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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

NELIA FUMERA and JOSEFINA GAPUZ  
on behalf of themselves and other similarly  
situated non-exempt former and current  
employees,

Plaintiffs,

vs.

LBC MUNDIAL CORPORATION, a  
California Corporation; and DOES 1 through  
100, Inclusive,

Defendants.

Case No.: CGC-23-608960

*[Assigned for all purposes to the Honorable  
Anne-Christine Massullo, Dept. 613]*

**CLASS ACTION AND PRIVATE  
ATTORNEYS GENERAL ACT ("PAGA")  
SETTLEMENT AGREEMENT**

Complaint Filed: September 11, 2023

Trial Date: TBD

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*And all other similarly situated non-exempt former and current employees*

**CLASS ACTION AND PRIVATE ATTORNEYS GENERAL ACT ("PAGA")  
SETTLEMENT AGREEMENT**

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between plaintiffs Nelia Fumera ("Fumera") and Josefina Gapuz ("Gapuz") (collectively referred to as, "Plaintiffs") and defendant LBC Mundial Corporation ("Defendant"). The Agreement refers to Plaintiffs and Defendant collectively as "Parties," or individually as "Party."

**1. DEFINITIONS**

**1.1.** "Action" means the matters of *Fumera, Nelia, et al. v. LBC Mundial Corporation*, San Francisco County Superior Court, Case No. CGC-23-608960.

**1.2.** "Administrator" means APEX Class Action Settlement Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.

**1.3.** "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval of the Settlement.

**1.4.** "Aggrieved Employee" means all individuals currently or formerly employed by Defendant as non-exempt, hourly-paid employees in California who worked during the PAGA Period.

**1.5.** "Class" means all individuals currently or formerly employed by Defendant in California as non-exempt, hourly-paid employees during the Class Period.

**1.6.** "Class Counsel" means Brandon J. Sweeney of the Sweeney Law Firm and Jonathan J. Moon of The Law Office of Jonathan J. Moon.

**1.7.** "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" means the amounts Class Counsel will be paid from the Gross Settlement Amount as payment for reasonable attorneys' fees and statutorily recoverable costs, respectively, incurred to prosecute the Action.

**1.8.** "Class Data" means each Class Member's name, last-known mailing address, Social Security number, number of workweeks and PAGA workweeks.

**1.9.** "Class Member" or "Settlement Class Member" means a member of the Class, as

1 either a Participating Class Member or Non-Participating Class Member (including a Non-  
2 Participating Class Member who qualifies as an Aggrieved Employee).

3 **1.10.** “Class Member Address Search” means the Administrator’s investigation and  
4 search for current Class Member mailing addresses using all reasonably available sources, methods  
5 and means including, but not limited to, the National Change of Address database, skip traces, and  
6 direct contact by the Administrator with Class Members.

7 **1.11.** “Class Notice” means the Court-approved Notice of Class Action Settlement and  
8 Hearing Date for Final Court Approval, in substantially the same form as that attached as Exhibit  
9 A hereto.

10 **1.12.** “Class Workweek” means every five (5) shifts worked by a Class Member during  
11 the Class Period.

12 **1.13.** “Class Period” means the period from September 11, 2019 through November 17,  
13 2024, unless modified pursuant to Section 8 of this Agreement.

14 **1.14.** “Class Representatives” means the named Plaintiffs in the Operative Complaint in  
15 the Action seeking Court approval to serve as Class Representatives.

16 **1.15.** “Class Representative Service Payment” means the amount the Class  
17 Representative will be paid from the Gross Settlement Amount for initiating the Action and  
18 providing services in support of the Action.

19 **1.16.** “Court” means the Superior Court of California, County of San Francisco.

20 **1.17.** “Defendant” means Defendant LBC Mundial Corporation.

21 **1.18.** “Defense Counsel” means Linda M. Moroney, Linh T. Hua and Renee K. Corona  
22 of Gordon Rees Scully Mansukhani.

23 **1.19.** “Effective Date” means the date by when both of the following have occurred: (a)  
24 the Court enters a Judgment in accordance with the Final Approval; and (b) the Judgment is final.  
25 The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class  
26 Members object to the Settlement, the day the Court enters Judgment; (b) if one or more  
27 Participating Class Members object to the Settlement, the day after the deadline for filing a notice  
28 of appeal from the Judgment; or, (c) if a timely appeal from the Judgment is filed, the day after the

appellate court affirms the Judgment and issues a remittitur.

**1.20.** “Final Approval” means the Court’s order granting final approval of the Settlement.

**1.21.** “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

**1.22.** “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

**1.23.** “Gross Settlement Amount” means \$475,000.00 which is the total amount Defendant agrees to pay under the Settlement, subject to (voluntary) increase as provided in Section 8 of this Agreement. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administration Expenses Payment.

**1.24.** “Individual Class Payment” means a Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked by the Participating Class Member.

**1.25.** “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Workweeks worked by the Aggrieved Employee.

**1.26.** “Judgment” means the judgment entered by the Court based upon the Final Approval.

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

**1.28.** “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code §2699, subd. (i).

**1.29.** “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment.

**1.30.** “Non-Participating Class Member” means any Class Member who opts out of the

Settlement by sending the Administrator a valid and timely Request for Exclusion.

**1.31.** “Notice Packet” means the Class Notice (Exhibit A).

**1.32.** “Operative Complaint” means the First Amended Complaint filed by Plaintiffs on November 13, 2024.

**1.33.** “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

**1.34.** “PAGA Pay Period” means any pay period during which an Aggrieved Employee was employed directly by Defendant during the PAGA Period and received payment for wages for work performed for that pay period.

**1.35.** “PAGA Period” means the period from July 8, 2022, through the date the Court grants Preliminary Approval of the Settlement.

**1.36.** “PAGA Notice” means Plaintiff Josefina Gapuz’s May 25, 2024 letter to Defendant and the LWDA providing notice pursuant to Labor Code §2699.3, subd. (a).

