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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SOLANO

RYAN JOHN, on behalf of himself and all
others similarly situated, and on behalf of the
general public,

Plaintiff,

v.

FAIRFIELD AUTOMOTIVE PARTNERS,
LLC, a California Limited Liability Company,
BMW OF FAIRFIELD, a Corporation,
SCHOMP AUTOMOTIVE, a Corporation, and
DOES 1 through 10, inclusive.

Defendants.

Case No.: CU24-07141

CLASS ACTION

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

Complaint filed: September 18, 2024
Trial date: Not set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Ryan John (“Plaintiff”) and Defendants Fairfield Automotive Partners, LLC; BMW Of Fairfield, Corp.; Schomp Automotive, Corp. (collectively “Defendants.”) The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS**

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendants captioned Case No. CU24-07141 initiated on September 18, 2024, and pending in Superior Court of the State of California, County of Solano.
- 1.2. “Administrator” means ILYM 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 an individual who worked for Defendants in California as hourly, non-exempt employees at any time during the PAGA Period.
- 1.5. “Class” means all individuals who worked for Defendants in California as hourly, non-exempt employees at any time during the Class Period.
- 1.6. “Class Counsel” means Otkupman Law Firm.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a

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

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

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, if applicable, in the form, without material variation unless otherwise agreed by the Parties, attached as Exhibit A and incorporated by reference into this Agreement. The Parties, through counsel, may agree to modifications to the Class Notice required to correct errors or effectuate changes required by the Court without the need to amend this Agreement, and the revised Class Notice shall be incorporated herein in place of the original Exhibit A.

1.12. “Class Period” means the period from September 18, 2020 to March 12, 2026.

1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Marin.

1.16. “Defendants” means named Defendants Fairfield Automotive Partners, LLC; BMW Of Fairfield, Corp.; and Schomp Automotive, Corp.

1.17. “Defense Counsel” means Gordon, Rees, Scully, Mansukhani, LLP (GRSM).

1.18. “Effective Date” means: (a) the date the Court enters the Final Judgment and order finally approving the Settlement, if no objections, motions for reconsideration and no appeals or other efforts to obtain review have been filed, or (b) in the event that a motion for reconsideration, an appeal or other effort to obtain review of the Final Judgment and order finally approving the Settlement, the date sixty (60) days after such reconsideration, appeal

or review has been finally concluded and is no longer subject to review, whether by appeal, petition for rehearing, petition for review or otherwise and the Settlement has not been materially modified.

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

1.20. “Final Approval Hearing” means the Court’s hearing on the motion for final approval of the Settlement.

1.21. “Gross Settlement Amount” means \$300,000 which is the total amount Defendants agree to pay under the Class and PAGA portions of the Settlement except as provided in Paragraphs 3.1 and 8 below. 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 Payment and the Administration Expenses Payment.

1.22. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.23. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 35% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

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

1.25. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).

1.26. “LWDA PAGA Payment” means the 65% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).

1.27. “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 Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

- 1.28. “Non-Participating Class Member” means any Class Member who opts out of the Class portion of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.29. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.30. “PAGA Period” means the period from July 11, 2023, through March 12, 2026.
- 1.31. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.32. “PAGA Notice” means Plaintiff’s PAGA letter to Defendants and the LWDA providing notice pursuant to Labor Code § 2699.3(a).
- 1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 35% to the Aggrieved Employees (\$30,000.00) and the 65% to LWDA (\$19,500.00) in settlement of PAGA claims.
- 1.34. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement.
- 1.35. “Plaintiff” means John Ryan, the named plaintiff in the Action.
- 1.36. “Preliminary Approval” means the Court’s order granting preliminary approval of the Class portion of the Settlement.
- 1.37. “Preliminary Approval Order” means the proposed order granting preliminary approval of the Class portion of the Settlement.
- 1.38. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.40. “Released Parties” means: Defendants and each of its former, and current owners, parents, and subsidiaries, and all of their current, and former, officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

