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METROPOLITAN WAREHOUSE & DELIVERY CORP. and TODD VODA

(see next page for additional counsel)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

RASHAD SALAMI and ERIC MORALES,
themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

METROPOLITAN WAREHOUSE &
DELIVERY CORP., a New Jersey
corporation; PARTNERS PERSONNEL-
MANAGEMENT RESOURCES, LLC, a
Delaware limited liability company;
PARTNERS PERSONNEL-
MANAGEMENT SERVICES, LLC, a
Delaware limited liability company;
ADECCO USA, INC., a Delaware
corporation; TODD VODA, an individual;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: CIVRI2304898

[Assigned to the Hon. Harold W. Hopp in
Dept. 1]

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

ACTION FILED: September 18, 2023
TRIAL DATE: None set

MOON LAW GROUP, P.C.

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Attorneys for Plaintiff, EFRAIN BAILON and
on behalf of himself and all others similarly situated

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiffs Rashad Salami (“Salami”), Eric Morales (“Morales”), and Efrain Bailon
3 (“Bailon”) (collectively “Plaintiffs”) and defendant Metropolitan Warehouse & Delivery Corp.,
4 (“Metro Warehouse” or “Defendant”). The Agreement refers to Plaintiffs and Defendant
5 collectively as “Parties,” or individually as “Party.”

6 **1. DEFINITIONS**

7 1.1. “Action(s)” means the Plaintiffs’ lawsuits alleging wage and hour violations and civil
8 penalties under California Private Attorneys General Act of 2004, California Labor Code §§ 2698
9 et seq. (“PAGA”), against Defendant, captioned *Schultz v. Metropolitan Warehouse & Delivery*
10 *Corp., et al.*, Case No. CVRI2304898 (“Class Action”), initiated on September 18, 2023, and
11 pending in Superior Court of the State of California, County of Riverside, and *Bailon v.*
12 *Metropolitan Warehouse & Delivery Corp.*, Case Number CVRI2405389 (“Bailon Action”),
13 initiated on September 23, 2024, and pending in Superior Court of the State of California, County
14 of Riverside.

15 1.2. “Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”), the
16 neutral entity the Parties have agreed to appoint to administer the Settlement.

17 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
18 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
19 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
20 Preliminary Approval of the Settlement.

21 1.4. “Aggrieved Employee(s)” means all persons currently or formerly employed by
22 Defendant, either directly or through any subsidiary, staffing agency, or professional employer
23 organization, as non-exempt, hourly-paid employees during the PAGA Period in the State of
24 California.

25 1.5. “Class” means all persons currently or formerly employed by Defendant, either directly
26 or through any subsidiary, staffing agency, or professional employer organization, as non-
27 exempt, hourly-paid employees during the Class Period.

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

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 Defendant’s custody, possession, or control, including the Class Member’s (1) name; (2) last known address(es); (3) last known telephone number(s); and (4) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, 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 database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the Notice of Proposed Class Action Settlement and Date for Final Approval Hearing, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from September 18, 2019, through April 15, 2025.

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

1.14. “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Actions and providing services in support of the Actions.

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

1.16. “Defendant” means the named defendant, Metropolitan Warehouse & Delivery Corp.

1.17. “Defense Counsel” means David Nusz and Matthew Sullivan of O’Hagan Meyer.

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1 1.18. “Effective Date” means the later of: (a) the Court enters a Judgment on its Order Granting
2 Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the
3 latest of the following occurrences: (a) if no Participating Class Member objects to the
4 Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
5 objects to the Settlement, the day after the deadline for filing a notice of appeal from the
6 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court
7 affirms the Judgment and issues a remittitur.

8 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

9 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
10 of the Settlement.

11 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final
12 Approval.

13 1.22. “Gross Settlement Amount” means \$1,270,000.00 (One Million Two Hundred Seventy
14 Thousand Dollars and Zero Cents), which is the total amount Defendant agrees to pay under the
15 Settlement, except as provided in Paragraph 8.1 below, and any and all employer payroll taxes
16 owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount
17 will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA
18 Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative
19 Service Payments, and Administrator’s Expenses Payment.

