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THE NEW IEM, LLC

16
17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF ALAMEDA

19 FABIAN CAMILO BUITRAGO MALAVER,
20 individually, and on behalf of all others
21 similarly situated,

22 Plaintiff,

23 vs.

24 THE NEW IEM, LLC, a limited liability
company; and DOES 1 through 10, inclusive,

25 Defendants.

Case No. 24CV102931

ASSIGNED FOR ALL PURPOSES TO:
HON. SOMNATH RAJ CHATTERJEE; DEPT. 21

**SETTLEMENT AGREEMENT AND
STIPULATION TO RESOLVE CLASS
ACTION AND PAGA CLAIMS**

Date Action Filed: December 11, 2024
Trial Date: Not Set

1 SETTLEMENT AGREEMENT AND STIPULATION TO RESOLVE CLASS ACTION

2 AND PAGA CLAIMS

3 This *Settlement Agreement and Stipulation To Resolve Class Action and PAGA Claims* is
 4 entered into to resolve the action entitled *Fabian Camilo Buitrago Malaver, et al. v. The New IEM,*
 5 *LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931.

6 DEFINITIONS

7 1. Action. “Action” means *Fabian Camilo Buitrago Malaver, et al. v. The New IEM,*
 8 *LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931.

9 2. Agreement or Settlement or Settlement Agreement. “Agreement,” “Settlement,”
 10 or “Settlement Agreement” means this Settlement Agreement and Stipulation To Resolve Class
 11 Action and PAGA Claims, entered into by the Parties to resolve the Action.

12 3. Attorneys’ Fees and Costs. “Attorneys’ Fees and Costs” means the amount
 13 authorized by the Court for an award of attorneys’ fees to Class Counsel for litigation and
 14 resolution of the matter, in an amount that does not exceed one-third of the Gross Settlement
 15 Amount, currently estimated to be \$253,000.00, and reimbursement of actual costs incurred by
 16 Class Counsel in prosecuting the Action, in an amount not to exceed \$25,000.00.

17 4. Class or Class Members. “Class” or “Class Members” means all past and present
 18 non-exempt, hourly-paid employees of The New IEM, LLC who worked in California at any time
 19 during the Class Period (as defined in Paragraph 7), excepting those employees who have already
 20 released, assigned, or otherwise forfeited the claims asserted in the Action as set forth to Paragraph
 21 64 (“No Double Recovery”).

22 5. Class Counsel. “Class Counsel” means Kane Moon, Allen Feghali, Julie S. Oh, of
 23 Moon Law Group, PC.

24 6. Class Notice. “Class Notice” means the Notice of Class Action Settlement,
 25 attached as **Exhibit A** to this Agreement, or a substantially similar notice approved by the Court.
 26 The Class Notice will be translated into Spanish by the Settlement Administrator and mailed to
 27 Class Members in both English and Spanish.

28 7. Class Period. “Class Period” means the period from December 11, 2020 to the date

1 the Court enters the Preliminary Approval Order, subject to the escalator provision in Paragraph
2 49.

3 8. Class Released Claims. “Class Released Claims” means any and all claims, known
4 or unknown, contingent or accrued, against Defendant and the other Released Parties that arise
5 from the facts, transactions or occurrences alleged in the Action, or that reasonably could have
6 been alleged based on any fact set forth in the Action, arising during the Class Period, including
7 and not limited to, claims for failure to pay all wages earned for all hours worked at the correct
8 rate including minimum, regular, and overtime wages (*e.g.*, including, but not limited to, failure to
9 pay paid sick leave and PTO at the correct rates), failure to provide meal periods and rest breaks
10 or pay premium payments at the correct rate, failure to provide meal periods and rest breaks or pay
11 premium payments at the correct rate, failure to provide and maintain complete and accurate
12 itemized wage statements that include all information required by the California Labor Code,
13 untimely payment of wages during employment and at the time of termination, failure to reimburse
14 business expenses, violations of the corresponding California Labor Code provisions, including
15 §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 246, 246.5, 247, 247.5, 248,
16 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
17 1198, and 2802, the applicable California Wage Orders, and all related or corresponding local and
18 federal laws, violation of California Business and Professions Code Section 17200 *et seq.*,
19 including attorneys’ fees, costs and interest, arising from the foregoing violations, except those
20 arising under California Labor Code Section 2698 *et seq.*

21 9. Class Settlement. “Class Settlement” means the settlement and release of Class
22 Released Claims.

23 10. Court. “Court” means the Alameda County Superior Court, where the Action is
24 currently pending.

25 11. Defendant. “Defendant” means The New IEM, LLC.

26 12. Effective Date. The “Effective Date” of this Agreement shall be the later of: (i)
27 the 61st day after service of notice of entry of the Final Approval Order and Judgment, if no appeal,
28 review, or writ has been filed; or (ii) if an appeal, review, or writ is sought from the Final Approval

Order and Judgment, the day after the Final Approval Order and Judgment is affirmed or the appeal, review, or writ is dismissed or denied, and the Final Approval Order and Judgment are no longer subject to further judicial review. The Effective Date is conditioned upon all of the following occurring: (a) this Agreement has been signed by the Parties, Class Counsel, and Defendant's counsel; and (b) the Court has entered the Final Approval Order and Judgment.

13. Employer's Taxes. "Employer's Taxes" means the taxes Defendant is obligated by law to pay for any portion of the Individual Settlement Payments designated as wages.

14. Enhancement Award. "Enhancement Award" means the amount of up to \$5,000.00 to be paid to the Named Plaintiff subject to Court approval, from the Gross Settlement Amount, in addition to his Individual Settlement Payment, in recognition of his efforts and work in prosecution of the Action.

15. Final Hearing Date or Final Approval Hearing. "Final Hearing Date" or "Final Approval Hearing" means the date set by the Court for the hearing on final approval of the Settlement, at which the Court will determine whether to fully and finally approve the fairness and reasonableness of this Agreement.

16. Final Approval Order and Judgment. "Final Approval Order and Judgment" means the proposed order granting final approval of the Settlement and entering judgment, which Plaintiff will submit to the Court with the motion for final approval of the Settlement.

17. General Release Payment: "General Release Payment" means the amount of up to \$10,000.00 to be paid to Named Plaintiff subject to Court approval, from the Gross Settlement Amount, for his full release and discharge of any claims that he has ever had against the Released Parties through the date of execution of the Agreement, including any claims he has or may have against the Released Parties arising under the California Fair Employment and Housing Act that are not alleged in the Action and a waiver of his rights under Civil Code Section 1542 as set forth in Paragraph 46.

18. Gross Settlement Amount. "Gross Settlement Amount" means the total settlement payment Defendant agreed to make under this Agreement. The Gross Settlement Amount is \$759,000.00, subject to the escalator provision in Paragraph 49.

19. Individual PAGA Payment. “Individual PAGA Payment” means the payment to a PAGA Class Member of his or her *pro rata* portion of the PAGA Payment.