**1.37.** “PAGA Penalties” means the \$20,000.00 allocated by the Parties to the settlement of claims arising under PAGA, to be paid from the Gross Settlement Amount and allocated 25% (\$5,000.00) to the Aggrieved Employees as Individual PAGA Payments and 75% (\$15,000.00) to the LWDA as the LWDA PAGA Payment. If the Court approves PAGA Penalties of less than this amount, the Administrator shall allocate the remainder to the Net Settlement Amount.

**1.38.** “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

**1.39.** “Plaintiffs” means Nelia Fumera and Josefina Gapuz, the named plaintiffs in the action.

**1.40.** “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

**1.41.** “Released Class Claims” means the Released Claims being released as described in Paragraph 5.3 below, which do not arise and/or are not assertable under PAGA.

**1.42.** “Released PAGA Claims” means the Released Claims being released as described in Paragraph 5.3 below that arise and/or are assertable under PAGA.

**1.43.** “Released Parties” means: Defendant together with its present and former parents,

1 subsidiaries, affiliated entities, commonly owned or controlled entities, its present and former  
2 owners, board members, officers, directors, trustees, shareholders, members, partners, employees,  
3 agents, insurers, attorneys, representatives, heirs, executors, administrators, successors and assigns,  
4 franchisors, and any individual or entity to whom liability for the claims released by Plaintiffs is  
5 or may be asserted or assigned pursuant to Labor Code §558.1, or on a joint-employer, alter-ego,  
6 third-party beneficiary, or other vicarious liability theory.

7 **1.44.** “Request for Exclusion” means a Class Member’s submission of a written request  
8 to be excluded from the Class Settlement signed by the Class Member.

9 **1.45.** “Response Deadline” means 45 days after the Administrator mails Notice to Class  
10 Members (plus an additional 14 days for Class Members whose Notice Packets are resent by the  
11 Administrator after being returned as undeliverable), and shall be the last date on which Class  
12 Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email,  
13 or mail his or her Objection to the Settlement.

14 **1.46.** “Settlement” means the disposition of the Action effected by this Agreement and  
15 the Judgment.

16 **2. RECITALS**

17 **2.1.** On September 11, 2023, Plaintiffs commenced this Action by filing a complaint  
18 alleging causes of action for (1) failure to provide meal periods, (2) failure to provide rest periods,  
19 (3) failure to pay overtime wages, (4) failure to timely provide wage during employment, (5)  
20 failure to pay all wages due to discharged and quitting employees, (6) failure to maintain required  
21 records, (7) failure to furnish accurate itemized statements, and (8) unfair business practices under  
22 California Business and Professions Code Section 17200 *et seq.* On November 13, 2024, Plaintiffs  
23 filed a first amended complaint adding a ninth cause of action for penalties pursuant to California  
24 Labor Code Section 2698 *et seq.* (“PAGA”). Defendant denies the allegations in the Operative  
25 Complaint, denies any failure to comply with the law, and denies any liability for the claims alleged  
26 in the operative complaint and first amended complaint.

27 **2.2.** Pursuant to Labor Code §2699.3, subd. (a), Plaintiff Josefina Gapuz gave timely  
28 written notice to Defendant and the LWDA by sending the PAGA Notice.

1           **2.3.**    On September 18, 2024, the Parties participated in an all-day mediation presided  
2 over by Gig Kyriacou, Esq., which resulted in a settlement of the Action.

3           **2.4.**    Prior to mediation, Plaintiffs obtained, through informal discovery, the number of  
4 Class Members, the number of Aggrieved Employees, the number of workweeks during the class  
5 period, the number of pay period for the PAGA period, average rates of pay for all employees, a  
6 sampling of Defendant's time records, a sampling of Defendant's payroll records, Defendant's  
7 written policies and procedures, and other information related to Plaintiffs and Defendant.  
8 Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v.*  
9 *Foot Locker Retail, Inc.* (1996) 48 Cal.App.4<sup>th</sup> 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.*  
10 (2008) 168 Cal.App.4<sup>th</sup> 116, 129-130 ("*Dunk/Kullar*").

11           **2.5.**    The Parties, Class Counsel, and Defense Counsel represent that they are not aware  
12 of any other pending matter or action asserting claims that will be extinguished or affected by the  
13 Settlement Agreement.

14           **2.6.**    The Court has not granted class certification.

15 **3.    MONETARY TERMS**

16           **3.1.**    Gross Settlement Amount. Except as otherwise provided by Section 8 below,  
17 Defendant agrees to pay \$475,000.00 and no more as the Gross Settlement Amount and to  
18 separately pay any and all employer payroll taxes owed on the Wage Portion of the Individual  
19 Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll  
20 taxes) prior to the deadline stated in Section 4.1.3 of this Agreement. The Administrator will  
21 disburse the entire Gross Settlement Amount without asking or requiring Participating Class  
22 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the  
23 Gross Settlement Amount will revert to Defendant.

24           **3.2.**    Payments from the Gross Settlement Amount. The Administrator will make and  
25 deduct the following payments from the Gross Settlement Amount, in the amounts specified by  
26 the Court in the Final Approval:

27           **3.2.1.** To Plaintiffs: Class Representative Service Payments to the Class Representatives  
28 of not more than \$7,500.00 for each Class Representative (in addition to any Individual Class

1 Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a  
2 Participating Class Member and Aggrieved Employee). Defendant will not oppose Plaintiffs'  
3 request for Class Representative Service Payments that do not exceed this amount. As part of the  
4 motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will  
5 seek Court approval for any Class Representative Service Payments no later than 16 court days  
6 prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments  
7 less than the amount requested, the Administrator will retain the remainder in the Net Settlement  
8 Amount. The Administrator will pay the Class Representative Service Payments using IRS Form  
9 1099. Plaintiffs assume full responsibility and liability for taxes owed on the Class Representative  
10 Service Payments and agree to hold Defendant harmless, and indemnify Defendant, from any  
11 dispute or controversy regarding any division, sharing, or taxation of any of these payments.