20 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
21 Net Settlement Amount calculated according to the number of Workweeks worked during the
22 Class Period.

23 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 35% of
24 the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during
25 the PAGA Period.

26 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

27 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
28 entitled, under Labor Code section 2699, subd. (i).

1 1.27. “LWDA PAGA Payment” means the 65% of the PAGA Penalties paid to the LWDA
2 under Labor Code section 2699, subd. (i).

3 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
4 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
5 Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel
6 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be
7 paid to Participating Class Members as Individual Class Payments.

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

10 1.30. “Operative Complaint” means the Second Amended Complaint to be filed in the Class
11 Action.

12 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked
13 for Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as
14 applicable), and termination dates (as applicable).

15 1.32. “PAGA Period” means the period from September 23, 2023, through the end of the Class
16 Period.

17 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698, *et seq.*).

18 1.34. “PAGA Notice” means Bailon’s September 7, 2024, letter to Defendant and the LWDA,
19 providing notice pursuant to Labor Code section 2699.3 subd. (a).

20 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the
21 Gross Settlement Amount (\$80,000.00), allocated 35% to the Aggrieved Employees
22 (\$28,000.00) and the 65% to the LWDA (\$52,000.00) in settlement of PAGA claims.

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

25 1.37. “Plaintiffs” means Rashad Salami, Eric Morales, and Efrain Bailon, the named plaintiffs
26 in the Actions.

27 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the
28 Settlement.

1.39. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval and Approval of PAGA Settlement.

1.40. “Qualified Settlement Fund,” or “QSF” means a fund within the meaning of Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Administrator for the benefit of Participating Class Members.

1.41. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.42. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4 below.

1.43. “Released Parties” means: Defendant, and each of its former, present and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

1.44. “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.

1.45. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline has expired.

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

1.47. “Workweek” means any week during which a Class Member was employed by Defendant on at least one day during the Class Period, based on hire dates, termination dates, and rehire dates, as applicable.

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2. RECITALS

2.1. On September 18, 2023, Schultz filed a class action complaint against Defendant for: failure to pay overtime and minimum wages; failure to provide meal breaks, rest breaks, or compensation in lieu thereof; waiting time penalties; wage statement violations; failure to timely pay wages; failure to indemnify; failure to pay all vested vacation pay; and unfair competition (the “Class Action”).

2.2. On March 19, 2024, a First Amended Complaint (“FAC”) was filed in the Class Action, adding Plaintiffs Morales and Salami as named plaintiffs and removing the original plaintiff, Schultz, from the action. Defendant answered the FAC on April 12, 2024.

2.3. On September 7, 2024, Bailon filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3, stating Bailon intended to serve as a proxy of the LWDA to recover civil penalties, on behalf of Aggrieved Employees, for alleged Labor Code violations (“PAGA Notice”).

2.4. On September 23, 2024, Bailon filed a class and PAGA action complaint, entitled, *Bailon v. Metropolitan Warehouse & Delivery Corp.*, in the Riverside County Superior Court, Case Number CVRI2405389 (“Bailon Action”).

2.5. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

2.6. Prior to mediation Plaintiffs obtained, through informal discovery: (a) policy documents and (b) a 20% sampling of timekeeping and payroll records for non-exempt employees employed by Defendant through 2024.

2.7. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801, and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.8. On April 15, 2025, the Parties participated in an all-day mediation presided over by Lynn Frank, Esquire. The mediation was successful, and the Parties agreed to globally resolve all class and PAGA claims in the Class Action and Bailon Action.

2.9. As part of this Agreement, the Parties further agree to stipulate to Plaintiffs filing a Second Amended Complaint in the Class Action, effectively consolidating the Bailon Action within the

1 Class Action for the purpose of the settlement approval (hereinafter referred to as the “Action”).
2 The Second Amended Complaint shall be the Operative Complaint.