20. Individual Settlement Payment. “Individual Settlement Payment” means the payment to a Participating Class Member of his or her *pro rata* share of the Net Settlement Amount.

21. Named Plaintiff. “Named Plaintiff” means Fabian Camilo Buitrago Malaver.

22. Notice Period. “Notice Period” means the time period commencing on the date the Class Notice is mailed to Class Members and ending sixty (60) calendar days thereafter.

23. Net Settlement Amount. “Net Settlement Amount” means the settlement amount to be distributed to Participating Class Members, which is the Gross Settlement Amount less Attorneys’ Fees and Costs, the General Release Payment, the Enhancement Award, the PAGA Payment, and Settlement Administration Costs.

24. PAGA Class Members. “PAGA Class Members” means all past and present non-exempt, hourly-paid employees of The New IEM, LLC who worked in California at any time during the PAGA Period (as defined in Paragraph 26).

25. PAGA Payment. “PAGA Payment” means the amount of \$50,000.00, which represents the portion of the Settlement allocated to the settlement of the claims pursuant to the California Private Attorneys General Act (“PAGA”). The PAGA Payment is paid from the Gross Settlement Amount, and will be allocated as set forth in Paragraph 50.d.

26. PAGA Period. “PAGA Period” means the period from December 11, 2023 to the date the Court enters the Preliminary Approval Order, subject to the escalator provision in Paragraph 49.

27. PAGA Released Claims. “PAGA Released Claims” means any and all claims for PAGA civil penalties against Defendant and the other Released Parties that arise from the facts, transactions or occurrences alleged in the letter sent by Class Counsel to the Labor and Workforce Development Agency on or about December 7, 2024 (“LWDA Letter”) and the Action, or that reasonably could have been alleged based on any fact set forth in the LWDA Letter and the Action, arising during the PAGA Period, for violations of California Labor Code §§ 201, 202, 203, 204,

210, 226, 226.3, 226.7, 227.3, 246, 246.5, 247, 247.5, 248, 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2699, and 2802, and the applicable California Wage Orders, including attorneys' fees, costs and interest arising from the foregoing.

28. PAGA Settlement. "PAGA Settlement" means the settlement and release of PAGA Released Claims. Subject to Court approval, the PAGA portion of the Settlement will be considered approved upon entry of the Preliminary Approval Order, however, to minimize claims administration expenses, the PAGA Payment will not be paid and distributed until after the Final Approval Hearing.

29. PAGA Workweeks. "PAGA Workweeks" means the number of weeks a PAGA Class Member was employed during the PAGA Period and will be calculated by dividing the total number of calendar days that the PAGA Class Member was employed during the PAGA Period by 7. That calculation will be rounded up to the nearest whole number.

30. Parties. "Parties" means the Defendant and the Named Plaintiff, individually and on behalf of all Class Members, and the State of California with respect to the employment of PAGA Class Members (defined in Paragraph 24). Each of the Parties may be referred to in the singular as a "Party."

31. Participating Class Member. "Participating Class Member" means each Class Member who has not submitted a valid and timely Opt-Out Request, pursuant to Paragraph 55 of the Agreement; "Settlement Class" means a class of all Participating Class Members.

32. Preliminary Approval Order. "Preliminary Approval Order" means an order from the Court preliminarily approving this Settlement.

33. Released Parties. "Released Parties" means and includes The New IEM, LLC and its respective current and former parents, predecessors or successors, holding companies, affiliated companies or entities, owners, shareholders, members, partners, officers, directors, managers, employees, and agents.

34. Settlement Administration Costs. "Settlement Administration Costs" means the costs of settlement administration, including costs of notice to Class Members, distributing settlement payments, and any other fees and costs incurred or charged by the Settlement

1 Administrator in connection with the execution of its duties under this Settlement.

2 35. Settlement Administrator. “Settlement Administrator” means CPT Group, Inc. or
3 such other third-party administrator mutually agreed upon by the Parties and subject to approval
4 by the Court.

5 36. Workweeks. “Workweeks” means the number of weeks a Class Member was
6 employed during the Class Period and will be calculated by dividing the total number of calendar
7 days that the Class Member was employed during the Class Period by 7. That calculation will be
8 rounded up to the nearest whole number.

9 **RECITALS**

10 37. On December 11, 2024, the Named Plaintiff filed a putative class action against
11 Defendant The New IEM, LLC in a case styled *Fabian Camilo Buitrago Malaver, et al. v. The*
12 *New IEM, LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931. The Complaint
13 alleged that Defendant violated various wage-and-hour laws, including: by failing to pay minimum
14 wages / failing to pay overtime compensation, failing to provide meal periods, failing to authorize
15 and permit rest breaks, failing to indemnify necessary business expenses, failing to timely pay
16 wages at termination, failing to provide accurate itemized wage statements, and engaging in unfair
17 business practices in violation of California Business and Professions Code § 17200 *et seq.*

18 38. On February 11, 2025, the Named Plaintiff filed a First Amended Class Action and
19 Representative Action Complaint which added an additional cause of action for civil penalties
20 under PAGA.

21 39. Defendant denies that it engaged in any misconduct in connection with the wage-
22 and-hour practices associated with the Class Members or PAGA Class Members. Defendant
23 further denies that it has any liability of any kind associated with the claims alleged in the Action.
24 Defendant contends that it has complied with both federal and state wage-and-hour laws, and all
25 other laws regulating its relationship with the Class Members, including the Named Plaintiff.

26 40. On May 12, 2025, the Parties participated in mediation with Lisa Klerman, Esq.
27 (the “Mediator”), a respected mediator of complex wage and hour actions, and with the assistance
28 of the Mediator’s evaluations, the Parties reached the settlement that is memorialized in this

1 Agreement.

2 41. Class Counsel has investigated the facts relating to the Action. Settlement
3 discussions were conducted at arm's-length, and the Settlement is the result of an informed and
4 detailed analysis of Defendant's potential liability and exposure and defenses in relation to the
5 costs and risks associated with continued litigation. Based on the documents produced, as well as
6 Class Counsel's own independent investigation and evaluation, Class Counsel believes that the
7 Settlement documented by this Settlement Agreement is fair, reasonable, and adequate, and in the
8 best interest of the Class in light of all known facts and circumstances, including the risk of
9 significant delay and defenses asserted to the merits of the Action. While Defendant specifically
10 denies any liability in the Action, Defendant has agreed to enter into this Settlement to avoid the
11 time, uncertainty and costs associated with defending the Action.