12 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-  
13 third, which is currently estimated to be \$156,750.00 and a Class Counsel Litigation Expenses  
14 Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments  
15 provided that do not exceed these amounts and the Class Counsel Litigation Expenses Payment  
16 claimed are recoverable under statute. Plaintiffs and/or Class Counsel will file a motion for Class  
17 Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to  
18 the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class  
19 Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will  
20 retain the remainder in the Net Settlement Amount. Defendant and Released Parties shall have no  
21 liability to Class Counsel or any other Class Member's counsel arising from any claim to any  
22 attorneys' fees or costs, aside from the Class Counsel Fees Payment and Class Counsel Litigation  
23 Expenses Payment, which shall be paid from the Gross Settlement Amount. The Administrator  
24 will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more  
25 IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the  
26 Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and agrees to  
27 hold Defendant harmless, and indemnify Defendant, from any dispute or controversy regarding  
28 any division, sharing, or taxation of any of these payments.

1           3.2.3.     To the Administrator: An Administrator Expenses Payment not to exceed  
2 \$5,000.00 except for a showing of good cause and as approved by the Court. To the extent the  
3 Administration Expenses are less than \$5,000.00, or the Court approves payment less than  
4 \$5,000.00 the Administrator will retain the remainder in the Net Settlement Amount.

5           3.2.4.     To Each Participating Class Member: An Individual Workweek calculated  
6 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all  
7 Participating Class Members during the Class Period and (b) multiplying the result by each  
8 Participating Class Member's Class Workweeks.

9           3.2.4.1.     Tax Allocation of Individual Class Payments. 10% of each Participating  
10 Class Member's Individual Class Payment will be allocated to settlement of wage claims (the  
11 "Wage Portion"). The Wage Portions of Individual Class Payments are subject to tax withholding  
12 and will be reported on an IRS W-2 Form. 90% of each Participating Class Member's Individual  
13 Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage  
14 Portion"). The Non-Wage Portion of Individual Class Payments are not subject to wage  
15 withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full  
16 responsibility and liability for any employee-side payroll taxes owed on their Individual Class  
17 Payment.

18           3.2.4.2.     Effect of Non-Participating Class Members on Calculation of Individual  
19 Class Payments. Non-Participating Class Members will not receive any Individual Class Payments.  
20 The Administrator will retain amounts equal to their Individual Class Payments in the Net  
21 Settlement Amount for distribution to Participating Class Members on a pro rata basis.

22           3.2.5.     To the LWDA: \$15,000.00, the amount of the LWDA's 75% share of PAGA  
23 Penalties.

24           3.2.6.     To Each Aggrieved Employee: An Individual PAGA Payment calculated  
25 by (a) dividing \$5,000.00 (the amount of the Aggrieved Employees 25% share of PAGA Penalties)  
26 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA  
27 Period and (b) multiplying the result by each Aggrieved Employees' PAGA Pay Periods.

28           3.2.6.1.     Tax Allocation of Individual PAGA Payments. 100% of each Aggrieved

1 Employees' Individual PAGA Payment will be allocated to settlement of claims for penalties and  
2 are not subject to wage withholdings and will be reported on IRS 1099 Forms. Aggrieved  
3 Employees assume full responsibility and liability for any employee-side payroll taxes owed on  
4 their Individual PAGA Payment.

5 3.2.6.2. Effect of Non-Participating Class Members on Calculation of Individual  
6 PAGA Payments. Aggrieved Employees may not opt out of the Released PAGA Claims. Non-  
7 Participating Class Members will receive an Individual PAGA Payment to the extent they also  
8 qualify as an Aggrieved Employee. A Class Member's status as a Non-Participating Class Member  
9 shall, therefore, have no effect on his/her entitlement to Individual PAGA Payment nor shall such  
10 status change the Administrator's calculation of Individual PAGA Payments.

11 **4. CLASS INFORMATION, SETTLEMENT FUNDING AND PAYMENTS.**

12 4.1.1. Class Size. Based on a review of its records through the date of mediation,  
13 Defendant estimates there are approximately 150 Class Members who collectively worked a total  
14 of 21,000 Workweeks.

15 4.1.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval of  
16 the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a  
17 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must  
18 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and  
19 for no other purpose, and restrict access to the Class Data to Administrator employees who need  
20 access to the Class Data to effect and perform under this Agreement. Defendant has a continuing  
21 duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member  
22 identifying information and to provide corrected or updated Class Data as soon as reasonably  
23 feasible. Without any extension of the deadline by which Defendant must send the Class Data to  
24 the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith,  
25 to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

26 4.1.3. Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement  
27 Amount and fund the amounts necessary to fully pay Defendant's share of payroll taxes on the  
28 Wage Portion of the Individual Class Payments as calculated by the Administrator by transmitting

1 the Gross Settlement Amount and amounts necessary to fund Defendant's share of payroll taxes to  
2 the Administrator, or as otherwise directed by the Administrator, no later than 30 days after the  
3 Effective Date.

4 4.1.4. Payments from the Gross Settlement Amount. Within 15 days after Defendant  
5 funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class  
6 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration  
7 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses  
8 Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees  
9 Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service  
10 Payments shall not precede disbursement of Individual Class Payments and Individual PAGA  
11 Payments.

12 4.1.5. The Administrator will issue checks for the Individual Class Payments and/or  
13 Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage  
14 prepaid. The face of each check shall prominently state the date (not less than 180 days after the  
15 date of mailing) when the check will be voided. The Administrator will cancel all checks not  
16 cashed by the void date. The Administrator will send checks for Individual Class Payments and  
17 Individual PAGA Payments to all Participating Class Members and Aggrieved Employees  
18 (including those for whom Notice Packet was returned undelivered). The Administrator may send  
19 Participating Class Members and Aggrieved Employees a single check combining the Individual  
20 Class Payment and the Individual PAGA Payment.

21 4.1.6. The Administrator must conduct a Class Member Address Search for all Class  
22 Members whose checks are returned undelivered without USPS forwarding address. Within 7 days  
23 of receiving a returned check the Administrator must re-mail checks to the USPS forwarding  
24 address provided or to an address ascertained through the Class Member Address Search. The  
25 Administrator need not take further steps to deliver checks to Class Members whose re-mailed  
26 checks are returned as undelivered. The Administrator shall promptly send a replacement check to  
27 any Class Member whose original check was lost or misplaced, as requested by the Class Member  
28 prior to the void date.

