Administrator's determination of the eligibility for and amount of any Individual Settlement
16 Payment and Individual PAGA Payment will be binding upon the Parties. In the absence of
17 circumstances indicating fraud, manipulation, or destruction, Defendant's records will be given a
18 rebuttable presumption of accuracy.

19 **d. Disputes Regarding Administration of Settlement.**

20 Any disputes not resolved by the Settlement Administrator concerning the administration of
21 the Settlement will be resolved by the Court under the laws of the State of California. Prior to any
22 such involvement of the Court, counsel for the Parties will confer in good faith to attempt to
23 resolve the dispute without involving the Court.

24 **e. Exclusions.**

25 The Notice of Class Action Settlement shall state that Class Members who wish to exclude
26 themselves from the Settlement must submit a Request for Exclusion by the Response Deadline.
27 The Request for Exclusion must: (1) contain the name, address and telephone number of the Class
28 Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to

1 be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the
2 Response Deadline and returned to the Settlement Administrator at the specified address.

3 The date of the postmark on the return mailing envelope on the Request for Exclusion shall
4 be the exclusive means used to determine whether a Request for Exclusion has been timely
5 submitted. Class Members who fail to submit a valid and timely Request for Exclusion on or
6 before the Response Deadline shall be bound by all terms of the Settlement and any Final
7 Judgment entered in this Action.

8 Any Class Member who requests to be excluded from the Class Settlement will not be
9 entitled to any recovery under the Class Settlement and will not be bound by the terms of the Class
10 Settlement or have any right to object to or appeal the Class Settlement.

11 Any Request for Exclusion has no effect on the PAGA Settlement. Any Class Member
12 who is also considered a PAGA Member will still be issued their Individual PAGA Payment and
13 be bound by the PAGA Settlement, regardless of whether they submit a Request for Exclusion.

14 No later than seven (7) calendar days after the Response Deadline, (plus an additional five
15 (5) days in the event of remailings), the Settlement Administrator will provide counsel for the
16 Parties with a complete list of all members of the Class who have timely submitted a Request for
17 Exclusion.

18 **f. Objections.**

19 The Notice of Class Action Settlement shall state that Participating Class Members who
20 wish to object to the Settlement may do so in person (or other method of personal appearance
21 permitted by the court, e.g., remote appearance) at the Final Approval Hearing and/or in writing.
22 Any written objection ("Notice of Objection") must be mailed to the Settlement Administrator by
23 the Response Deadline. The date of mailing on the envelope shall be deemed the exclusive means
24 for determining that a Notice of Objection was timely received.

25 The Notice of Objection must be signed by the Settlement Class Member and state: (1) the
26 full name and address of the objecting Settlement Class Member; (2) the factual and/or legal basis
27 for the objection; and (3) whether the Settlement Class Member intends to appear at the Final
28 Approval Hearing. Class Counsel will ensure that any Notice of Objection received by the

1 Settlement Administrator by the Response Deadline is filed with the Court along with the Motion
2 for Final Approval.

3 Any of the Parties may file a response to any objection before the Final Approval Hearing.
4 Any attorney who represents an individual objecting to this Settlement who has not filed a written
5 objection must file a notice of appearance with the Court and serve Class Counsel and counsel for
6 Defendant with this notice no later than the Response Period Deadline. Any Settlement Class
7 Member who fails to submit a timely written objection or to present an objection in person at the
8 Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed
9 from making any objection to the Settlement whether by appeal or otherwise.

10 **52. No Solicitation of Settlement Objections or Exclusions**

11 The Parties agree to use their best efforts to carry out the terms of this Settlement. At no
12 time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members
13 to object to the Settlement or file Requests for Exclusion, or to appeal from the Court's Final
14 Judgment.