- 1.41. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.42. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Class portion of the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. The Response Deadline for Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall be extended by 14 calendar days beyond the original Response Deadline.
- 1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.44. “Workweek” means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. **RECITALS**

- 2.1. On September 18, 2024. Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendants for failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to timely pay final wages at termination, failure to provide accurate itemized wage statements, and unfair business practices (the “Operative Complaint.”) Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.
- 2.3. On January 30, 2025, the Parties participated in an all-day mediation presided over by experienced, neutral mediator Hon. Margret Nagle, which led to this Agreement to settle the Action.

- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery: (1) a representative randomized sampling of corresponding time and payroll records for the putative class; (2) company handbooks and written policies in effect during the Class and PAGA Periods; (3) Plaintiff's personnel records and employment files; (4) Class data points, including, for both current and formerly-employed Class Members between the start of the Class Period and the date of mediation total numbers of Class Members, average hourly rates, and approximate numbers of workweeks worked, pay periods, and wage statements issued; and (5) PAGA (and wage statement penalty) group data points, including, for both current and formerly-employed Aggrieved Employees between the start of the PAGA Period and the date of mediation, total numbers of Aggrieved Employees, average hourly rates, and approximate numbers of workweeks worked, pay periods, and wage statements issued. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) ("*Dunk/Kullar*").
- 2.5. The Court has not granted class certification.
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS**

- 3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8 below, Defendants promise to pay **Three Hundred Thousand and Zero cents (\$300,000.00)** and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00 in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than in the amount of 1/3 of the Gross Settlement Amount, which is currently \$99,900.00, ("Class Counsel's Fees") and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class

Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed \$7,500.00 except for a showing of good cause and as approved by the Court. To the extent the Administration expenses are less or the Court approves payment less than \$7,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Workweeks of Non-Participating Class Members are not included in the calculation of payments to Participating Class Members and therefor have no effect on the calculation of Individual Class Payments paid from the Net Settlement Amount.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$5,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. **SETTLEMENT FUNDING AND PAYMENTS**

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 208 Class Members who collectively worked a total of 11,500 Workweeks and 137 Aggrieved Employees who worked a total of 3,500 PAGA Pay Periods.

4.2. Class Data. Not later than 45 days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or

1 updated Class Data as soon as reasonably feasible. Without any extension of the deadline
2 by which Defendants must send the Class Data to the Administrator, the Parties and their
3 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise
4 resolve any issues related to missing or omitted Class Data.

5 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
6 Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll
7 taxes and also fund the amounts necessary to fully pay Defendants' share of payroll
8 taxes (payroll taxes will be paid within 30 days of the Settlement Administrator
9 advising Defendants of the amount of payroll taxes) by transmitting the funds to
10 the Administrator based on the following payment schedule:

- 11 a. The first installment of the Settlement Payment consisting of **One Hundred**
12 **Thousand Dollars and Zero Cents (\$100,000)** will be sent to the claim's
13 administrator chosen by the Parties within ninety (90) days of executing the
14 Class + PAGA Settlement Agreement, which Settlement Payment will be held
15 pending final approval.
- 16 b. The remaining Settlement Payment shall be paid in twelve equal, monthly
17 **payments of Sixteen Thousand Six Hundred and Sixty-Six Dollars and**
18 **Sixty-Seven Cents (\$16,666.67) commencing 30 days within the initial**
19 **payment.**
- 20 c. In the event that the Settlement is voided because approval is denied, it will be
21 returned to Defendant promptly. Default of said payments will be subject to an
22 accelerated clause requiring judgment and enforcement of the same. However,
23 prior to the acceleration clause coming into effect, Plaintiff's counsel must provide
24 a written notice of default to Defendants' counsel and allow a "grace period" of
25 fourteen (14) business days to post payment from the date written notice was
26 provided.
- 27 c. All payments shall be made to the designated third-party Administrator with no
28 reversion. The payments will be held in an interest-bearing account by the Administrator and any

1 interest earned will become part of the Gross Settlement Amount.