1           4.1.7.       For any Class Member whose Individual Class Payment check or Individual  
2 PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall  
3 transmit the funds represented by such checks to the California State Controller's Office –  
4 Unclaimed Property Fund.

5           4.1.8.       The payment of Individual Class Payments and Individual PAGA Payments  
6 shall not obligate Defendant to confer any additional benefits or make any additional payments to  
7 Class Members (such as 401(k) contributions, bonuses, vacation plans, sick leave plans, PTO plans,  
8 regular rate of pay calculations, or other benefit plan) beyond those specified in this Agreement.

9       **5.       RELEASES OF CLAIMS**

10       5.1       Effective Date of Release. The releases described herein shall take effect upon the  
11 Effective Date, and shall cover the Class Period (for the Released Class Claims) and the PAGA  
12 Period (for the Released PAGA Claims). However, such releases shall subsequently be invalidated  
13 if, after the Effective Date, Defendant fails to fund the Gross Settlement Amount and employer-  
14 side payroll taxes per the schedule set forth in this Agreement. Nonetheless, Defendant shall have  
15 the right to enforce the releases set forth in this Agreement as to Plaintiffs, Participating Class  
16 Members, Aggrieved Employees, and the LWDA, as applicable, without regard to their receipt of  
17 an Individual Settlement Payment, Individual PAGA Payment, or the LWDA PAGA Payment,  
18 and prior to fully funding the Gross Settlement Amount, so long as Defendant has complied with  
19 the procedures set forth in this Agreement relating to the funding of the Gross Settlement Amount  
20 (as set forth in Section 4.1.3 of this Agreement) as of the time it seeks to enforce a release. Further,  
21 any claims released under this Agreement by Plaintiffs, Participating Class Members, Aggrieved  
22 Employees, and the LWDA shall be deemed tolled for statute of limitations purposes between the  
23 Effective Date and Defendant's deadline to fund the Gross Settlement Amount and employer-side  
24 payroll taxes, such that if the releases set forth herein are subsequently invalidated after the  
25 Effective Date due to Defendant's failure to fully fund the settlement, Plaintiffs', Participating  
26 Class Members', Aggrieved Employees', and the LWDA's time to bring an action shall be  
27 extended between the Effective Date and the date the settlement is invalidated (i.e., the date of  
28 Defendant's failure to fund the Gross Settlement Amount).

1        Plaintiffs' Release. Plaintiffs and their respective former and present spouses,  
2 representatives, agents, attorneys, heirs, administrators, successors, and assigns, as of the Effective  
3 Date, generally release and discharge Defendant and Released Parties from all claims, transactions,  
4 or occurrences that occurred between or involving the parties through the date of Plaintiffs'  
5 execution of this Agreement ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any  
6 claims or actions to enforce this Agreement, or to any claims for unemployment benefits, disability  
7 benefits, social security benefits, or workers' compensation benefits that arose at any time, or based  
8 on transactions or occurrences after the Class Period and/or PAGA Period, whichever date is  
9 further into the future. Plaintiffs acknowledge that they may discover facts or law different from,  
10 or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree,  
11 nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding  
12 such different or additional facts or Plaintiffs' discovery of them. Plaintiffs understand and agree  
13 that by signing this Agreement they give up any and all legal claims they have or may have against  
14 the Released Parties through their execution of this Agreement, expressly including claims under  
15 the ADEA. Plaintiffs are advised to consult with legal counsel regarding the waiver contained  
16 herein generally and specifically as to the waiver of claims under the ADEA. Plaintiffs understand  
17 and agree that they have been advised in writing of their right to consult with an attorney before  
18 signing this Agreement. Plaintiffs have twenty-one (21) days to consider this Agreement, although  
19 they may sign it at any time prior to the expiration of the twenty-one (21) days. Plaintiff Fumera  
20 and Plaintiff Gapuz may revoke this Agreement at any time during the seven (7) days after they  
21 sign the Agreement. This Agreement shall not become effective until the seven (7) day revocation  
22 period has passed.

23        5.2    Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For  
24 purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights,  
25 and benefits, if any, of §1542 of the California Civil Code, which reads:

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

1           5.3    Release by Participating Class Members and Aggrieved Employees: All  
2 Participating Class Members and all Aggrieved Employees (who shall not have the right to opt out  
3 of the release of the Released PAGA Claims) shall be bound by a release, as of the Effective Date,  
4 of all claims alleged in the Operative Complaint or any of Plaintiffs' PAGA Notice(s), or which  
5 could have been alleged based on the facts alleged in the Operative Complaint or any of Plaintiffs'  
6 PAGA Notice(s), and which arose during the Class Period and PAGA Period. Without limiting the  
7 foregoing, Released Claims shall include any and all claims or causes of action regarding unpaid  
8 wages, including but not limited to failure to pay minimum wages, straight time wages, overtime  
9 compensation, double-time compensation, and interest; failure to timely pay regular and final  
10 wages; failure to provide compliant meal, rest, and/or recovery periods; failure to pay premiums  
11 at all or at the correct rate for any violation of meal, rest, and/or recovery period obligations; invalid  
12 meal period waivers or on-duty meal period agreements; payment for all hours worked; wage  
13 statements and paystubs, including wage statements and paystubs furnished or available in  
14 physical, electronic, or other forms; failure to keep accurate records; unfair business practices  
15 related thereto; and any and all related penalties, including recordkeeping penalties, wage  
16 statement penalties, minimum wage penalties, waiting time penalties, and other statutory or civil  
17 penalties associated with any of the foregoing. Further, such Released Claims shall include, but  
18 are not limited to those claims arising under California Labor Code sections 201, 202, 203, 204,  
19 204b, 206, 207, 208, 210, 218.5, 218.6, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 246, subd.  
20 (i), 248.5, 256, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802,  
21 2698 et seq., and 2699 et seq., and/or those arising under the applicable Industrial Welfare  
22 Commission Wage Order(s) (including but not limited to subsections 3, 4, 5, 7, 8, 9, 10, 11, 12,  
23 18, and 20 of the applicable Wage Order(s), such as IWC Wage Order 9-2001 [including the  
24 provisions of the California Code of Regulations codifying the applicable Wage Order(s)]),  
25 California Business Professions Code §17200 et seq. (including, without limitation, §§17200  
26 through 17208); California Civil Code sections 3287 and 3289; California Code of Civil Procedure  
27 section 1021.5; all claimed or unclaimed compensatory, consequential, incidental, liquidated,  
28 punitive and exemplary damages, penalties, restitution, interest, costs and attorneys' fees,

injunctive or equitable relief, and any other remedies available at law or equity, and other amounts recoverable under said claims under California law (“Released Claims”).