15 **53. Funding of the Qualified Settlement Fund**

16 No later than three (3) calendar days after being notified of the Court's final approval, the
17 Settlement Administrator shall send Defendant's Counsel electronic wiring instructions for paying
18 the Gross Settlement Amount into the QSF. The Settlement Administrator will also inform
19 Defendant of the amount to be sent to the QSF to pay for the employer's share of payroll taxes. No
20 later than thirty (30) calendar days after the Effective Date, Defendant shall fund the QSF.

21 **54. Net Settlement Amount**

22 The Net Settlement Amount will be determined by the Settlement Administrator by
23 subtracting the Class Counsel Award, Class Representative Enhancement Award, PAGA Payment,
24 and Settlement Administrator Costs from the Gross Settlement Amount plus any increase based on
25 the Modification Provision. The anticipated Net Settlement Amount is \$2,974,000.00 if the
26 Modification Provision is not triggered. The Parties estimate the amount of the Net Settlement
27 Amount to be calculated as follows:
28

Gross Settlement Amount	\$5,500,000.00
Class Rep. Enhancement Award	Up to \$10,000.00 to Plaintiff
Requested Class Counsel Fees Without the Modification Provision	Up to \$2,200,000.00
Requested Class Counsel Expenses	Up to \$100,000.00
Total PAGA Payment	\$200,000.00
Settlement Administrator Costs	\$16,000.00
Net Settlement Amount -- \$2,974,000.00	

This is a non-reversionary Settlement in which Defendant will pay the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant. The employer's share of payroll taxes and other required withholdings from Individual Settlement Payments, including but not limited to the FICA and FUTA contributions, if applicable, shall be paid separately from, and in addition to, the Gross Settlement Amount. Any award of less than the amounts requested for enhancements, administrative costs, litigation costs, or attorneys' fees will be returned to the Net Settlement Amount and distributed to the Participating Class Members.

55. Settlement Administration Dates

Class Counsel shall provide Defendant's Counsel a draft Motion for Preliminary Approval for Defendant's review and input.	No later than 5 calendar days in advance of filing.
Defendant provides the Class Information to the Administrator	No later than 5 calendar days after the Court grants Preliminary Approval
Settlement Administrator to mail Notice of Class Action Settlement	No later than 5 calendar days after receipt of the Class Information
Settlement Administrator to re-mail Notice of Class Action Settlement	No later than 5 calendar days after receipt of notice that the Notice of Class Action Settlement was undeliverable.
Response Deadline to the Notice of Class Action Settlement	30 calendar days after mailing
New Response Deadline to the Notice of Class Action Settlement for those receiving re-mailed Notices of the Class Action Settlement	Response Deadline plus 5 calendar days from the date of remailing
Settlement Administrator to provide counsel for the Parties a complete list of all Class Members who timely submitted a Request for Exclusion.	No later than 7 calendar days after the Response Deadline

1	Defendant has the option to nullify the Settlement.	No later than 3 calendar days after notification by the Settlement Administrator that more than 5% of the Settlement Class Members submitted valid Requests for Exclusion.
2		
3	Class Counsel shall provide Defendant's Counsel a draft Motion for Final Approval for Defendant's review and input.	5 calendar days in advance of filing.
4		
5	Settlement Administrator shall send to Defendant's Counsel the electronic wiring instructions for the Settlement Amount.	No later than 3 calendar days after the Court's final approval of the Settlement.
6		
7	Defendant shall fund the QSF.	No later than 30 calendar days after the Effective Date.
8		
9	Settlement Administrator shall mail Individual Settlement Payments	No later than 5 calendar days after Defendant funds the QSF.
10	Settlement Administrator shall mail Individual PAGA Payments	No later than 5 calendar days after Defendant funds the QSF.
11	Settlement Administrator shall mail the Class Representative Enhancement Award	No later than 5 calendar days after Defendant funds the QSF.
12	Settlement Administrator shall wire the Class Counsel Award	No later than 5 calendar days after Defendant funds the QSF.
13		
14	Settlement Administrator shall be paid the Settlement Administrator Costs.	No later than 5 calendar days after the Defendant funds the QSF
15	Settlement Administrator shall deposit any uncashed funds with the State of California Unclaimed Property Fund	180 calendar days after the mailing of the Individual Settlement Payments and Individual PAGA Payments
16		