2 Payments from the Settlement Amount shall be made to Settlement Class Members after
3 Defendants fully fund the Settlement Amount and only if the Effective Date is triggered. In the
4 event that the Effective Date is not triggered, any payments made by Defendants to this account
5 and any accrued interest thereon shall be returned to Defendants by the settlement administrator
6 within five (5) business days. Payments shall be made to the designated third-party Administrator
7 and be credited to amounts owed separately by each party. The amounts paid shall become non-
8 refundable upon final approval of the settlement by the court.

9 In the event Defendant fails to timely remit any installment payment required under this
10 Agreement, time being of the essence, the entire unpaid balance of the settlement amount shall
11 immediately become due and payable in full without further notice, demand, or cure period, except
12 as provided herein. Each installment is due pursuant to Section 4.3(b) Notwithstanding the
13 foregoing, Defendant shall have a grace period of five (5) calendar days following the due date
14 within which to cure any payment default (the "Cure Period"). If Defendant fails to remit the full
15 amount of any overdue installment within the applicable Cure Period, the acceleration of the entire
16 remaining unpaid balance shall be automatic and self-executing, and Plaintiff shall be entitled to
17 immediately enforce this Agreement for the full accelerated amount, including by entry of
18 judgment pursuant to the terms of this Agreement. Upon the occurrence of an uncured payment
19 default, Plaintiff shall be entitled to obtain a judgment against Defendants via an ex parte
20 application, in the amount of the original settlement sum, less any payments actually received by
21 Plaintiff prior to the date of default, plus any applicable interest accruing from the date of default at
22 the legal rate prescribed by California Code of Civil Procedure § 685.010, and reasonable
23 attorneys' fees and costs incurred in enforcing this Agreement, without further notice to Defendant
24 and without further court order beyond entry of judgment on the Stipulation.

25 The Effective Date shall be: (a) the date the Court enters the Final Judgment and order
26 finally approving the Settlement, if no objections, motions for reconsideration and no appeals or
27 other efforts to obtain review have been filed, or (b) in the event that a motion for reconsideration,
28 an appeal or other effort to obtain review of the Final Judgment and order finally approving the

Settlement, the date sixty (60) days after such reconsideration, appeal or review has been finally concluded and is no longer subject to review, whether by appeal, petition for rehearing, petition for review or otherwise and the Settlement has not been materially modified. A "material modification" shall not include any change to the Class Counsel Award, Class Representative Service Award, or amount awarded for Settlement Administration Costs.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants funds the entire Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the NCOA database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without a United States Postal Service ("USPS") forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding

address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure § 384(b).

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS

Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release.

5.1.1. Scope of Plaintiff's Release. Plaintiff and his respective former and present spouses, shall fully release Defendants, and Defendants' present and former companies, parents, subsidiaries, affiliates, officers, shareholders, equity partners, partners, owners, directors, trustees, current or former employees, vendors, contractors, consultants, board of directors, and agents, as well as any of its representatives, Aaron Mills, attorneys, insurers, and/or any of the predecessors, successors and assigns of Defendants, representatives, agents, attorneys, heirs,

administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2, below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts alleged in the Operative Complaint including, e.g., (1) any and all claims involving any alleged failure to pay minimum wage; (2) any alleged failure to pay overtime wages; (3) any alleged failure