5.4 Construction. The Parties intend that the releases be construed as broadly as possible. The release excludes the release of claims not permitted by law.

5.5 Resolution of Good Faith Dispute. The parties warrant and represent that the releases for Participating Class Members and Aggrieved Employees resolve, pursuant to Labor Code §§206 and 206.5, and applicable case law (including but not limited to *Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796) a good faith dispute regarding any and all wages, if any, owed to Participating Class Members / Aggrieved Employees through their last day of employment with Defendant within the Class Period and PAGA Period.

## **6. MOTION FOR PRELIMINARY APPROVAL.**

6.1 Plaintiffs’ Responsibilities. Plaintiffs shall prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”). Defendant shall not oppose the motion, to the extent it is consistent with this Agreement. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code §2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Notice Packet; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness and ability to serve as an administrator in this matter, including information related to its financial relationship with Class Counsel; (v) a signed declaration from Plaintiffs confirming their willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; and (vii) its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code §2699.3, subd. (a)), Operative Complaint (Labor Code §2699, subd. (l)(1)), this Agreement (Labor Code §2699, subd. (l)(2))).

1           6.2    Responsibilities of Counsel. Class Counsel is responsible for expeditiously  
2 finalizing and filing the Motion for Preliminary Approval no later than 45 days after the full  
3 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary  
4 Approval on which all counsel are available; and for appearing in Court to advocate in favor of  
5 the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's  
6 Preliminary Approval to the Administrator.

7           6.3    Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for  
8 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and  
9 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or  
10 by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary  
11 Approval or conditions Preliminary Approval on any material change to this Agreement, Class  
12 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting  
13 in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the  
14 Court's concerns. However, no Party shall be obligated to consent to any material change  
15 (including but not limited to changes to the Gross Settlement Amount or the releases set forth  
16 herein) in the Agreement, whether or not such material change is caused or requested by the Court.

17   **7.    SETTLEMENT ADMINISTRATION**

18           7.1    Selection of Administrator. The Parties have jointly selected APEX Class Action  
19 Settlement Administration ("APEX") to serve as the Administrator and verified that, as a condition  
20 of appointment, APEX agrees to be bound by this Agreement and to perform, as a fiduciary, all  
21 duties specified in this Agreement in exchange for the Administration Expenses Payment. The  
22 Parties and their Counsel represent that they have no interest or relationship, financial or otherwise,  
23 with the Administrator other than a professional relationship arising out of prior experiences  
24 administering settlements.

25           7.2    Qualified Settlement Fund. The Administrator shall establish a settlement fund that  
26 meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation  
27 section 468B-1.

28           7.3    Notice to Class Members.

1                   7.3.1 No later than three (3) business days after receipt of the Class Data, the  
2                   Administrator shall notify Class Counsel that the list has been received and  
3                   state the number of Class Members, Aggrieved Employees, Class  
4                   Workweeks, and PAGA Workweeks in the Class Data.

5                   7.3.2 Using best efforts to perform as soon as possible, and in no event later than  
6                   30 days after receiving the Class Data, the Administrator will send to all Class Members  
7                   identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice  
8                   Packet substantially in the forms attached to this Agreement as **Exhibits A**. The Class Notice shall  
9                   prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA  
10                  Payment payable to the Class Member and/or Aggrieved Employee, and the number of Class  
11                  Workweeks and PAGA Workweeks (if applicable) used to calculate these amounts.

12                 7.3.3 Not later than 3 business days after the Administrator’s receipt of any  
13                 Notice Packet returned by the USPS as undelivered, the Administrator shall  
14                 re-mail the Notice Packet using any forwarding address provided by the  
15                 USPS. If the USPS does not provide a forwarding address, the  
16                 Administrator shall conduct a Class Member Address Search, and re-mail  
17                 the Notice Packet to the most current address obtained. The Administrator  
18                 has no obligation to make further attempts to locate or send Notice Packet  
19                 to Class Members whose Notice Packet is returned by the USPS a second  
20                 time.

21                 7.3.4 The deadlines for Class Members’ written objections, challenges to Class  
22                 Workweeks and/or PAGA Workweeks (disputes), and Requests for  
23                 Exclusion will be extended an additional 14 days beyond the 45 days  
24                 otherwise provided in the Class Notice for all Class Members whose notice  
25                 is re-mailed. The Administrator will inform the Class Member of the  
26                 extended deadline with the re-mailed Notice Packet.

27                 7.3.5 If the Administrator, Defendant, or Class Counsel is contacted by or  
28                 otherwise discovers any persons who believe they should have been

1 included in the Class Data and should have received the Notice Packet, the  
2 Parties will expeditiously meet and confer in person or by telephone, and in  
3 good faith. in an effort to agree on whether to include them as Class  
4 Members. If the Parties agree, such persons will be Class Members entitled  
5 to the same rights as other Class Members, and the Administrator will send  
6 a Notice Packet requiring them to exercise options under this Agreement  
7 within the timeframes applicable to Class Members whose Notice Packet is  
8 re-mailed by the Administrator.

9 7.4 Requests for Exclusion (Opt-Outs).

10 7.4.1 Class Members who wish to exclude themselves (opt-out of) the Class  
11 Settlement must send the Administrator, by fax, email, or mail, a signed  
12 written Request for Exclusion not later than the Response Deadline. A  
13 Request for Exclusion is a letter from a Class Member or his/her  
14 representative that reasonably communicates the Class Member's election  
15 to be excluded from the Settlement and includes the Class Member's name,  
16 address and email address or telephone number. To be valid, a Request for  
17 Exclusion must be timely faxed, emailed, or postmarked by the Response  
18 Deadline.