12 **TERMS AND CONDITIONS**

13 NOW, THEREFORE, in consideration of the recitals listed above and the promises and
14 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of
15 the consideration and undertakings set forth below, Named Plaintiff, individually and on behalf of
16 the Class Members and State of California with respect to the employment of PAGA Class
17 Members, and Defendant agree that the Action shall be and is finally and fully compromised and
18 settled on the following terms and conditions, subject to Court approval:

19 42. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
20 dispute that has arisen between them and to avoid the burden, expense and risk of continued
21 litigation. In entering into this Agreement, Defendant and the other Released Parties do not admit,
22 and specifically deny, that they have violated any federal, state, or local law; violated any
23 regulations or guidelines promulgated pursuant to any statute or any other applicable laws,
24 regulations or legal requirements; breached any contract; violated or breached any duty; engaged
25 in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to
26 the Class or PAGA Class Members. Neither this Agreement, nor any of its terms or provisions,
27 nor any of the negotiations connected with it, shall be construed as an admission or concession by
28 Defendant or any of the other Released Parties of any such violations or failures to comply with

1 any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement,
2 this Agreement and its terms and provisions shall not be offered as evidence in any action or
3 proceeding to establish any liability or admission on the part of Defendant or to establish the
4 existence of any condition constituting a violation of, or a non-compliance with, federal, state,
5 local or other applicable law.

6 43. Conditional Nature of Settlement. For settlement purposes *only*, the Parties agree
7 that (a) a class may be certified pursuant to California Code of Civil Procedure Section 382, and
8 (b) payment in compromise of claims for civil penalties may be recovered on a PAGA
9 representative action basis.

10 a. The Parties intend their settlement to be contingent upon the preliminary
11 and final approval of each and every term of this Agreement, without material modification. The
12 Parties and their respective counsel shall use their respective best efforts to obtain Court approval
13 and implement this Agreement in accordance with its terms. Nonetheless, if the Court does not so
14 approve this Agreement, the Parties agree to meet and confer and use their best efforts, in good
15 faith, to address the Court's concerns and implement the Settlement, including by modifying this
16 Agreement and submitting supplemental evidence and briefing as requested by the Court. In the
17 event the Parties are unable to agree upon the form or content of any document or modification
18 that may become necessary to implement the Settlement, the Parties will seek assistance of the
19 Mediator for resolution. If, after the Mediator's assistance and exhausting all reasonable efforts,
20 the Parties are still unable to agree upon a resolution, the Parties intend this Agreement to become
21 null and void, and unenforceable, in which event the settlement terms set forth in this Agreement,
22 including any modifications made with the consent of the Parties, and any action taken or to be
23 taken in connection with this Agreement shall be terminated and shall become null and void and
24 have no further force or effect, and the class certified for settlement purposes pursuant to this
25 Agreement will be decertified for all purposes.

26 b. In the event the Court refuses to grant preliminary or final approval of the
27 Parties' settlement (without providing the Parties an opportunity to submit additional information
28 to support the settlement), or in the event that this Agreement shall terminate or the settlement

embodied in this Agreement does not become effective for any reason, the Agreement and all negotiations, court orders and proceedings relating to the Agreement shall be without prejudice to the rights of the Named Plaintiff, Class Members, State of California, PAGA Class Members, and Defendant, each of whom shall be restored to their respective positions existing prior to the execution of this Agreement, and evidence relating to the Agreement and all negotiations shall not be discoverable or admissible in the Action or any other litigation. To the extent this happens, the Parties will work together in good faith in resetting any necessary deadlines. Defendant does not waive, and instead expressly reserves, its rights to challenge the propriety of class certification for any purpose in the event that the Settlement is terminated or does not become effective.

c. The Parties and their respective counsel shall use their respective best efforts to obtain Court approval and implement this Agreement in accordance with its terms. If the Court grants the Preliminary Approval Order, but does not grant final approval of the Settlement, the Parties agree to meet and confer and use their best efforts, in good faith, to address the Court's concerns and implement the Settlement. If the Parties are unable to agree upon a resolution, after exhausting all reasonable efforts to reach a resolution, then the Preliminary Approval Order will be vacated in its entirety. In addition, if the Court does not grant final approval of the Settlement, neither this Agreement, the Preliminary Approval Order, nor any other document in any way relating to the foregoing, shall be relied upon, referred to, or used in any way for class certification proceedings or representative action proceedings in the Action or any other action. Defendant does not waive, and instead expressly reserves, its rights to challenge the propriety of class certification for any purpose should the Court not grant final approval of the Settlement.

44. Participating Class Member Release of Class Released Claims. As of the Effective Date, the Named Plaintiff and all Participating Class Members shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties from the Class Released Claims.

a. The Named Plaintiff and each Participating Class Member who has not timely filed an Opt-Out Request is enjoined from pursuing any Class Released Claims.

b. Because it is impossible or impracticable to have each Class Member execute this Agreement, the Class Notice will advise all Class Members of the binding nature of the release of Class Released Claims as to Participating Class Members, and such notice will have the same force and effect as if the Agreement were executed by each Class Member.

45. PAGA Class Members Release of PAGA Claims: In exchange for the PAGA Payment recited in this Agreement, the Named Plaintiff, as the representative for the State of California and all PAGA Class Members, and on behalf of their current, former, and future heirs, executors, administrators, attorneys, agents, and assigns, will forever completely release and discharge the Released Parties from the PAGA Released Claims. The PAGA Class Members and the State of California will be deemed by operation of the Final Approval Order and Judgment as of the Effective Date to have agreed not to sue or otherwise make a claim against any of the Released Parties for the PAGA Released Claims.

46. Full Release by the Named Plaintiff. As of the occurrence of the Effective Date, the Named Plaintiff fully releases and discharges Defendant and the other Released Parties from the Class Released Claims, PAGA Released Claims, and any other claims that the Named Plaintiff ever had against the Released Parties through the date of execution of the Agreement. Without limiting the generality of the foregoing, the Named Plaintiff specifically and expressly releases to the maximum extent permitted by law any claims against the Released Parties, arising out of or relating to the Named Plaintiff's employment or the termination of his employment with Defendant and any other Released Party. This general release by the Named Plaintiff includes a waiver of Named Plaintiff's rights under Civil Code Section 1542, which provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

47. No Prior Assignments: The Named Plaintiff and Class Counsel represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights released and discharged by this Agreement, except as set forth in

1 this Agreement.