3 2.10. Defendant has concluded that, because of the substantial expense of defending against the
4 Action, the length of time necessary to resolve the issues presented herein, the inconvenience
5 involved, and the concomitant disruption to its business operations, it is in its best interest to
6 accept the terms of this Agreement. Defendant denies each of the allegations and claims asserted
7 against it in the Action and the PAGA Notice. However, Defendant nevertheless desires to settle
8 the Action for the purpose of avoiding the burden, expense, and uncertainty of continuing
9 litigation, and for the purpose of putting to rest the controversies engendered by the Action.

10 2.11. Class Counsel have conducted significant investigation of the law and facts relating to the
11 claims asserted in the Action and the PAGA Notice, and have concluded that the Settlement set
12 forth herein is fair, reasonable, adequate and in the best interests of the Settlement Class, taking
13 into account the sharply contested issues involved, the expense and time necessary to litigate the
14 Action through trial and any appeals, the risks and costs of further litigation of the Action, the
15 risk of an adverse outcome, the uncertainties of complex litigation, the information learned
16 through discovery regarding Plaintiffs’ allegations, and the substantial benefits to be received by
17 Settlement Class Members.

18 2.12. The Court has not granted class certification.

19 2.13. The Parties, Class Counsel, and Defense Counsel represent that other than the actions
20 mentioned herein, they are not aware of any other pending matter or action asserting claims that
21 will be extinguished or affected by this Settlement.

22 **3. MONETARY TERMS**

23 3.1. Gross Settlement Amount. Defendant promises to pay \$1,270,000.00 as the Gross
24 Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to
25 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
26 Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll
27 taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will
28 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 Defendant.

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

3.2.1. To Plaintiffs: Class Representative Service Payments to Plaintiffs of no more than \$10,000.00 each to Rashad Salami and Eric Morales, and \$7,500.00 to Efrain Bailon, for a total of \$27,500.00 to Plaintiffs in addition to any Individual Class Payment and any Individual PAGA Payment Plaintiffs are entitled to receive as Participating Class Members. Defendant will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed these amounts. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amounts requested, the Administrator will retain the remainder in the Net Settlement Amount to be distributed to Participating Class Members as part of their Individual Settlement Payment. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on their respective Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to be \$444,500.00, and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment 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 to be distributed to Participating Class Members as part of their Individual Settlement Payment. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendant for such work unless, Defendant materially breaches this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,250.00 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 \$8,250.00, 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

1 wage claims (the “Wage Portion”). The Wage Portions are subject to tax
2 withholding and will be reported on an IRS W-2 Form. 80% of each
3 Participating Class Member’s Individual Class Payment will be allocated to
4 settlement of claims for interest and penalties (the “Non-Wage Portion”). The
5 Non-Wage Portions are not subject to wage withholdings and will be reported
6 on IRS 1099 Forms. Participating Class Members assume full responsibility
7 and liability for any employee taxes owed on their Individual Class Payment.

8 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
9 Class Payments. Non-Participating Class Members will not receive any
10 Individual Class Payments. The Administrator will retain amounts equal to
11 their Individual Class Payments in the Net Settlement Amount for distribution
12 to Participating Class Members on a pro rata basis.

13 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
14 \$80,000.00 to be paid from the Gross Settlement Amount, with 65% (\$52,000.00)
15 allocated to the LWDA PAGA Payment and 35% (\$28,000.00) allocated to the
16 Individual PAGA Payments.

17 3.2.5.1. The Administrator will calculate each Individual PAGA
18 Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share
19 of PAGA Penalties \$28,000.00 by the total number of PAGA Period Pay
20 Periods worked by all Aggrieved Employees during the PAGA Period and (b)
21 multiplying the result by each Aggrieved Employee’s PAGA Pay Periods.
22 Aggrieved Employees assume full responsibility and liability for any taxes
23 owed on their Individual PAGA Payment.

24 3.2.5.2. If the Court approves PAGA Penalties of less than the
25 amount requested, the Administrator will allocate the remainder to the Net
26 Settlement Amount. The Administrator will report the Individual PAGA
27 Payments on IRS 1099 Forms.

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1 **4. SETTLEMENT FUNDING AND PAYMENTS**

2 4.1. Class Workweeks and PAGA Pay Periods. Based on a review of its records to date,
3 Defendant estimates there are 272 Class Members who collectively worked a total of 29,330
4 Workweeks.