to provide compliant meal periods, or compensation in lieu thereof; (4) any alleged failure to provide compliant rest breaks, or compensation in lieu thereof; (5) any alleged failure to indemnify/reimburse necessary business expenses; (6) any alleged failure to pay wages due upon separation; (7) any alleged failure to provide compliant accurate itemized wage statements; and (8) any alleged unlawful, unfair, or fraudulent business actions or practices under Business and Professions Code §§ 17200, et seq. arising out of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order violations referenced in the Operative Complaint, including but not limited to the following: Labor Code § 201 – 203, 204, 226, 226(a)-(e), 226.3, 226.7, 204(a)-(b), 210, 218, 510, 512, 558, 510, 1194, 1194.2, 226(a), (e), 1174, 1174(d), 1194, 1194.2, 17200, 2802, 2751, IWC Order No. 5-2001 and 7-2001. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice including, e.g., (1) any and all claims involving any alleged failure to pay minimum wage; (2) any alleged failure to pay overtime wages; (3) any alleged failure to provide compliant meal periods, or compensation in lieu thereof; (4) any alleged failure to provide compliant rest breaks, or compensation in lieu thereof; (5) any alleged failure to indemnify/reimburse necessary business expenses; (6) any alleged failure to pay wages due upon separation; (7) any alleged failure to provide compliant accurate itemized wage statements and including but not limited to the following: Labor Code § 201 – 203, 204, 226, 226(a)-(e), 226.3, 226.7,

204(a)-(b), 210, 218, 510, 512, 558, 510, 1194, 1194.2, 226(a), (e), 1174, 1174(d), 1194,
1194.2, 17200, 2802, 2751, IWC Order No. 5-2001 and 7-2001.

6. MOTION FOR PRELIMINARY APPROVAL

The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for preliminary approvals, to the extent the Court maintains such a checklist.

6.1. Because funds from uncashed checks will be transmitted to the California Controller’s Office, Unclaimed Property Fund, Defendants and Defense counsel have no obligation to provide declarations disclosing any facts relevant to any actual or potential conflicts with a “*cy pres* recipient”.

6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

7. SETTLEMENT ADMINISTRATION

7.1. Selection of Administrator. The Parties have jointly selected ILYM to serve as the

Administrator and verified that, as a condition of appointment, ILYM agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation § 468B-1.

7.4. Notice to Class Members.

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

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of each Individual Class Payment and/or Individual PAGA Payment payable to the Class Member and/or Aggrieved Employee, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the NCOA database.

7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice

1 returned by the USPS as undelivered, the Administrator shall re-mail the Class
2 Notice using any forwarding address provided by the USPS. If the USPS does not
3 provide a forwarding address, the Administrator shall conduct a Class Member
4 Address Search, and re-mail the Class Notice to the most current address obtained.
5 The Administrator has no obligation to make further attempts to locate or send
6 Class Notice to Class Members whose Class Notice is returned by the USPS a
7 second time.

8 7.4.4. The deadlines for Class Members' written objections, challenges to Workweeks
9 and/or pay periods, and Requests for Exclusion will be extended an additional 14
10 days beyond the 60 days otherwise provided in the Class Notice for all Class
11 Members whose notices are re-mailed. The Administrator will inform the Class
12 Member of the extended deadline with the re-mailed Class Notice.

13 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
14 discovers any persons who believe they should have been included in the Class
15 Data and should have received Class Notice, the Parties will expeditiously meet
16 and confer in person or by telephone, and in good faith in an effort to agree on
17 whether to include them as Class Members. If the Parties agree, such persons will
18 be Class Members entitled to the same rights as other Class Members, and the
19 Administrator will send, via email or overnight delivery, a Class Notice requiring
20 them to exercise options under this Agreement not later than 14 days after receipt
21 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

22 7.5. Requests for Exclusion (Opt-Outs).

23 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class portion of
24 the Settlement must send the Administrator, by fax, email, or mail, a signed written
25 Request for Exclusion not later than 60 days after the Administrator mails the Class
26 Notice (plus an additional 14 days for Class Members whose Class Notice is re-
27 mailed). A Request for Exclusion is a letter from a Class Member or his/her
28 representative that reasonably communicates the Class Member's election to be

1 excluded from the Class portion of the Settlement and includes the Class Member's
2 name, address and email address or telephone number. To be valid, a Request for
3 Exclusion must be timely faxed, emailed, or postmarked by the Response
4 Deadline.