2 48. Settlement Payments and Calculation of Claims. Subject to final Court approval
3 and the conditions specified in this Agreement, and in consideration of the mutual covenants and
4 promises set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of
5 \$759,000.00, subject to the escalator provision in Paragraph 49. The Gross Settlement Amount
6 includes, but is not limited to, Individual Settlement Payments to be made to Participating Class
7 Members; Class Counsel's Attorneys' Fees and Costs; Settlement Administration Costs; General
8 Release Payment to the Named Plaintiff; Enhancement Award to the Named Plaintiff; Individual
9 PAGA Payments to be made to PAGA Class Members; and LWDA Payment to the LWDA. The
10 Gross Settlement Amount does not include the employer's share of the payroll taxes on any
11 amounts paid to the Class. For the avoidance of doubt, subject to the escalator provision in
12 Paragraph 49, Defendant shall not be required to pay any amount over \$759,000.00 for this
13 Settlement, apart from the Employer's Taxes, which will be paid in addition to the Gross
14 Settlement Amount. The following table summarizes the estimated allocation of the Gross
15 Settlement Amount:

16 **Gross Settlement Amount of \$759,000.00, Allocated As Follows:**

- 17 • **\$50,000.00** for the PAGA Payment
 - 18 ○ **\$32,500.00** for the LWDA Payment
 - 19 ○ **\$17,500.00** for payments to PAGA Class Members on a *pro rata*
20 basis ("Individual PAGA Payments")
- 21 • Class Counsel Attorneys' Fees not to exceed one-third of the Gross Settlement
22 Amount (currently **\$253,000.00**)
- 23 • Class Counsel Costs (not to exceed **\$25,000.00**)
- 24 • Settlement Administration Costs (not to exceed **\$10,500.00**)
- 25 • A General Release Payment for Named Plaintiff in the amount of **\$10,000.00**
- 26 • An Enhancement Award for Named Plaintiff in the amount of **\$5,000.00**

27 49. Settlement Escalator. Defendant represented at the time of mediation that there
28 were approximately 41,009 Workweeks Class Members worked during the Class Period. The
Parties understood that the Workweeks would increase between the date of the mediation and
Preliminary Approval and, therefore, considered this during their settlement negotiations.

1 Accordingly, should the actual number of Workweeks increase by more than ten percent (10%)
2 (*i.e.*, by more than 4,101 Workweeks), then the Gross Settlement Amount shall increase
3 proportionately over the 10% threshold (*i.e.*, meaning if the Workweeks increase by 11% the Gross
4 Settlement Amount will increase by 1%). Alternatively, if this clause is triggered, Defendant may
5 choose to end the Class Period on the date that the number of total Workweeks reaches the
6 additional 10% threshold (45,110 Workweeks) so that the Gross Settlement Amount does not have
7 to be increased.

8 50. The Parties agree, subject to Court approval, that the Gross Settlement Amount
9 shall be apportioned as follows:

10 a. Class Counsel Attorneys' Fees and Costs: At the Final Approval Hearing,
11 Class Counsel will apply to the Court for an award of attorneys' fees of no more than one-third
12 (1/3) of the Gross Settlement Amount, which is currently estimated to be \$253,000.00. Class
13 Counsel will also apply to the Court for an award of costs incurred by Class Counsel in an amount
14 not to exceed \$25,000.00. Defendant will not oppose such application. These fees and costs are
15 included in, and shall come from, the Gross Settlement Amount. Class Counsel will be issued an
16 IRS Form 1099 for any fees and costs awarded by the Court pursuant to this Paragraph 50.a.
17 Except as provided in this Paragraph 50.a, each party will bear his, her, or its own attorneys' fees,
18 costs, and expenses incurred in the prosecution, defense, or settlement of the Action. If the Court
19 awards a lower amount of Attorneys' Fees and Costs than the amount requested, any amount not
20 awarded will be part of the Net Settlement Amount for distribution to the Participating Class
21 Members and shall not be a reason to invalidate/terminate this Agreement.

22 b. Settlement Administrator Costs: At the Final Approval Hearing, Class
23 Counsel will apply to the Court for approval of Settlement Administration Costs in an amount not
24 to exceed \$10,500.00. These costs are included in, and shall come from, the Gross Settlement
25 Amount.

26 c. Named Plaintiff General Release Payment and Enhancement Award: At
27 the Final Approval Hearing, Class Counsel will apply to the Court for an award of up to \$10,000.00
28 to be paid to the Named Plaintiff as a General Release Payment and an additional award of up to

1 \$5,000.00 to be paid to the Named Plaintiff as an Enhancement Award for his services in
2 prosecuting the Action. Defendant will not oppose such application. The General Release
3 Payment and Enhancement Award are included in, and shall come from, the Gross Settlement
4 Amount. Named Plaintiff will be issued an IRS Form 1099 for the General Release Payment and
5 Enhancement Award approved by the Court pursuant to this Section. The General Release
6 Payment and Enhancement Award payable to the Named Plaintiff shall be in addition to any
7 payment he may receive pursuant to Paragraphs 50.e and 50.f, below. If the Court awards less
8 than the amount requested, any amount not awarded will be part of the Net Settlement Amount for
9 distribution to the Participating Class Members and shall not be a reason to invalidate/terminate
10 this Agreement.

11 d. PAGA Payment: At the Final Approval Hearing, Class Counsel will apply
12 to the Court for approval of the PAGA Payment. Class Counsel will submit notice of this
13 Settlement to the LWDA, as required by Labor Code § 2699(l)(2). The Parties agree that 65% of
14 the PAGA Payment (\$32,500.00) will be paid to the LWDA as the “LWDA Payment,” and the
15 remaining 35% (\$17,500.00) of the PAGA Payment will be allocated to the PAGA Class Members.
16 The amount allocated to the PAGA Class Members will be paid using the formula as set forth in
17 Paragraph 50.f. Any Class Member who worked during the PAGA Period and who opts out of the
18 Class Settlement will still be considered a PAGA Class Member for purposes of this Paragraph
19 50.d and, therefore, will be issued their Individual PAGA Payment and bound to the PAGA
20 Settlement.

21 e. Individual Settlement Payments: After deducting the approved amounts
22 specified in Paragraphs 50.a – 50.d above, each Participating Class Member will be entitled to a
23 *pro rata* portion of the remaining amount (*i.e.*, the Net Settlement Amount). Individual Settlement
24 Payments will be calculated from the Net Settlement Amount based on the respective number of
25 Workweeks, rounded up. Each Participating Class Member’s share of the Net Settlement Amount
26 will be calculated by dividing the Participating Class Member’s Workweeks by the total number
27 of Workweeks for all Class Members and multiplying this figure by the Net Settlement Amount.
28 The Class Notice will include the number of Workweeks that the Class Member is credited with

and the estimated amount of his or her Individual Settlement Payment.

Example: Class Member A worked 50 Workweeks. All Class Members who worked during the Class Period worked a total of 20,000 Workweeks. Class Member A's Individual Settlement Payment would be calculated as follows:

- 50 Workweeks worked by Class Member A ÷ 20,000 Workweeks for all Class Members = 0.0025%.
- Class Member A would be entitled to an Individual Settlement Payment in the amount of \$1,013.75 (0.0025% x \$405,500.00).

f. Individual PAGA Payments: Each PAGA Class Member will be entitled to a *pro rata* portion of 35% of the PAGA Payment (*i.e.*, \$17,500.00). Individual PAGA Payments will be calculated from 35% of the PAGA Payment based on the respective number of PAGA Workweeks, rounded up. Each PAGA Class Member's share of 35% of the PAGA Payment will be calculated by dividing the PAGA Class Member's PAGA Workweeks by the total number of PAGA Workweeks for all PAGA Class Members and multiplying this figure by 35% of the PAGA Payment. The Class Notice will include the number of PAGA Workweeks that the PAGA Class Member is credited with and the estimated amount of his or her Individual PAGA Payment.