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

16 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
17 Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by
18 transmitting the funds to the Administrator no later than 60 days after the Effective Date.

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

27 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
28 Individual PAGA Payments and send them to the Class Members via First Class U.S.

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

13 4.4.2. The Administrator must conduct a Class Member Address Search for all other
14 Class Members whose checks are returned undelivered without USPS forwarding
15 address. Within 7 days of receiving a returned check the Administrator must re-mail
16 checks to the USPS forwarding address provided or to an address ascertained through
17 the Class Member Address Search. The Administrator need not take further steps to
18 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
19 The Administrator shall promptly send a replacement check to any Class Member whose
20 original check was lost or misplaced, requested by the Class Member prior to the void
21 date.

22 4.4.3. For any Class Member whose Individual Class Payment check or Individual
23 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
24 shall transmit the funds represented by such checks to the California State Controller's
25 Office Unclaimed Property Fund in the name of the Participating Class Member,
26 thereby leaving no "unpaid residue" subject to the requirements of California Code of
27 Civil Procedure section 384, subd. (b).

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1 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
2 not obligate Defendant to confer any additional benefits or make any additional
3 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
4 specified in this Agreement.

5 **5. RELEASE OF CLAIMS**

6 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement,
7 and on the date when Defendant fully funds the entire Gross Settlement Amount and funds all
8 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs,
9 Class Members, and Class Counsel will release claims against all Released Parties as follows:

10 5.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses,
11 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
12 and discharge Released Parties from all claims, transactions, or occurrences, including, but not
13 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
14 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
15 have been, alleged based on facts contained in the Operative Complaint and Plaintiffs' PAGA
16 Notice. ("Plaintiffs' Release.") Plaintiffs' Release does not extend to any claims or actions to
17 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
18 benefits, social security benefits, workers' compensation benefits that arose at any time, or based
19 on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover
20 facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe
21 to be true, but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all
22 respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

23 5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For
24 purposes of Plaintiffs' Release only, Plaintiffs expressly waive and relinquish the
25 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
26 which reads:

27 A general release does not extend to claims that the creditor or releasing party does not
28 know or suspect to exist in his or her favor at the time of executing the release, and that

1 if known by him or her would have materially affected his or her settlement with the
2 debtor or Released Party.

3 5.1.2. The above release, including the 1542 waiver, expressly excludes any agreement
4 regarding the return of company property.

5 5.2. Release of Class Claims: For the duration of the Class Period, all Participating Class
6 Members, on behalf of themselves and their respective former and present representatives,
7 agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all
8 claims that were alleged, or reasonably could have been alleged, based on the facts stated in the
9 complaint filed in the Class Action.

10 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not
11 release any other claims, including claims for vested benefits, wrongful termination, violation of
12 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
13 workers' compensation, or claims based on facts occurring outside the Class Period.

14 5.4. Release of PAGA Claims: For the duration of the PAGA Period, the LWDA and the State
15 of California, by and through Plaintiffs as an agent and proxy of the LWDA, and to the extent
16 permitted by law, all Aggrieved Employees, are deemed to release, on behalf of themselves and
17 their respective former and present representatives, agents, attorneys, heirs, administrators,
18 successors, and assigns, the Released Parties from all claims for PAGA civil penalties that were
19 alleged, or reasonably could have been alleged, based on the facts stated in the Operative
20 Complaint and the PAGA Notice.

21 **6. MOTION FOR PRELIMINARY APPROVAL**

22 The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion
23 for Preliminary Approval") that complies with the Court's current checklist for Preliminary
24 Approvals.

25 6.1. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all
26 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
27 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
28 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor

1 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and
2 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from
3 the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting
4 to its willingness to serve; competency; operative procedures for protecting the security of Class
5 Data; amounts of insurance coverage for any data breach, defalcation of funds or other
6 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
7 and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense
8 Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve
9 and disclosing all facts relevant to any actual or potential conflicts of interest with Class
10 Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to
11 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA
12 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
13 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
14 subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class
15 Members and the Administrator.