56. Individual Settlement Payments

Individual Settlement Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula as follows:

- a. Initial NSA allocation. After preliminary approval of the Settlement, using the Class Information, the Settlement Administrator will compute the total number of Workweeks of all Settlement Class Members collectively during the Class Period, and this sum shall be known as the Workweek Total; (ii) the Settlement Administrator will divide the Net Settlement Amount by the Workweek Total to determine the settlement value for each Workweek (the "Workweek Value"); and (iii) the Settlement Administrator will multiply the number of Workweeks of a Settlement Class Member during the Class Settlement Period by the Workweek Value to determine that Settlement Class Member's estimated pre-tax Individual Settlement Payment.

b. Final Approval. After final approval of the Settlement, the Settlement Administrator will again make the calculations set forth above in Sections 56(a) to determine each Participating Class Member's final post-tax Individual Settlement Payments.

Individual Settlement Payments after all tax withholdings consistent with this Agreement shall be mailed by regular First-Class U.S. Mail to each Participating Class Member's last known mailing address within five (5) calendar days after Defendant fully funds the settlement.

57. PAGA Payments

A total amount of \$200,000.00 from the Gross Settlement Amount will be allocated as the PAGA Payment to be paid as penalties under PAGA, of which seventy-five percent (75%), *i.e.*, \$150,000, will be the LWDA PAGA Payment to paid to the LWDA, and the remaining twenty-five (25%), *i.e.*, \$50,000, shall be distributed to the PAGA Members as Individual PAGA Payments.

Any portion of the PAGA Payment not approved by the Court shall be added to the Net Settlement Amount and any additional amount ordered by the Court shall be paid from the Gross Settlement Amount. In no event shall Defendant be required to pay in excess of the Gross Settlement Amount in such circumstances.

The LWDA PAGA Payment will be paid to the LWDA within five (5) calendar days after Defendant fully funds the settlement.

The Individual PAGA Payment is to be distributed to the PAGA Members as Individual PAGA Payments and shall be distributed based on a pro rata share based on the number of Pay Periods during the PAGA Settlement Period. To establish the pay period value, the Settlement Administrator will first determine the total number of Pay Periods during the PAGA Settlement Period. The pay period value will be equal to 25% of the PAGA Payment divided by the total number of Pay Periods worked by all PAGA Members during the PAGA Settlement Period. The pay period value will be rounded to the nearest cent. The amount of the Individual PAGA Payment to be paid to each PAGA Member will be determined by multiplying the pay period value by the PAGA Member's total number of Pay Periods during the PAGA Settlement Period. Individual PAGA Payments shall be mailed by regular First-Class U.S. Mail to each PAGA Member's last known mailing address within five (5) calendar days after Defendant fully funds the settlement.

1 **58. Class Representative Enhancement Award**

2 Plaintiff will make an application to the Court for a Class Representative Enhancement
3 Award of up to \$10,000.00. The Class Representative Enhancement Award shall be paid to
4 Plaintiff from the Gross Settlement Amount no later than five (5) calendar days after Defendant
5 fully funds the Settlement. The Class Representative Enhancement Award shall be in addition to
6 the Plaintiff's Individual Settlement Payments as a Participating Class Member and Individual
7 PAGA Payment as a PAGA Member. Any amount requested by Plaintiff for the Class
8 Representative Enhancement Award that is not granted by the Court shall return to the Net
9 Settlement Amount and be distributed to Participating Class Members as provided in this
10 Agreement. In the event the Court reduces or does not approve the requested Class Representative
11 Enhancement Award, Plaintiff and Class Counsel shall not have the right to modify or revoke the
12 Settlement, or to appeal such order, nor will Plaintiff or Class Counsel seek, request, or demand an
13 increase to the Gross Settlement Amount on that basis.