Example: PAGA Class Member A worked 5 PAGA Workweeks. All PAGA Class Members worked a total of 2,000 PAGA Workweeks. PAGA Class Member A's Individual PAGA Payment would be calculated as follows:

- 5 PAGA Workweeks worked by PAGA Class Member A ÷ 2,000 PAGA Workweeks for all PAGA Class Members = 0.0025%.
- PAGA Class Member A would be entitled to an Individual PAGA Payment in the amount of \$43.75 (0.0025% x \$17,500.00).

g. The Parties acknowledge and agree that the formulas used to calculate the Individual Settlement Payments and Individual PAGA Payments do not mean that all of the elements of damages, restitutionary relief, and penalties alleged in the Action are not being taken into account. The above formula was devised as a practical and logistical method to simplify the distribution of monetary settlement benefits.

h. Individual Settlement Payments shall be distributed only to Participating Class Members. Individual PAGA Payments will be distributed to all PAGA Class Members. The entire Net Settlement Amount will be distributed to Participating Class Members, and the entire 35% of the PAGA Payment will be distributed to PAGA Class Members.

51. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members under this Agreement and the Individual PAGA Payments made to PAGA Class Members will not be utilized to calculate any additional benefits under any benefit plans to which any Participating Class Member or PAGA Class Member may be eligible including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Participating Class Member or PAGA Class Member may be entitled under any benefit plans.

52. Taxation of Settlement Proceeds.

a. All Settlement payments paid to Participating Class Members, PAGA Class Members, and the Named Plaintiff, will be paid in a net amount after applicable state and federal tax withholdings, including payroll taxes, have been deducted.

b. The Individual Settlement Payment shall be reported as follows: (i) 10% will be considered wages, and will be reported as such to each Participating Class Member on a W-2 Form; (ii) 45% will be considered interest on the non-wage damages, and will be reported as such to each Participating Class Member on an IRS Form 1099, if applicable; and (iii) 45% will be considered payment on behalf of claims for statutory penalties, and will be reported as such to each Participating Class Member on an IRS Form 1099, if applicable. The Individual PAGA Payment will be considered 100% payment on behalf of claims for civil penalties, and will be reported as such to each PAGA Class Member on an IRS Form 1099, if applicable.

c. Prior to mailing Individual Settlement Payments to Participating Class Members, the Settlement Administrator will calculate and withhold from the Individual Settlement Payment sufficient amounts as may be owed by Participating Class Members for required withholdings and taxes, including all payroll taxes, and will timely remit such amounts withheld

1 to applicable governmental agencies. The Settlement Administrator will issue appropriate tax
2 forms to each Participating Class Member and PAGA Class Members consistent with the
3 foregoing breakdown. The Parties understand that the Named Plaintiff, Participating Class
4 Members, and PAGA Class Members who receive an Individual Settlement Payment, including
5 an Individual PAGA Payment, pursuant to this Agreement shall be solely responsible for any and
6 all tax obligations associated with such receipt.

7 d. The Parties stipulate that the Settlement Fund (as defined at Paragraph 57.a)
8 will qualify as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal
9 Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the federal income tax
10 regulations. Furthermore, the Settlement Administrator is designated as the “Administrator” of
11 the qualified settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations.
12 Accordingly, all taxes imposed on the gross income of the Settlement Fund and any tax-related
13 expenses arising from any income tax return or other reporting document that may be required by
14 the Internal Revenue Service or any state or local taxing body will be paid from the Settlement
15 Fund.

16 e. All Parties represent and acknowledge that nothing in this Agreement
17 constitutes tax advice regarding the tax treatment of payments under federal, state, or local law.
18 The Named Plaintiff, Participating Class Members, and PAGA Class Members will assume any
19 such tax obligations or consequences that may arise from this Agreement and Class Members shall
20 not seek any indemnification from the Parties or any of the Released Parties in this regard. In the
21 event that any taxing body determines that additional taxes are due from any Class Member or
22 PAGA Class Member, including the Named Plaintiff, such Class Member or PAGA Class Member
23 assumes all responsibility for the payment of such taxes.

24 53. Notice Procedure. Within fifteen (15) calendar days after entry of the Preliminary
25 Approval Order, Defendant will provide to the Settlement Administrator a list of Class Members
26 that identifies each Class Member by full name, Social Security Number, and last-known address;
27 and provides the number of Workweeks worked by each Class Member during the Class Period
28 and the number of PAGA Workweeks worked by each PAGA Class Member during the PAGA

1 Period (the “Class List”). Defendant will provide the Class List in an Excel file or other format
2 reasonably acceptable to the Settlement Administrator. The Settlement Administrator will keep
3 the list confidential and use it only for the purposes described in this Agreement. Within one year
4 after the Final Approval Order and Judgment, or such other date as the Court may order, the
5 Settlement Administrator shall destroy all Class Members’ personal identifying information
6 received from Defendant or otherwise in connection with the implementation and administration
7 of this Settlement. The Settlement Administrator shall establish and maintain an internet website
8 to post information of interest to Class Members including the date, time and location for the Final
9 Approval Hearing and copies of this Agreement, the Motion for Preliminary Approval, the Class
10 Notice, the Motion for Final Approval, and the Final Approval Order and Judgment.

11 a. Upon receipt of the Class List, the Settlement Administrator shall perform
12 a search based upon the National Change of Address Database to update and correct any known
13 or identifiable address changes. The Settlement Administrator shall exercise its best judgment to
14 determine the current mailing address for each Class Member. Within fifteen (15) calendar days
15 after receipt of the Class List from Defendant, the Settlement Administrator will send the Class
16 Notice, in English and Spanish, to each Class Member via First Class U.S. Mail. Receipt of the
17 Class Notice shall be presumed as to each and every Class Member whose Class Notice is not
18 returned to the Settlement Administrator as undeliverable within fifteen (15) calendar days after
19 mailing.

20 b. The Settlement Administrator will re-mail any Class Notice that is returned
21 by the United States Postal Service with a forwarding address on or before the expiration of the
22 Notice Period, within five (5) calendar days of the Settlement Administrator’s receipt of the
23 returned Class Notice. It shall be conclusively presumed that those Class Members whose re-
24 mailed Class Notice is not returned to the Settlement Administrator as undeliverable within fifteen
25 (15) calendar days after re-mailing, received the Class Notice. Class Members who receive a re-
26 mailed Class Notice shall have their Notice Period extended fifteen (15) calendar days to object,
27 opt out, or dispute the Workweeks attributed to the Class Member.

28 c. The Settlement Administrator will use the appropriate skip tracing and

1 National Change of Address searches to increase the likelihood of delivery of the Class Notice to
2 Class Members, and to re-mail the notice packets returned by the Postal Service without a
3 forwarding address upon locating new or alternate addresses after a reasonable search.

4 d. Class Counsel will provide to the Court, in connection with seeking final
5 approval of the Settlement, a declaration from the Settlement Administrator confirming that the
6 Class Notice was mailed to all Class Members as required by this Agreement, as well as any
7 additional information Class Counsel deems appropriate to provide to the Court.