5 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
6 fails to contain all the information specified in the Class Notice. The Administrator
7 shall accept any Request for Exclusion as valid if the Administrator can reasonably
8 ascertain the identity of the person as a Class Member and the Class Member's
9 desire to be excluded. The Administrator's determination shall be final and not
10 appealable or otherwise susceptible to challenge. If the Administrator has reason to
11 question the authenticity of a Request for Exclusion, the Administrator may
12 demand additional proof of the Class Member's identity. The Administrator's
13 determination of authenticity shall be final as to the Parties, but a Class Member
14 whose Request for Exclusion is rejected by the Administrator may present a
15 challenge to that determination to the Court.

16 7.5.3. Every Class Member who does not submit a timely and valid Request for
17 Exclusion is deemed to be a Participating Class Member under this Agreement,
18 entitled to all benefits and bound by all terms and conditions of the Settlement,
19 including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3
20 of this Agreement, regardless whether the Participating Class Member actually
21 receives the Class Notice or objects to the Settlement.

22 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
23 Non-Participating Class Member and shall not receive an Individual Class
24 Payment or have the right to object to the class action components of the
25 Settlement. Because future PAGA claims are subject to claim preclusion upon
26 entry of the Judgment, Non-Participating Class Members who are Aggrieved
27 Employees are deemed to release the claims identified in Paragraph 5.3 of this
28 Agreement and are eligible for an Individual PAGA Payment.

1 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the
2 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose
3 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay
4 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member
5 may challenge the allocation by communicating with the Administrator via fax, email or
6 mail. The Administrator must encourage the challenging Class Member to submit
7 supporting documentation. In the absence of any contrary documentation, the
8 Administrator is entitled to presume that the Workweeks contained in the Class Notice are
9 correct so long as they are consistent with the Class Data. The Administrator's
10 determination of each Class Member's allocation of Workweeks and/or PAGA Pay
11 Periods shall be final as to the Parties (although Defendants shall retain the right to correct
12 erroneous Class Data if subsequently discovered), but a Class Member whose Workweek
13 and/or Pay Period challenge is rejected by the Administrator may present the same
14 evidence supporting the Workweek and/or Pay Period challenge to the Court for review.
15 The Administrator shall promptly provide copies of all challenges to calculation of
16 Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the
17 Administrator's determination the challenges.

18 7.7. Objections to Settlement.

19 7.7.1. Only Participating Class Members may object to the class action components of
20 the Settlement and/or this Agreement, including contesting the fairness of the
21 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
22 Counsel Litigation Expenses Payment and/or Class Representative Service
23 Payment.

24 7.7.2. Participating Class Members may send written objections to the Administrator, by
25 fax, email, or mail. In the alternative, Participating Class Members may appear in
26 Court (or hire an attorney to appear in Court) to present verbal objections at the
27 Final Approval Hearing. A Participating Class Member who elects to send a
28 written objection to the Administrator must do so not later than 60 days after the

1 Administrator's mailing of the Class Notice (plus an additional 14 days for Class
2 Members whose Class Notice was re-mailed).

3 7.7.3. Non-Participating Class Members have no right to object to any of the class action
4 components of the Settlement.

5 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
6 performed or observed by the Administrator contained in this Agreement or otherwise.

7 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish
8 and maintain and use an internet website to post information of interest to Class
9 Members including the date, time and location for the Final Approval Hearing and
10 copies of the Settlement Agreement, Motion for Preliminary Approval, the
11 Preliminary Approval Order, the Class Notice, the motion for final approval, the
12 Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses
13 Payment and Class Representative Service Payment, the Final approval Order and
14 the Judgment. The Administrator will also maintain and monitor an email address
15 and a toll-free telephone number to receive Class Member calls, faxes and emails.