19 7.4.2 The Administrator may not reject a Request for Exclusion as invalid  
20 because it fails to contain all the information specified in the Class Notice.  
21 The Administrator shall accept any Request for Exclusion as valid if the  
22 Administrator can reasonably ascertain the identity of the person as a Class  
23 Member and the Class Member's desire to be excluded. The  
24 Administrator's determination shall be final and not appealable or otherwise  
25 susceptible to challenge. If the Administrator has reason to question the  
26 authenticity of a Request for Exclusion, the Administrator may demand  
27 additional proof of the Class Member's identity. The Administrator's  
28 determination of authenticity shall be final and not appealable or otherwise

1 susceptible to challenge.

2 7.4.3 Every Class Member who does not submit a timely and valid Request for  
3 Exclusion is deemed to be a Participating Class Member under this  
4 Agreement, entitled to all benefits and bound by all terms and conditions of  
5 the Settlement, including the Participating Class Members' releases under  
6 Section 5.3 of this Agreement, regardless of whether the Participating Class  
7 Member actually receives the Notice Packet, an Individual Class Payment,  
8 objects to the Settlement, or disputes the Workweeks set forth in the Class  
9 Notice.

10 7.4.4 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  
12 Class Payment or have the right to object to the class action components of  
13 the Settlement.

14 7.4.5 All Aggrieved Employees are entitled to all benefits and bound by all terms  
15 and conditions of the Settlement as they pertain to PAGA claims, including  
16 the Aggrieved Employees' releases under Section 5.3 of this Agreement,  
17 regardless of whether the Aggrieved Employee actually receives the Notice  
18 Packet, an Individual PAGA Payment, objects to the Settlement, or disputes  
19 the Workweeks set forth in the Class Notice.

20 7.5 Challenges to Calculation of Workweeks. Each Class Member shall have until the  
21 Response Deadline to challenge the number of Class Workweeks and PAGA Pay  
22 Periods (if any) allocated to the Class Member in the Class Notice. The Class  
23 Member may challenge the allocation by communicating with the Administrator  
24 via fax, email, or mail. The Administrator must encourage the challenging Class  
25 Member to submit supporting documentation. In the absence of any contrary  
26 documentation, the Administrator is entitled to presume that the Class Workweeks  
27 and PAGA Pay Periods contained in the Class Data are correct. The Administrator's  
28 determination of each Class Member's allocation of Class Workweeks and/or

PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Class Workweeks and/or PAGA Pay Periods and the Administrator's determination as to such challenges to Defense Counsel and Class Counsel, except that any information provided to Class Counsel in relation to pay period disputes shall not contain any personal identifying information (e.g., names and contact information) of the Class Members.

7.6 Objections to Settlement.

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

7.6.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline.

7.6.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

7.7.1 Email Address, Fax Number, and Toll-Free Number. The Administrator will establish and maintain and use an email address, fax number, and a toll-free telephone number to receive Class Member emails, faxes, and calls.

7.7.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review Requests for Exclusion to ascertain their validity. Not

1 later than 5 days after the expiration of the deadline for submitting Requests  
2 for Exclusion, the Administrator shall email a list to Defense Counsel  
3 containing (a) the names and other identifying information of Class  
4 Members who have timely submitted valid Requests for Exclusion  
5 (“Exclusion List”); (b) the names and other identifying information of Class  
6 Members who have submitted invalid Requests for Exclusion; and, (c)  
7 copies of all Requests for Exclusion documentation submitted (whether  
8 valid or invalid). Upon request, the Administrator may provide summary  
9 information regarding the information described in this section to Class  
10 Counsel, but shall not provide any personal identifying information (e.g.,  
11 names and contact information) to Class Counsel.

12 7.7.3 Weekly Reports. The Administrator must, on a weekly basis, provide  
13 written reports to Class Counsel and Defense Counsel that, among other  
14 things, tally the number of: Notice Packets mailed or re-mailed, Notice  
15 Packets returned undelivered, Requests for Exclusion (whether valid or  
16 invalid) received, objections received, challenges to Class Workweeks  
17 and/or PAGA Pay Periods received and/or resolved, and checks mailed for  
18 Individual Class Payments and Individual PAGA Payments (“Weekly  
19 Report”). The Weekly Reports must include the Administrator’s assessment  
20 of the validity of Requests for Exclusion and attach copies of all Requests  
21 for Exclusion and objections received, except that any information provided  
22 to Class Counsel shall not contain any personal identifying information (e.g.,  
23 names and contact information) of the Class Members.

24 7.7.4 Class Pay Period and/or PAGA Pay Period Challenges. The Administrator  
25 has the authority to address and make final decisions consistent with the  
26 terms of this Agreement on all Class Member challenges regarding the  
27 calculation of Class Workweeks and/or PAGA Pay Periods. The  
28 Administrator’s decision shall be final and not appealable or otherwise

1 susceptible to challenge.

2 7.7.5 Administrator's Declaration. Not later than 21 days before the date by  
3 which Plaintiffs are required to file the Motion for Final Approval of the  
4 Settlement, the Administrator will provide to Class Counsel and Defense  
5 Counsel, a signed declaration suitable for filing in Court attesting to its due  
6 diligence and compliance with its obligations under this Agreement,  
7 including, but not limited to, its mailing of the Notice Packets, the Notice  
8 Packets returned as undelivered, the re-mailing of Notice Packets, attempts  
9 to locate Class Members, the total number of Requests for Exclusion it  
10 received (both valid or invalid), and the number of written objections  
11 received. The Administrator shall provide along with such declaration the  
12 Exclusion List with all personal identifying information (e.g., names and  
13 contact information) redacted. The Administrator will supplement its  
14 declaration as needed or requested by the Parties and/or the Court. Class  
15 Counsel is responsible for filing the Administrator's declaration(s) in Court.