8 54. Dispute Procedure. The Class Notice will include a procedure by which a Class
9 Member may dispute the number of Workweeks allocated to the Class Member by submitting a
10 written dispute sent via U.S. Mail to the Settlement Administrator postmarked no later than the
11 expiration of the Notice Period (“Workweek Dispute”). To be valid, a Workweek Dispute must
12 contain the following: (i) the Class Member’s full name (including his/her full name at the time of
13 employment for Defendant), current address, telephone number, last four digits of Social Security
14 number, and signature; (ii) the name and case number of the Action; (iii) the number of Workweeks
15 the Class Member maintains is correct; and (iv) documents to demonstrate that Defendant’s
16 calculation of the Workweeks for the Class Member is incorrect. Upon receipt of notice of a
17 Workweek Dispute, the Settlement Administrator shall promptly serve Defendant’s counsel with
18 a copy of the Workweek Dispute and any accompanying papers. Defendant’s Counsel will inform
19 Class Counsel of any such dispute. No Workweek Dispute shall be effective or considered for any
20 purpose unless it is timely mailed by U.S. mail to and received by the Settlement Administrator as
21 provided above. Defendant shall have the right to respond to the Workweek Dispute by any Class
22 Member. The Settlement Administrator will resolve the Workweek Dispute and in the absence of
23 any contrary documentation, the Settlement Administrator is entitled to presume that the
24 Workweeks contained in the Class Notice are correct so long as they are consistent with the Class
25 List. The Settlement Administrator will make a final and binding determination on all Workweek
26 Disputes without a hearing or right of appeal.

27 a. Within twenty-one (21) calendar days after the close of the Notice Period,
28 the Settlement Administrator will provide Class Counsel and Defendant’s counsel with a report

1 listing the amount of all Individual Settlement Payments to be made to Participating Class
2 Members and Individual PAGA Payments to be made to PAGA Class Members, along with the
3 additional information set forth in Paragraph 55.c. The report to Class Counsel will not include
4 the names or contact information of Participating Class Members and PAGA Class Members.
5 After receiving the Settlement Administrator's report, Class Counsel and Defendant's counsel
6 shall review the same to determine if the calculation of payments to Participating Class Members
7 and PAGA Class Members is consistent with this Settlement Agreement.

8 55. Opt-Out Procedure. Unless a Class Member opts out of the Class Settlement
9 described in this Agreement, the Class Member will be bound by the Class Settlement, including
10 the release of the Released Class Claims. A Class Member will not be entitled to opt out of the
11 Class Settlement established by this Agreement unless the Class Member submits a valid and
12 timely opt-out request ("Opt-Out Request"). A Opt-Out Request must: (i) contain the Class
13 Member's full name (including his/her full name at the time of employment for Defendant), current
14 address, last four digits of Social Security Number, and signature; (ii) the name and case number
15 of the Action; (iii) a written request clearly expressing the Class Member's desire to be excluded
16 from (or opt out of) the Class Settlement; and (iv) be returned so that it is postmarked on or before
17 the expiration of the Notice Period.

18 a. Upon receipt of any Opt-Out Request within the Notice Period, the
19 Settlement Administrator shall review the Opt-Out Request to confirm that it complies with the
20 opt-out requirements of this Agreement.

21 b. Any Class Member who fails to submit a valid and timely Opt-Out Request
22 will be barred from opting out of the Class Settlement, unless otherwise ordered by the Court. It
23 shall be presumed that, if an Opt-Out Request is not postmarked on or before the end of the Notice
24 Period, the Class Member did not make the request in a timely manner, unless the Class Member's
25 Notice Period was extended pursuant to Paragraph 53.b, above. A declaration submitted by any
26 Class Member attesting to the mailing of an Opt-Out Request on or before the expiration of the
27 Notice Period shall be insufficient to overcome the conclusive presumption that the Opt-Out
28 Request was untimely. Under no circumstances shall the Settlement Administrator have the

authority to extend the deadline for Class Members to submit a request to opt out of the Class Settlement without the Parties' written consent or Court approval, except for the 15-day extension of a Class Member's Notice Period due to a re-mailed Class Notice, as set forth in Paragraph 53.b, above. Plaintiff agrees that he will not opt out of the settlement, and Plaintiff and Class Counsel agree that they will not encourage any other Class Member to opt out or object.

c. Within fourteen (14) calendar days after the close of the Notice Period, the Settlement Administrator shall report the names of all individuals who submitted valid and timely Opt-Out Requests to the Parties, and the percentage of the Net Settlement Amount represented by the Settlement Payments allocated to those individuals who submitted valid and timely Opt-Out Requests, and include this information in the required Declaration set forth in Paragraph 57 of this Agreement regarding the distribution of the notice that will be provided in support of Plaintiff's Motion for Final Approval.

d. If Class Members submit valid and timely Opt-Out Requests and the percentage of the Net Settlement Amount represented by the Settlement Payments allocated to those individuals who submitted valid and timely Opt-Out Requests is five percent (5%) or more, Defendant will have the sole and absolute discretion to withdraw from this Agreement within ten (10) business days after Defendant receives notice of the percentage of the Net Settlement Amount represented by the valid and timely Opt-Out Requests received by the Settlement Administrator. To withdraw, Defendant must provide written notice to Class Counsel of its intent to withdraw from this Agreement within ten (10) business days of receiving the Settlement Administrator's report pursuant to Paragraph 55.c. In the event that Defendant elects to so withdraw, the withdrawal shall have the same effect as a termination of this Agreement for failure to satisfy a condition of settlement, and the Agreement shall become null and void and have no further force or effect, and the class conditionally certified pursuant to this Agreement will be decertified for all purposes. If Defendant chooses to terminate this Settlement Agreement under this provision, it shall be responsible to pay the Settlement Administrator's fees and costs. If the Settlement Agreement is terminated for any other reason, including the Court's failure to grant final approval of the Parties' settlement, then Class Counsel and Defendant will each be responsible for one-half

1 of the Settlement Administrator's fees and costs.

2 56. Objections to Settlement. Any Participating Class Member may object to the Class
3 Settlement. Any written objection must be mailed to the Settlement Administrator (who shall
4 promptly provide a copy to Class Counsel and counsel for Defendant) postmarked by the close of
5 the Notice Period. Class Counsel will ensure that any written objections get filed with the Court
6 concurrently with the final approval documents. Class Members who have not objected in writing
7 may still appear and be heard at the Final Approval Hearing.

8 a. Written objections to the Settlement must contain at least the following: (i)
9 the objecting Class Member's full name and current address; (ii) the name of the Action and case
10 number; (iii) a statement of the specific reasons why the objector believes the Settlement is unfair
11 or objects to the Settlement; and (iv) a statement of whether the objector intends to appear at the
12 Final Approval Hearing, either in person or through counsel and, if through counsel, a statement
13 identifying that counsel by name, bar number, address, and telephone number. All objections shall
14 be signed by the objecting Class Member or the Class Member's legally-authorized representative.