14 **59. Class Counsel Award**

15 Class Counsel will file a motion for attorney fees in the amount of up to forty percent
16 (40%) of the Gross Settlement Amount increased by the Modification Provision if applicable, and
17 for the reimbursement of reasonable litigation costs and expenses associated with Class Counsel's
18 prosecution of this matter in addition to attorneys' fees, to be paid from the Gross Settlement
19 Amount. Class Counsel shall be paid the Class Counsel Award no later than five (5) calendar days
20 after Defendant fully funds the settlement. Any amount requested by Class Counsel for the Class
21 Counsel Award and not granted by the Court shall return to the Net Settlement Amount and be
22 distributed to Participating Class Members as provided in this Agreement.

23 This Settlement is not contingent upon the Court awarding Class Counsel any particular
24 amount in attorney fees and costs and, in the event that the Court reduces or does not approve the
25 requested Class Counsel Award, Plaintiff shall not have the right to modify or revoke the
26 Settlement, or to appeal such order, nor will Plaintiff seek, request, or demand an increase to the
27 Gross Settlement Amount on that basis.

28

1 **60. Tax Treatment**

2 The Settlement Administrator will report each payment made from the Qualified Settlement
3 Fund to state and federal government authorities, including the Internal Revenue Service, to the
4 extent required by law. All Individual Settlement Payments shall be allocated as follows: 20% as
5 wages and 80% as penalties and interest. The 20% portion of Settlement Payments shall be subject
6 to required withholdings and deductions by the Settlement Administrator and shall be reported on a
7 Form W-2 (and such other state or local tax reporting forms as may be required by law) with
8 respect to the year of payment as wage income to the Participating Class Member by the Settlement
9 Administrator on behalf of the Qualified Settlement Fund. All Individual PAGA Payments shall be
10 allocated as 100% penalties for which a Form 1099 will be issued if required. The Settlement
11 Administrator shall issue an I.R.S. Form 1099 if required for the remaining payments under this
12 Agreement. Defendant shall solely be responsible for paying the employer's share of payroll taxes
13 on the amounts allocated as wages, which amount shall be paid separately from the Gross
14 Settlement Amount. Plaintiff, any Participating Class Member, and any PAGA Member who
15 receives any Individual Settlement Payment or Individual PAGA Payment should consult with
16 their tax advisors concerning the tax consequences of the payments they receive under the
17 Settlement.

18 Participating Class Members, PAGA Members, and Class Counsel shall be solely
19 responsible for the reporting and payment of their share of any federal, state, and/or local income
20 tax or other tax or any other withholdings, if any, on any of the payments made pursuant to this
21 Settlement. The Notice will advise each Class and PAGA Member to seek his/her own personal tax
22 advice prior to acting in response to the Notice, and Defendant, the Class Representative, and each
23 Class and PAGA settlement member will have an adequate opportunity to seek tax advice, prior to
24 acting in response to the Notice.

25 **61. No Tax Advice**

26 Defendant has not made any representations as to the taxability to any Settlement Class
27 Members of any portion of the Individual Settlement Payments, to any PAGA Members regarding
28 the Individual PAGA Payments, the payment of any attorney fees and expenses to Class Counsel,

1 or the payment of the Class Representative Enhancement Award to the Class Representative.
2 Neither Plaintiff, Class Counsel, nor Defendant's Counsel are providing any advice regarding taxes
3 or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of
4 United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

5 **62. Unclaimed Settlement Payment(s)**

6 After one hundred and eighty (180) calendar days of the mailing of the Individual
7 Settlement Payments and Individual PAGA Payment checks, any remaining funds attributable to
8 unclaimed, undeliverable, or expired Individual Settlement Payment checks and/or Individual
9 PAGA Payment checks shall be tendered to the Controller of the State of California to be held
10 pursuant to the Unclaimed Property Fund in the name of each Participating Class Member and/or
11 PAGA Member who did not cash their Individual Settlement Payment check or Individual PAGA
12 Payment check. If the amounts cannot be tendered to the Controller of the State of California, the
13 Parties agree to select an alternative recipient option. The Parties agree that this disposition results
14 in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement
15 will be paid out to Participating Class Members, whether or not they all cash their Individual
16 Settlement Payments, and Defendant will not be required to pay any interest on said amount.