16 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
17 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
18 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
19 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
20 Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the
21 Administrator.

22 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
23 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
24 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
25 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
26 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
27 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
28

meeting and conferring, 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 Phoenix to serve as the Administrator and verified that, as a condition of appointment, Phoenix 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 U.S. Treasury Regulation section 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 United States Postal Service ("USPS") mail, the Class Notice with Spanish translation, 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 any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, 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 National Change of Address database.

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

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter

1 from a Class Member or his/her representative that reasonably communicates the Class
2 Member's election to be excluded from the Settlement and includes the Class Member's
3 name, signature, address, and email address or telephone number. To be valid, a
4 Request for Exclusion must be timely postmarked by the Response 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 desire
9 to be excluded. The Administrator's determination shall be final and not appealable or
10 otherwise susceptible to challenge. If the Administrator has reason to question the
11 authenticity of a Request for Exclusion, the Administrator may demand additional proof
12 of the Class Member's identity. The Administrator's determination of authenticity shall
13 be final and not appealable or otherwise susceptible to challenge.

14 7.5.3. Every Class Member who does not submit a timely and valid Request for
15 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
16 to all benefits and bound by all terms and conditions of the Settlement, including the
17 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
18 regardless whether the Participating Class Member actually receives the Class Notice
19 or objects to the Settlement.

20 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
21 Non-Participating Class Member and shall not receive an Individual Class Payment or
22 have the right to object to the class action components of the Settlement. Because future
23 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
24 Participating Class Members who are Aggrieved Employees are deemed to release the
25 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
26 PAGA Payment.

27 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
28 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose

Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or 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 Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement

7.7.1. 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, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by mail. The Participating Class Member's written objection should include the objector's name, signature, address, email address or telephone number, and a statement of whether the objector plans to appear at the Final Approval Hearing, along with whatever legal authority, if any, the objector asserts in support of their objections. 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 45 days after the Administrator's mailing of the Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-mailed).

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

1 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
2 performed or observed by the Administrator contained in this Agreement or otherwise.

3 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
4 and use an internet website to post information of interest to Class Members including
5 the date, time and location for the Final Approval Hearing and copies of the Settlement
6 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
7 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
8 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
9 the Final Approval and the Judgment. The Administrator will also maintain and monitor
10 an email address and a toll-free telephone number to receive Class Member calls and
11 emails.

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

21 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
22 reports to Class Counsel and Defense Counsel that, among other things, tally the number
23 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
24 Exclusion (whether valid or invalid) received, objections received, challenges to
25 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
26 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
27 Weekly Reports must include provide the Administrator’s assessment of the validity of
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1 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
2 received.

3 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
4 address and make final decisions consistent with the terms of this Agreement on all
5 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
6 Administrator's decision shall be final and not appealable or otherwise susceptible to
7 challenge.

8 7.8.5. Administrator's Declaration. Before the date by which Plaintiffs are required to
9 file the Motion for Final Approval of the Settlement, the Administrator will provide to
10 Class Counsel and Defense Counsel, a declaration suitable for filing in Court attesting
11 to its due diligence and compliance with all of its obligations under this Agreement,
12 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
13 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
14 number of Requests for Exclusion from Settlement it received (both valid or invalid),
15 the number of written objections and attach the Exclusion List. The Administrator will
16 supplement its declaration as needed or requested by the Parties and/or the Court. Class
17 Counsel is responsible for filing the Administrator's declaration(s) in Court.

18 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
19 disburses all funds in the Gross Settlement Amount, the Administrator will provide
20 Class Counsel and Defense Counsel with a final report detailing its disbursements by
21 employee identification number only of all payments made under this Agreement. At
22 least 7 days before any deadline set by the Court, the Administrator will prepare, and
23 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
24 Court attesting to its disbursement of all payments required under this Agreement. Class
25 Counsel is responsible for filing the Administrator's declaration in Court.

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

2 Based on its records, Defendant estimates that, as of the date of this Settlement
3 Agreement, (1) there are 272 Class Members and 29,330 Total Workweeks during the Class
4 Period.