15 b. Class Counsel or Defendant's counsel may, before the Final Approval
16 Hearing, file responses to any written objections submitted to the Court.

17 c. Unless they opt out of the Settlement as specified in Paragraph 55, Class
18 Members who object to the proposed settlement or the Agreement will remain Participating Class
19 Members, and shall be deemed to have voluntarily waived their right to pursue an independent
20 remedy against Defendant and the other Released Parties. To the extent any Participating Class
21 Member objects to the proposed settlement or Agreement and such objection is overruled in whole
22 or in part, such individuals will be bound by the Court's Final Approval Order.

23 d. In the event that any person objects to or opposes the Class Settlement, or
24 attempts to intervene in or otherwise enter the Action, the Parties and Class Counsel will use their
25 best efforts to defend the Settlement.

26 e. In the event that a Class Member timely submits both an objection and an
27 Opt-Out Request, the objection will be rejected and the Opt-Out Request accepted. A class
28 member who opts-out of the Class Settlement is not a Participating Class Member and no longer

1 has grounds to object to the Class Settlement.

2 57. Funding and Distribution of Settlement. Not later than 14 days before the date by
3 which the Named Plaintiff is required to file the Motion for Final Approval of the Settlement, the
4 Settlement Administrator will provide a draft declaration to Class Counsel and Defendant's
5 counsel of the number of Participating Class Members, the identity of those individuals who
6 submitted valid and timely Opt-Out Requests, the percentage of the Net Settlement Amount
7 represented by the Settlement Payments allocated to those individuals who submitted valid and
8 timely Opt-Out Requests, the number of payments and total amount payable to all Participating
9 Class Members, the number of PAGA Class Members who will be issued Individual PAGA
10 Payments, Attorneys' Fees and Costs, the General Release Payment, the Enhancement Award, the
11 Settlement Administration Costs, and the applicable Employer's Taxes, along with any other
12 necessary information required by this Agreement.

13 a. On the Effective Date, Defendant shall remit to the Settlement
14 Administrator: (i) the Gross Settlement Amount of \$759,000.00, subject to increase pursuant to
15 Paragraph 49 of this Agreement, and (ii) the Employer's Taxes (collectively, the "Settlement
16 Fund"). Except as the Court may otherwise order, the delivery by Defendant of the Settlement
17 Fund to the Settlement Administrator will constitute the full and complete discharge of the entire
18 obligation of Defendant under this Agreement. No Released Party will have any further obligation
19 or liability to the Named Plaintiff, Participating Class Members, State of California, PAGA Class
20 Members, or Class Counsel under this Agreement, regardless of whether the Named Plaintiff,
21 Participating Class Members, State of California, PAGA Class Members, or Class Counsel receive
22 or cash the payments from the Settlement Administrator set forth in this Agreement.

23 b. The distribution of Individual Settlement Payments to Participating Class
24 Members and Individual PAGA Payments to PAGA Class Members will occur no later than
25 fourteen (14) calendar days after receipt of the Settlement Fund from Defendant ("Settlement
26 Proceeds Distribution Deadline"). The Settlement Administrator shall be deemed to have timely
27 distributed Individual Settlement Payments and Individual PAGA Payments if it places in the mail
28 Individual Settlement Payments for all Participating Class Members and Individual PAGA

1 Payments for all PAGA Class Members by the Settlement Proceeds Distribution Deadline. No
 2 person will have any claim against the Settlement Administrator, Defendant, Class Counsel,
 3 Defendant's counsel, or any other agent designated by the Named Plaintiff or Class Counsel based
 4 upon the distribution of Individual Settlement Payments and Individual PAGA Payments made
 5 substantially in accordance with this Agreement or further orders of the Court.

6 c. The distribution of the LWDA Payment, Attorneys' Fees and Costs, the
 7 General Release Payment, and the Enhancement Award shall occur no later than fourteen (14)
 8 calendar days after the Settlement Administrator receives the Settlement Fund from Defendant.

9 d. If a Participating Class Member's or PAGA Class Member's check is
 10 returned to the Settlement Administrator, the Settlement Administrator will make reasonable
 11 efforts to re-mail it to the Participating Class Member or PAGA Class Member at the correct
 12 address. It is expressly understood and agreed that the checks for the Individual Settlement
 13 Payments and Individual PAGA Payments will become void and no longer available if not cashed
 14 within one hundred and eighty (180) calendar days after mailing. Consistent with Code of Civil
 15 Procedure section 384, subdivision (b), the funds from voided checks will be transferred by the
 16 Settlement Administrator to Court Appointed Special Advocates ("CASA") of Alameda County
 17 ("Cy Pres Recipient"), subject to approval by the Court.

18 e. Defendant will not be obligated to make any payments contemplated by this
 19 Agreement unless and until the Court enters the Final Approval Order and Judgment, and after the
 20 Effective Date of the Agreement.

21 58. Binding Effect of Agreement on Class Members. Subject to final Court approval
 22 and upon the Effective Date, and unless otherwise provided in this Agreement, all Participating
 23 Class Members will be bound by this Agreement.

24 59. Binding Effect of Agreement on PAGA Class Members and State of California.
 25 Upon the Effective Date, the PAGA Class Members and the State of California are deemed by
 26 operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim
 27 against any of the Released Parties for civil penalties under Labor Code §§ 2698 *et seq.* for the
 28 PAGA Released Claims.

1 60. Provisional Approval of Settlement. Class Counsel will draft the motion in the
2 Action requesting that the Court enter the Preliminary Approval Order and will submit the same
3 to Defendant's counsel for review and comment at least fifteen (15) days before filing with the
4 Court, and will make their best effort to file the motion within thirty (30) days of the complete
5 execution of this Agreement. Defendant will not oppose the motion for preliminary approval of
6 the settlement so long as the motion and supporting papers are consistent with the terms of this
7 Agreement. Notwithstanding the foregoing, Defendant may, without opposing the preliminary
8 approval motion, advise the Court if Defendant disagrees with any of the factual statements
9 included by the Named Plaintiff in the motion and supporting papers, and may submit additional
10 information in support of the preliminary approval motion. Defendant's counsel will meet and
11 confer with Class Counsel regarding any disputed factual statements before notifying the Court of
12 any disputes.

13 61. Non-Interference With Settlement Process. The Parties and their counsel agree that
14 they will not advise, solicit, or otherwise encourage any Class Members to submit requests for
15 exclusion or objections to the settlement or to appeal from the Final Approval Order and Judgment.