17 **63. Settlement Administrator Costs**

18 The Settlement Administrator has provided a settlement administration quote for
19 \$16,000.00. Upon filing the motion for Final Approval, Plaintiff will request the Court to award an
20 amount equal to the actual administration costs. The Settlement Administrator shall have the
21 authority and obligation to make payments, credits, and disbursements to Participating Class
22 Members and PAGA Members in the manner set forth herein, calculated in accordance with the
23 methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in
24 the Settlement Administration process and to make reasonable efforts to control and minimize the
25 cost and expenses incurred in administration of the Settlement. The Settlement Administrator shall
26 be paid the Settlement Administrator Costs no later than five (5) calendar days after Defendant
27 fully funds the settlement. Any amount requested for the Settlement Administrator Costs and not
28

granted by the Court shall return to the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement.

64. Settlement Administrator Duties

In addition to establishing the Qualified Settlement Fund, the Settlement Administrator shall be responsible for the following: creating a plan of settlement administration and settlement fund distribution; using the Class Information to calculate each Class Member's approximate Individual Settlement Payment and each PAGA Member's Individual PAGA Payment; ascertaining the identity and whereabouts of the Class Members and mailing Notice of Class Action Settlement out to them; communicating with Class Members as necessary; printing and mailing the Notice of Class Action Settlement and tax forms to the Participating Class Members and PAGA Members as directed by the Court (including, but not limited to, the DE 9, the DE 9C, 1099s, W-2s and W-3s); receiving and reporting requests for exclusion and objections; processing and disbursing payments to Plaintiff, Class Counsel, Participating Class Members, the LWDA and PAGA Members; notifying the Parties of, and resolving any disputes regarding, the calculation of Settlement Class Members' Individual Settlement Payments or PAGA Members' Individual PAGA Payments; complying with all tax reporting notice and filing requirements; carrying out all other duties related to the Qualified Settlement Fund's documentation and filing; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; providing status reports as needed, among other administrative duties; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

Defendant and their Counsel shall have no responsibility for validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiff, Class Counsel, Defendant, and Defendant's Counsel shall not bear any responsibility for any errors or omissions in the calculation or distribution of the Individual Settlement Payments, Individual PAGA Payments, or any other distribution of monies contemplated by this Agreement.

1 **65. Final Approval Hearing and Entry of Final Judgment**

2 Upon expiration of the Response Deadline, with the Court's permission, a Final Approval
3 Hearing shall be conducted to determine final approval of the Settlement along with the amount
4 properly payable for: (a) the Class Counsel Award; (b) the Class Representative Enhancement
5 Award; (c) Individual Settlement Payments; (d) the PAGA Payment to the LWDA and to PAGA
6 Members and (e) Settlement Administrator Costs.

7 **66. Final Approval Order**

8 Plaintiff will request, and Defendant will concur in said request, that the Court enter, after
9 the Final Approval Hearing, a Final Approval Order and a Final Judgment. Plaintiff will request
10 that the Final Approval Order certify the Settlement Class; find that this Agreement is fair, just,
11 adequate, and in the best interests of the Class; and require the Parties to carry out the provisions
12 of this Agreement. The Parties shall jointly prepare the proposed Final Approval Order.