5 8.1. Increase in Workweeks. Defendant represents that there are no more than 29,330
6 Workweeks during the Class Period. In the event the number of Workweeks during the Class
7 Period increases by more than 10%, or 2,933 Workweeks, then Defendant, in its sole discretion,
8 has the option to either: (1) the Gross Settlement Amount shall be increased proportionally by
9 the Workweeks in excess of 32,263 multiplied by the Workweek Value; or (2) end the Class
10 Period on the date that the total number of Workweeks reaches 29,330. The Workweek Value
11 shall be calculated by dividing the Gross Settlement Amount by 29,330. The Parties agree that
12 the Workweek Value amounts to \$43.30 per Workweek (\$1,270,000 / 29,330 Workweeks). Thus,
13 for example, should there be 33,000 Workweeks in the Class Period, and Defendant elects option
14 (1) above, then the Gross Settlement Amount shall be increased by \$31,912.10 $[(33,000$
15 $\text{Workweeks} - 32,263 \text{ Workweeks}] \times \$43.30/\text{Workweek}$). Defendant must exercise its election
16 pursuant to this Paragraph at least 60 days before the first set hearing on Plaintiffs' Motion for
17 Preliminary Approval provided Defendant receives notice of the hearing date at least 90 days
18 before the scheduled hearing or it will be assumed Defendant has elected Option (1) in this
19 Paragraph. Any said election may be reflected by declaration testimony, an addendum of the
20 Settlement, or amendment thereto.

21 **9. MOTION FOR FINAL APPROVAL**

22 9.1. Prior to the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for
23 final approval of the Settlement that includes a request for approval of the PAGA settlement
24 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
25 Judgment (collectively "Motion for Final Approval"). Plaintiffs shall endeavor to provide drafts
26 of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class
27 Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve
28 any disagreements concerning the Motion for Final Approval.

1 9.2. Response to Objections. Each Party retains the right to respond to any objection raised
2 by a Participating Class Member, including the right to file responsive documents in Court no
3 later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
4 accepted by the Court.

5 9.3. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
6 Approval on any material change to the Settlement (including, but not limited to, the scope of
7 release to be granted by Class Members), the Parties will expeditiously work together in good
8 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
9 Approval. The Court's decision to award less than the amounts requested for the Class
10 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
11 Expenses Payment, or Administrator Expenses Payment shall not constitute a material
12 modification to the Agreement within the meaning of this paragraph.

13 9.4. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
14 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
15 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
16 and (iii) addressing such post-Judgment matters as are permitted by law.

17 9.5. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
18 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
19 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
20 respective counsel, and all Participating Class Members who did not object to the Settlement as
21 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
22 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
23 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
24 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
25 Parties' obligations to perform under this Agreement will be suspended until such time as the
26 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
27 the amount of the Net Settlement Amount.

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1 9.6. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
2 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
3 modification of this Agreement (including, but not limited to, the scope of release to be granted
4 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
5 expeditiously work together in good faith to address the appellate court's concerns and to obtain
6 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
7 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
8 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
9 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
10 as long as the Gross Settlement Amount remains unchanged

11 **10. AMENDED JUDGMENT**

12 10.1. If any amended judgment is required under Code of Civil Procedure section 384, the
13 Parties will work together in good faith to jointly submit a proposed amended judgment.

14 **11. ADDITIONAL PROVISIONS**

15 11.1. No Admission of Liability, Class Certification or Representative Manageability for Other
16 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
17 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
18 any of the allegations in the Operative Complaint have merit or that Defendant has any liability
19 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that
20 Defendant's defenses in the Action have merit. The Parties agree that class certification and
21 representative treatment is for purposes of this Settlement only. If, for any reason the Court does
22 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to
23 contest certification of any class for any reasons, and Defendant reserves all available defenses
24 to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any
25 grounds available and to contest Defendant's defenses. The Settlement, this Agreement and
26 Parties' willingness to settle the Action will have no bearing on, and will not be admissible in
27 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement
28 and this Agreement).