16 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
17 promptly review on a rolling basis Requests for Exclusion to ascertain their
18 validity. Not later than 5 days after the expiration of the deadline for submitting
19 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
20 Defense Counsel containing (a) the names and other identifying information of
21 Class Members who have timely submitted valid Requests for Exclusion
22 ("Exclusion List"); (b) the names and other identifying information of Class
23 Members who have submitted invalid Requests for Exclusion; (c) copies of all
24 Requests for Exclusion from Settlement submitted (whether valid or invalid).

25 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
26 reports to Class Counsel and Defense Counsel that, among other things, tally the
27 number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,
28 Requests for Exclusion (whether valid or invalid) received, objections received,

1 and challenges to Workweeks and/or PAGA Pay Periods received and/or resolved
2 (“Weekly Report”). The Weekly Reports must include provide the Administrator’s
3 assessment of the validity of Requests for Exclusion and attach copies of all
4 Requests for Exclusion and objections received. In addition to the Weekly Reports,
5 the Administrator shall report to the Parties when it has completed the initial
6 distribution of the Individual Class Payments and Individual PAGA Payments to
7 all individuals with valid addresses.

8 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
9 address and make decisions consistent with the terms of this Agreement on all
10 Class Member challenges over the calculation of Workweeks and/or PAGA Pay
11 Periods. The Administrator’s determination of each Class Member’s allocation of
12 Workweeks and/or PAGA Pay Periods shall be final as to the Parties (although
13 Defendants shall retain the right to correct erroneous Class Data if subsequently
14 discovered), but a Class Member whose Workweek and/or Pay Period challenge is
15 rejected by the Administrator may present the same evidence supporting the
16 Workweek and/or Pay Period challenge to the Court for review.

17 7.8.5. Administrator’s Declaration. Not later than 14 days before the date by which
18 Plaintiff is required to file the Motion for Final Approval of the Settlement, the
19 Administrator will provide to Class Counsel and Defense Counsel, a signed
20 declaration suitable for filing in Court attesting to its due diligence and compliance
21 with all of its obligations under this Agreement, including, but not limited to, its
22 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
23 of Class Notices, attempts to locate Class Members, the total number of Requests
24 for Exclusion from Settlement it received (both valid or invalid), the number of
25 written objections and attach the Exclusion List. The Administrator will
26 supplement its declaration as needed or requested by the Parties and/or the Court.
27 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

28 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator

disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendants estimates that, as of the date of this Settlement Agreement, (1) there are 208 Class Members with 11,500 Total Workweeks during the Class period and (2) there were 137 Aggrieved Employees who worked 3,500 Pay Periods during the PAGA Period.

8.1 Increase in Workweeks. If the number of workweeks is ten percent (10%) higher (increase of more than 1,150 workweeks) then Defendants, in their sole discretion, will increase the Settlement Payments on a pro-rata increase in the Gross Settlement Amount equal to the percentage increase in workweeks above 12,650 or choose to cut off the Class Period the day (or so) before class work weeks hit 12,650.

9. DEFENDANTS' RIGHT TO WITHDRAW

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendants may, but are not obligated to, withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement administration expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

1
2 **10. MOTION FOR FINAL APPROVAL**

3 Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in
4 Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA
5 settlement under Labor Code § 2699(l), a Proposed Final Approval Order and a proposed Judgment
6 (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense
7 Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
8 expeditiously meet and confer, and in good faith, to resolve any disagreements concerning the Motion for
9 Final Approval.

10 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
11 a Participating Class Member, including the right to file responsive documents in Court no
12 later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered
13 or accepted by the Court.

14 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
15 Approval on any material change to the Settlement (including, but not limited to, the scope
16 of release to be granted by Class Members), the Parties will expeditiously work together in
17 good faith to address the Court’s concerns by revising the Agreement as necessary to
18 obtain Final Approval. The Court’s decision to award less than the amounts requested for
19 the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
20 Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute
21 a material modification to the Agreement within the meaning of this paragraph.