13 Plaintiff shall be responsible for preparing the Motion for Final Approval, and any Motion
14 Requesting Attorney fees, Costs, and Class Representative Enhancement Award, supporting
15 declarations, and exhibits thereto, for final approval by the Court. Plaintiff agrees to provide
16 Counsel for Defendant with drafts of all documents they intend to submit in support of their
17 Motion for Final Approval and application for attorney fees and costs at least five (5) calendar
18 days in advance of filing to allow Counsel for Defendant a reasonable time to review and
19 comment on such papers. Plaintiff further agrees to reasonably incorporate the comments from
20 Counsel for Defendant. The Parties must meet and confer and make all reasonable efforts to
21 agree on any modifications to this Agreement that will result in entry of the Final Approval
22 Order.

23 **67. Nullification of Agreement**

24 In the event: (a) the Court denies preliminary approval of the Settlement; (b) the Court denies
25 final approval of the Settlement; (c) the Court refuses to enter a Final Judgment as provided herein;
26 or (d) the Settlement does not become final for any other reason, this Agreement shall be null and
27 void and any order or judgement entered by the Court in furtherance of this Settlement shall be
28 treated as void from the beginning.

To the extent that more than 5% of Class Members submit valid Requests for Exclusion, Defendant shall have the option to nullify this Settlement within five (5) calendar days of notification by the Settlement Administrator after the Response Deadline of the total number of Requests for Exclusion, via a written notice to Plaintiff's counsel. If Defendant exercises this option, the Settlement will become void and unenforceable in its entirety and the Parties shall be returned to their status as if this Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by the Defendant for terminating the Settlement.

68. No Publicity

Plaintiff and Class Counsel shall not issue any press releases, communicate with, or respond to any media or publication entities, concerning the Settlement, including the fact of the Settlement, its terms or contents and the negotiations underlying the Settlement, except as shall be contractually required to effectuate the terms of the Settlement. However, Plaintiff's Counsel may disclose or publicize, without referencing any specifics about the case, including the identities of any entities covered by the definition of "Defendant," the amount of the settlement, and that it was a wage-and-hour/PAGA settlement. For the limited purpose of allowing Plaintiff's Counsel to prove adequacy as class counsel in other actions, Plaintiff's Counsel may disclose the name of the Parties in this action and the venue/case number of this action (but not any other settlement details) for such purposes.

69. No Other Actions.

Other than the instant Action, Plaintiff and Plaintiff's counsel represent they have no current intention of asserting any claims against Defendant in any judicial or administrative forum. Plaintiff and Plaintiff's counsel further represent they do not currently represent any persons who have expressed an interest in pursuing litigation or seeking any recovery against Defendant. The Parties acknowledge, understand, and agree the representations in this paragraph are essential to this Settlement and this Settlement would not have been entered were it not for this representation.

1 **70. No Effect on Employee Benefits**

2 The Class Representative Enhancement Award, Individual Settlement Payments, and
3 Individual PAGA Payments shall be deemed not to be pensionable earnings and shall not have any
4 effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay,
5 retirement plans, etc.) of the respective Plaintiff, Participating Class Members, and PAGA
6 Members. The Parties agree that any Class Representative Enhancement Award, Individual
7 Settlement Payments, and Individual PAGA Payments paid to Plaintiff, Participating Class
8 Members, and PAGA Members under the terms of this Settlement do not represent any
9 modification of any previously credited hours of service or other eligibility criteria under any
10 employee pension benefit plan or employee welfare benefit plan sponsored by the Defendant.
11 Further, any Class Representative Enhancement Award, Individual Settlement Payments, and
12 Individual PAGA Payments shall not be considered “compensation” in any year for purposes of
13 determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee
14 welfare benefit plan sponsored by the Defendant.

15 **71. Representation**

16 All of the Parties have been represented by counsel throughout all negotiations which
17 preceded the execution of this Settlement, and all Parties have been advised by counsel prior to
18 entering into this Settlement.

19 **72. Exhibits and Headings**

20 The terms of this Agreement include the terms set forth in any attached Exhibits, which are
21 incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are
22 an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this
23 Agreement are inserted for convenience of reference only and do not constitute a part of this
24 Agreement.