1 11.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and
2 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
3 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
4 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
5 or indirectly, specifically or generally, to any person, corporation, association, government
6 agency, or other entity 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 related matter; (3) to the
8 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
9 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
10 government agency. Each Party agrees to immediately notify each other Party of any judicial or
11 agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel,
12 Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any
13 conversation or other communication, before the filing of the Motion for Preliminary Approval,
14 any with third party regarding this Agreement or the matters giving rise to this Agreement except
15 to respond only that "the matter was resolved," or words to that effect. This paragraph does not
16 restrict Class Counsel's communications with Class Members in accordance with Class
17 Counsel's ethical obligations owed to Class Members.

18 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
19 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
20 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
21 ability to communicate with Class Members in accordance with Class Counsel's ethical
22 obligations owed to Class Members.

23 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
24 together with its attached exhibits shall constitute the entire agreement between the Parties
25 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
26 inducements made to or by any Party.

27 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
28 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate

1 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
2 its terms, and to execute any other documents reasonably required to effectuate the terms of this
3 Agreement including any amendments to this Agreement.

4 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
5 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
6 Settlement Agreement, submitting supplemental evidence and supplementing points and
7 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
8 or content of any document necessary to implement the Settlement, or on any modification of the
9 Agreement that may become necessary to implement the Settlement, the Parties will seek the
10 assistance of a mediator and/or the Court for resolution.

11 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
12 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
13 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
14 action, or right released and discharged by the Party in this Settlement.

15 11.8. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are
16 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
17 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
18 Part 10, as amended) or otherwise.

19 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
20 modified, changed, or waived only by an express written instrument signed or agreed to by all
21 Parties or their representatives, and approved by the Court. Plaintiffs and Defendant expressly
22 agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any
23 part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any
24 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on
25 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of
26 the use of signatures previously provided by the Parties.

27 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
28 the benefit of, the successors of each of the Parties.

1 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
2 governed by and interpreted according to the internal laws of the state of California, without
3 regard to conflict of law principles.

4 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
5 this Agreement. This Agreement will not be construed against any Party on the basis that the
6 Party was the drafter or participated in the drafting

7 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
8 during Action and in this Agreement relating to the confidentiality of information shall survive
9 the execution of this Agreement

10 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
11 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant
12 in connection with the mediation, other settlement negotiations, or in connection with the
13 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
14 be used in any way that violates any existing contractual agreement, statute, or rule of court.

15 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
16 inserted for convenience of reference only and does not constitute a part of this Agreement.

17 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
18 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
19 weekend or federal legal holiday, such date or deadline shall be on the first business day
20 thereafter.

21 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
22 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
23 be accepted as an original. All executed counterparts and each of them will be deemed to be one
24 and the same instrument if counsel for the Parties will exchange between themselves signed
25 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
26 and contents of this Agreement.

27 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
28 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further

1 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
2 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
3 process.

4 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
5 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
6 illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel
7 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
8 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
9 Agreement.

10 **IT IS SO AGREED:**

11 *Rashad Salami*

12 Plaintiff, Rashad Salami

13 *Eric Morales*

14 Plaintiff, Eric Morales

15
16
17 Plaintiff, Efrain Bailon

18 **AGREED AS TO FORM ONLY:**

19 *Vedang J. Patel*

20 David D. Bibiyan

21 Vedang J. Patel

22 Counsel for Plaintiffs Rashad Salami and
Eric Morales

David Nusz

David Nusz

Matthew Sullivan

Counsel for Defendant

23
24 Kane Moon

25 Counsel for Plaintiff Efrain Bailon

agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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

IT IS SO AGREED:

Plaintiff, Rashad Salami

For Defendant, Metropolitan Warehouse & Delivery Corp

Plaintiff, Eric Morales

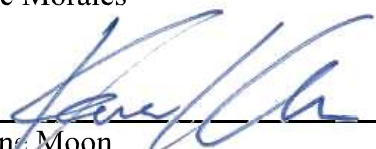
Signed by:


Plaintiff, Efrain Bailon

AGREED AS TO FORM ONLY:

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs Rashad Salami and Eric Morales

David Nusz
Matthew Sullivan
Counsel for Defendant



Kane Moon
Counsel for Plaintiff Efrain Bailon