16 7.7.6 Final Report by Administrator. Within 14 days after the Administrator  
17 disburses the Gross Settlement Amount, the Administrator will provide  
18 Class Counsel and Defense Counsel with a final report detailing its  
19 disbursements. All personal identifying information (e.g., names and  
20 contact information) shall be redacted from the report. At least 15 days  
21 before any deadline set by the Court, the Administrator will prepare, and  
22 submit to Class Counsel and Defense Counsel, a signed declaration suitable  
23 for filing in Court attesting to its disbursement of all payments required  
24 under this Agreement. Class Counsel is responsible for filing the  
25 Administrator's declaration in Court.

26 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE**. The Parties estimate the  
27 Class consists of 21,00 Workweeks during the Class Period. However, should the number of Class  
28 Workweeks increase by 10% during the Class Period, Defendant shall increase the GSA on a pro-

1 rata basis equal to the percentage increase in the number of Workweeks worked by the Class  
2 Members above 10% (i.e., if the number of Workweeks increase by 11% to 23,100 Workweeks,  
3 the GSA will increase by 1%). However, Defendant may, at its sole discretion, adjust the length  
4 of the Class Period to maintain a Workweek count that is no more than 23,100 and avoid triggering  
5 the increase of the GSA.

6 **9. DEFENDANT'S RIGHT TO WITHDRAW.** Defendant shall have the right at its sole  
7 discretion to terminate the settlement if more than 5% of Class Members timely elect to opt out of  
8 the settlement, as determined by the Administrator. If Defendant exercises its right under this  
9 Section, Defendant shall be solely liable for administrative costs incurred by the Administrator.  
10 Defendant must notify Class Counsel of its election to terminate the settlement within 21-days  
11 after the Administrator sends the final Exclusion List to Defense Counsel. Termination of this  
12 Agreement may be achieved by Defense Counsel providing written notice to Class Counsel of  
13 Defendant's intent to terminate the settlement.

14 **10. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared  
15 Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement  
16 that includes a request for approval of the PAGA settlement under Labor Code §2699, subd. (l), a  
17 proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final  
18 Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than  
19 14 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will  
20 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any  
21 disagreements concerning the Motion for Final Approval.

22 **10.1 Response to Objections.** Each Party retains the right to respond to any objection  
23 raised by a Participating Class Member, including the right to file responsive documents in Court  
24 no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted  
25 by the Court.

26 **10.2 Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final  
27 Approval on any material change to the Agreement (including, but not limited to, the scope of  
28 releases or changes to the Gross Settlement Amount), the Parties shall expeditiously work together

1 in good faith to address the Court's concerns and endeavor to revise the Agreement as necessary  
2 to obtain Final Approval. The Court's decision to award less than the amounts requested for the  
3 Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation  
4 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material  
5 modification to the Agreement within the meaning of this section. No party shall be obligated to  
6 consent to any material change in the Agreement, whether or not such material change is caused  
7 or requested by the Court.

8       10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,  
9 the Court will retain jurisdiction over the Parties, the Action, and the Settlement solely for purposes  
10 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,  
11 and (iii) addressing such post-Judgment matters as are permitted by law.

12       10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and  
13 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class  
14 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their  
15 respective counsel, and all Participating Class Members who did not object to the Settlement as  
16 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to  
17 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for  
18 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of  
19 the right to oppose such motions, writs or appeals.

20       10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the  
21 reviewing appellate court vacates, reverses, or modifies the Judgment in a manner that requires a  
22 material modification of this Agreement (including, but not limited to, the scope of releases or  
23 changes to the Gross Settlement Amount), this Agreement shall be null and void. The Parties shall  
24 nevertheless expeditiously work together in good faith to address the appellate court's concerns  
25 and to obtain Final Approval and entry of Judgment, and any additional administration expenses  
26 reasonably incurred after remittitur shall be paid from the Gross Settlement Amount/ An appellate  
27 decision to vacate, reverse, or modify the Court's award of the Class Representative Service  
28 Payments, the Class Counsel Fees Payment, and/or the Class Counsel Litigation Expenses

1 Payment shall not constitute a material modification of the Judgment within the meaning of this  
2 section, as long as the Gross Settlement Amount remains unchanged. However, no party shall be  
3 obligated to consent to any material change in the Agreement, whether or not such material change  
4 is caused or requested by the reviewing Court.

5 **11. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil  
6 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended  
7 judgment.

8 **12. ADDITIONAL PROVISIONS.**

9 12.1 Additional Attorneys' Fees and Costs. Plaintiffs and Defendant, and each of them,  
10 waive any and all claims for fees, costs, indemnity or contribution against Plaintiffs, any Class  
11 Member, Plaintiffs' Counsel, Defendant, or Defendant's Counsel in the Action, other than as  
12 provided herein.

13 12.2 No Admission of Liability, Class Certification or Representative Manageability for  
14 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.  
15 Nothing in this Agreement is intended or should be construed as an admission by Defendant that  
16 any of the allegations in the Operative Complaint have merit or that Defendant has any liability  
17 for any claims asserted. Nor shall this Agreement be intended or construed as an admission by  
18 Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class  
19 certification and representative treatment is for purposes of this Settlement only. If, for any reason  
20 the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves  
21 the right to contest certification of any class for any reasons, Defendant reserves all available  
22 defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification  
23 on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and  
24 Parties' willingness to settle the Action will have no bearing on, and will not be admissible in  
25 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and  
26 this Agreement).

27 12.3 Confidentiality.

28 12.3.1 Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree

1 that, until the Motion for Preliminary Approval of Settlement is filed, they  
2 and each of them will not disclose, disseminate and/or publicize, or cause  
3 or permit another person to disclose, disseminate or publicize, any of the  
4 terms of the Agreement directly or indirectly, specifically or generally, to  
5 any person, corporation, association, government agency, or other entity  
6 except: (1) to the Parties' attorneys, accountants, or spouses, all of whom  
7 will be instructed to keep this Agreement confidential; (2) counsel in a  
8 related matter; (3) to the extent necessary to report income to appropriate  
9 taxing authorities; (4) in response to a court order or subpoena; (5) in  
10 response to an inquiry or subpoena issued by a state or federal government  
11 agency; or, (6) to Class Members for purposes of informing them about this  
12 Settlement and its procedures. Thereafter, Class Counsel further agrees to  
13 keep this Settlement confidential. Class Counsel shall not disclose this  
14 Settlement to current or former employees of Defendant, to the media, or  
15 on any websites, blogs, social media, and/or online platforms. Exceptions  
16 to Class Counsel's obligation of confidentiality are (i) disclosures necessary  
17 to comply with the law, judicial processes, or for financial planning or tax  
18 preparation purposes; (ii) to the extent needed to enforce this Agreement;  
19 (iii) disclosures to a court for purposes of describing its qualifications as  
20 counsel; or, (iv) to Class Members for purposes of informing them about  
21 this Settlement and its procedures. Each Party agrees to immediately notify  
22 the other Party of any judicial or agency order, inquiry, or subpoena seeking  
23 such information.