25 **73. Interim Stay of Proceedings**

26 Upon full execution of this Agreement, the Parties agree to jointly request the Court to stay
27 proceedings except for the proceedings necessary to implement and complete the Settlement.
28

1 **74. Amendment or Modification**

2 This Agreement may be amended or modified only by a written instrument signed by
3 counsel for all Parties or their successors-in-interest.

4 **75. Entire Agreement**

5 This Agreement and any attached Exhibits constitute the entire Agreement among these
6 Parties, and no oral or written representations, warranties, or inducements have been made to any
7 Party concerning this Agreement or its Exhibits other than the representations, warranties, and
8 covenants contained and memorialized in the Agreement and its Exhibits. The Parties are entering
9 into this Agreement based solely on the representations and warranties herein and not based on any
10 promises, representation, and/or warranties not found herein.

11 **76. Authorization to Enter into Agreement**

12 Counsel for all Parties are expressly authorized by the Parties whom they represent to
13 negotiate this Agreement and take all appropriate actions required or permitted to be taken by such
14 Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents
15 required to effectuate the terms of this Agreement.

16 The Parties will cooperate with each other and use their best efforts to effect the
17 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
18 form or content of any document needed to implement the Settlement, or on any supplemental
19 provisions that may become necessary to effectuate the terms of this Settlement, the Parties may
20 seek the assistance of the Court to resolve such disagreement. The person signing this Agreement
21 on behalf of the Defendant represents and warrants that she or she is authorized to sign this
22 Agreement on behalf of the Defendant. Plaintiff represents and warrants that she is authorized to
23 sign this Agreement and that she has not assigned any claim, or part of a claim, covered by this
24 Settlement to a third-party.

25 **77. Binding on Successors and Assigns**

26 This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns
27 of the Parties hereto, as previously defined.

28

78. California Law Governs

All terms of this Agreement and the Exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

79. Counterparts

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

80. Jurisdiction of the Court

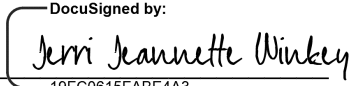
Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all connected orders and judgments.

81. Invalidity of Any Provision

Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

WHEREFORE, Plaintiff, on behalf of herself and the Participating Class Members and the PAGA Members, and Defendant have executed this Agreement as of the dates set forth below.

Date: 7/15/2024

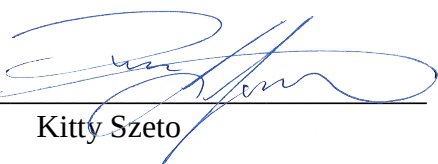
By: 
DocuSigned by: 19FC0615FABE4A3...
 Jerri Jeannette Winkey, Plaintiff

Date: _____

By: _____
 Graham Hoerauf,
 Authorized Agent for Defendant

APPROVED AS TO FORM:

Date: _____

By: 
 Kitty Szeto

Parris Law Firm
 Counsel for Plaintiff

78. California Law Governs

All terms of this Agreement and the Exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

79. Counterparts

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

80. Jurisdiction of the Court

Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all connected orders and judgments.

81. Invalidity of Any Provision

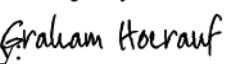
Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

WHEREFORE, Plaintiff, on behalf of herself and the Participating Class Members and the PAGA Members, and Defendant have executed this Agreement as of the dates set forth below.

Date: _____

By: _____
Jerri Jeannette Winkey, Plaintiff

Date: 17-Jul-2024

DocuSigned by:
By: 
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Graham Hoerauf,
Authorized Agent for Defendant

APPROVED AS TO FORM:

Date: _____

By: _____
Kitty Szeto

Parris Law Firm
Counsel for Plaintiff

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Date: July 17, 2024

By: 
Evan R. Moses
Alexandra M. Asterlin

Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
Counsel for Defendant