22 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
23 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
24 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
25 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
26 law.

27 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
28 conditions of this Agreement, specifically including the Class Counsel Fees Payment and

Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

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

11. AMENDED JUDGMENT

If any amended judgment is required under Code of Civil Procedure § 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed

claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) to counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to

respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

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

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

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

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

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

- 1 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
2 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
3 relied upon as such within the meaning of United States Treasury Department Circular 230
4 (31 CFR Part 10, as amended) or otherwise.
- 5 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
6 modified, changed, or waived only by an express written instrument signed by all Parties
7 or their representatives, and approved by the Court.
- 8 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
9 benefit of, the successors of each of the Parties.
- 10 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
11 governed by and interpreted according to the internal laws of the state of California,
12 without regard to conflict of law principles.
- 13 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
14 this Agreement. This Agreement will not be construed against any Party on the basis that
15 the Party was the drafter or participated in the drafting.
- 16 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
17 during Action and in this Agreement relating to the confidentiality of information shall
18 survive the execution of this Agreement.
- 19 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to
20 Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class
21 Counsel by Defendants in connection with the mediation, other settlement negotiations, or
22 in connection with the Settlement, may be used only with respect to this Settlement, and no
23 other purpose, and may not be used in any way that violates any existing contractual
24 agreement, statute, or rule of court. Not later than 90 days after the date when the Court
25 discharges the Administrator's obligation to provide a declaration confirming the final pay
26 out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class
27 Data received from Defendants unless, prior to the Court's discharge of the
28 Administrator's obligation, Defendants makes a written request to Class Counsel for the

return, rather than the destructions, of Class Data.

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

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

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

To Plaintiff:

Otkupman Law Firm

Roman Otkupman

Email: roman@olfla.com

5743 Corsa Ave., Suite 123

Westlake Village, CA 91362

To Defendant:

Gordon Rees Scully Mansukhani, LLP

Dina Glucksman

Email: Dglucksman@grsm.com

Daniela Theriault

Email: Dtheriault@grsm.com

Gordon Rees Scully Mansuskani

633 West Fifth Street, 52nd Floor

Los Angeles, CA 90071

12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts

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

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

Plaintiff & Class Representative:

Dated: May 11, 2026

By: 

John Ryan

Plaintiff's Counsel:

Dated: May 11, 2026

OTKUPMAN LAW FIRM

By: 

Attorneys for Plaintiff

Defendants:

Dated: May 11, 2026

FAIRFIELD AUTOMOTIVE PARTNERS, LLC

By: _____

Aaron Mills
Chief Financial Officer

Defendant:

Dated: May 11, 2026

SCHOMP AUTOMOTIVE CORP.

By: _____

Chief Executive Officer

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

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

Plaintiff & Class Representative:

Dated: May 13, 2026

By: _____
John Ryan

Plaintiff's Counsel:

Dated: May 13, 2026

OTKUPMAN LAW FIRM

By: _____
Attorneys for Plaintiff

Defendants:

Dated: May 13, 2026

FAIRFIELD AUTOMOTIVE PARTNERS, LLC

By:  _____
19188D6E10FE4C5...
Aaron Mills
Chief Financial Officer

Defendant:

Dated: May 13, 2026

SCHOMP AUTOMOTIVE CORP.

By:

DocuSigned by:

Aaron Mills

Aaron Mills
Chief Executive Officer

Defendants:

Dated: May 13, 2026

BMW OF FAIRFIELD CORP.

By:

Aaron Mills

Aaron Mills
On Behalf of Defendant

Defendants' Counsel:

GRSM

Dated: May 13, 2026

By:

Daniela Theriault

Daniela Theriault
Dina Glucksman
Matthew Theriault
Jiayang (Neo) Chen
Attorneys for Defendants