24 12.4 No Solicitation. The Parties agree that they and their respective counsel and  
25 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal  
26 from the Judgment. Nothing in this section shall be construed to restrict the Parties or their  
27 respective counsel's ability to communicate with Class Members for purposes of informing them  
28 about this Settlement and its procedures.

1           12.5   Integrated Agreement. Upon execution by all Parties and their counsel, this  
2 Agreement together with its attached exhibits shall constitute the entire agreement between the  
3 Parties relating to the Settlement, superseding any and all oral representations, warranties,  
4 covenants, or inducements made to or by any Party.

5           12.6   Cooperation. The Parties and their counsel will cooperate with each other and use  
6 their best efforts, in good faith, to implement the Settlement. In the event the Parties are unable to  
7 agree upon the form or content of any document necessary to implement the Settlement, or on any  
8 modification of the Agreement that may become necessary to implement the Settlement, the  
9 Parties will seek the assistance of their mediator and/or the Court for resolution. Nothing in this  
10 section shall be construed as obligating the Parties to consent to any material change in the  
11 Agreement, whether or not such material change is caused or requested by the Court or the  
12 reviewing Court.

13           12.7   No Prior Assignments. The Parties separately represent and warrant that they have  
14 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or  
15 encumber to any person or entity any portion of any liability, claim, demand, action, cause of  
16 action, or right released and discharged by the Party in this Settlement.

17           12.8   No Tax Advice. Plaintiffs, Class Counsel, Defendant, and Defense Counsel are not  
18 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied  
19 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part  
20 10, as amended) or otherwise.

21           12.9   Modification of Agreement. This Agreement, and all parts of it, may be amended,  
22 modified, changed, or waived only by an express written instrument signed by all Parties, and  
23 approved by the Court.

24           12.10   Agreement Binding on Successors. This Agreement will be binding upon, and inure  
25 to the benefit of, the successors of each of the Parties.

26           12.11   Applicable Law. All terms and conditions of this Agreement and its exhibits will  
27 be governed by and interpreted according to the internal laws of the state of California, without  
28 regard to conflict of law principles.

1           12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and  
2 preparation of this Agreement. This Agreement will not be construed against any Party on the basis  
3 that the Party was the drafter or participated in the drafting.

4           12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders  
5 entered during Action and in this Agreement relating to the confidentiality of information shall  
6 survive the execution of this Agreement.

7           12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to  
8 California Evidence Code §1152, and all copies and summaries of the Class Data provided to Class  
9 Counsel by Defendant in connection with the mediation, other settlement negotiations, or in  
10 connection with the Settlement, may be used only with respect to this Settlement, and no other  
11 purpose, and may not be used in any way that violates any existing contractual agreement, statute,  
12 or rule of court. Not later than 90 days after the Effective Date, Class Counsel shall destroy all  
13 paper and electronic versions of Class Data received from Defendant unless, prior to the Effective  
14 Date, Defendant makes a written request to Class Counsel for the return, rather than the destruction,  
15 of Class Data.

16           12.15 Headings. The descriptive heading of any section or paragraph of this Agreement  
17 is inserted for convenience of reference only.

18           12.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement  
19 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a  
20 weekend or federal holiday, such date or deadline shall be on the first business day thereafter.

21           12.17 Notice. All written notices, demands or other communications between the Parties  
22 in connection with this Agreement shall be addressed as follows: To Plaintiffs:

23                   Brandon J. Sweeney, Esq.  
24                   **THE SWEENEY LAW FIRM, APC**  
25                   22647 Ventura Blvd., Ste. 603  
26                   Woodland Hills, CA 91364  
27                   Telephone: (818) 415-4965  
28                   Email: [bsweeney@thesweeneylawfirm.com](mailto:bsweeney@thesweeneylawfirm.com)

                  Jonathan J. Moon, Esq.  
                  **THE LAW OFFICE OF JONATHAN J. MOON**

18000 Studebaker Road, Suite 700  
Cerritos, CA 90703  
Telephone: (213) 867-1908  
Email: [jmoon@jmoonlaw.com](mailto:jmoon@jmoonlaw.com)

To Defendant:  
Linda M. Moroney  
Linh T. Hua  
Renee K. Corona  
**GORDON REES SCULLY MANSUKHANI, LLP**  
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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.

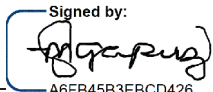
Dated: 2/20/2025

**NELIA FUMERA**

By:  Signed by:  
Nelía Fumera  
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Dated: 2/20/2025

**JOSEFINA GAPUZ**

By:  Signed by:  
Josefina Gapuz  
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Dated: March 6, 2025 | 3:26 PM PST

**LBC MUNDIAL CORPORATION**

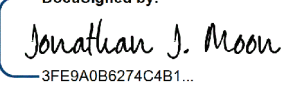
Name: Hugo Bonilla

By:  Hugo Bonilla  
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**Approved as to Form Only**

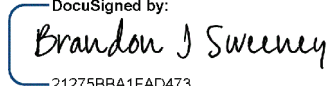
Dated: 2/19/2025

**LAW OFFICE OF JONATHAN J. MOON**

By:  Jonathan J. Moon  
3FE9A0B6274C4B1...  
Attorneys for Plaintiff

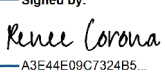
Dated: 2/19/2025

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Dated: February 27, 2025 | 11:11 AM PST

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