16 62. Final Approval Order and Judgment. By way of the motion for Final Approval of
17 the Settlement, the Named Plaintiff will request that the Court enter an order finally approving this
18 Agreement and entering judgment in the Action and will submit the same to Defendant's counsel
19 for review and comment at least fifteen (15) days before filing with the Court. Named Plaintiff
20 will request that the Final Approval Order and Judgment certify the Settlement Class; find that this
21 Agreement is fair, just, equitable, reasonable, adequate and in the best interests of the Class and
22 the PAGA Class Members; list the full names of the individuals (if any) who opted-out of the Class
23 Settlement; order that Participating Class Members release the Released Parties from the Class
24 Released Claims arising during the Class Period and that PAGA Class Members and the State of
25 California release the Released Parties from the PAGA Released Claims arising during the PAGA
26 Period; and require the Parties to carry out the provisions of this Agreement. Upon the Court's
27 entry of the Final Approval Order and Judgment, the Settlement Administrator shall post a copy
28 of the Final Approval Order and Judgment on its website, the URL for which shall be provided in

1 the Class Notice.

2 63. Automatic Voiding of Agreement if Settlement Not Finalized. If for any reason the
3 settlement set forth in this Agreement does not become final, the Settlement will be null and void
4 and the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be vacated,
5 and the Parties will be returned to the status quo prior to entering this Agreement with respect to
6 the Action, as if the Parties had never entered into this Agreement, and the class certified pursuant
7 to this Agreement will be decertified for all purposes. To the extent this happens, the Parties will
8 work together in good faith in resetting any necessary deadlines. In addition, in such event, the
9 Agreement and all negotiations, court orders and proceedings relating to this Agreement shall be
10 without prejudice to the rights of any and all parties to this Agreement, and evidence relating to
11 the Agreement and all negotiations shall not be admissible or discoverable in the Action or
12 otherwise.

13 64. No Double Recovery. No person who has already released, assigned, or otherwise
14 forfeited the claims asserted in the Action will be considered a Class Member or entitled to recover
15 under this Agreement.

16 65. No Publicity. The Named Plaintiff and Class Counsel agree that the terms of this
17 Agreement (including, but not limited to, the Gross Settlement Amount), the negotiations leading
18 to the execution of the Agreement, and the Agreement itself, shall not be discussed with or
19 publicized or promoted to the media (including, without limitation, legal periodicals and
20 publications such as “Jury Verdicts,” or disclosure of the Agreement on any web site of Class
21 Counsel), or the public at large, without the advance written consent of Defendant. The Parties
22 intend this paragraph to prohibit the Named Plaintiff and Class Counsel from discussing,
23 answering questions about, promoting or publicizing the Agreement, its terms, or the negotiations
24 leading to the Agreement with anyone other than the Court or those individuals necessary to
25 effectuate the terms of the Agreement. Notwithstanding the foregoing, the Named Plaintiff and
26 Class Counsel (1) may tell the public in general only that certain claims “have been resolved by
27 the Parties” and (2) may disclose the terms of the Agreement (a) in appropriate filings with the
28 Court in this case; (b) where required by law (*e.g.*, income tax returns); (c) to accountants or other

1 tax professionals for the purpose of preparing tax returns; and (d) after the Court grants preliminary
2 approval of the Parties' settlement. This section does not restrict Class Counsel's communications
3 with Class Members in accordance with Class Counsel's ethical obligations owed to Class
4 Members.

5 a. The Named Plaintiff and Class Counsel agree that all data and information
6 informally produced by Defendant in connection with the Action will be maintained in the strictest
7 confidence and will not be used for any other purpose than to effectuate and/or enforce the
8 Settlement. For example, Named Plaintiff and Class Counsel agree that all data and information
9 produced by Defendant will not be used to prosecute any other action. Within sixty (60) days after
10 the Final Approval Order and Judgment, or such other date as the Court may order, the Named
11 Plaintiff and Class Counsel shall destroy data and information informally produced by Defendant
12 in connection with the Action and its mediation, excepting the data and information related to the
13 Named Plaintiff.

14 66. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes
15 material changes to the material terms or conditions of this Agreement that are not agreed to by
16 the Parties after the Parties have exhausted all efforts as set forth in Paragraph 43, either Party
17 shall have the right to terminate this Agreement, in which case Defendant would not be obligated
18 to make any payments to any Class Member, PAGA Class Member, the State of California, Class
19 Counsel, or Named Plaintiff. The Parties shall meet and confer before exercising such right.

20 67. Modification In Writing. This Agreement may be altered, amended, modified or
21 waived, in whole or in part, only in a writing signed by Class Counsel and Defendant's counsel,
22 subject to approval by the Court for material modifications (if preliminary approval has already
23 been granted at the time the alteration, amendment, modification, or waiver is taking place).

24 68. Ongoing Cooperation. The Named Plaintiff and Defendant will execute all
25 documents and perform all acts necessary and proper to effectuate the terms of this Agreement.
26 The execution of such documents must take place prior to the Final Approval Hearing. In the
27 event the Parties are unable to reach agreement on the form or content of any document needed to
28 implement the Settlement, or any supplemental provisions that may become necessary to effectuate

the terms of the Settlement, the Parties agree to seek the assistance of the Court.

69. Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered personally or by first class mail to the Settlement Administrator approved by the Court and the undersigned persons at their respective addresses as set forth below, or as may be updated in writing by Defendant's counsel or Class Counsel:

CLASS COUNSEL

MOON LAW GROUP, PC
Kane Moon, Esq.
Allen Feghali, Esq.
Julie S. Oh, Esq.
725 S. Figueroa Street, 31st Floor
Los Angeles, CA 90017
Telephone: (213) 232-3128

COUNSEL FOR DEFENDANT

RUTAN & TUCKER, LLP
Hope Anne Case, Esq.
Kenneth J. Zielinski, Esq.
Adrianna A. Rubino, Esq.
Five Palo Alto Square
3000 El Camino Real, Suite 200
Palo Alto, CA 94306-9814
Telephone: (650) 320-1500

70. Binding on Successors. This Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and legal representatives.

71. Entire Agreement. This Agreement constitutes the full, complete and entire understanding, agreement and arrangement between the Named Plaintiff, individually and on behalf of all Class Members and the State of California, on the one hand, and Defendant, on the other hand, with respect to the settlement of the Action. This Agreement supersedes any and all prior oral or written understandings, agreements and arrangements between the Parties with respect

1 to the settlement of the Action. Except for those set forth expressly in this Agreement, there are
2 no other agreements, covenants, promises, representations or arrangements between the Parties
3 with respect to the settlement of the Action and the Class Released Claims and PAGA Released
4 Claims against the Released Parties. The Parties explicitly recognize California Civil Code § 1625
5 and California Code of Civil Procedure § 1856(a), which provide that a written agreement is to be
6 construed according to its terms, and may not be varied or contradicted by extrinsic evidence, and
7 agree that no such extrinsic oral or written representations or terms shall modify, vary, or contradict
8 the terms of this Agreement.

9 72. Execution in Counterparts. This Agreement may be signed in one or more
10 counterparts. All executed copies of this Settlement Agreement, and photocopies of the
11 Agreement (including facsimile and e-mail copies of the signature pages), shall have the same
12 force and effect and shall be as legally binding and enforceable as the original.

13 73. Captions. The captions, section numbers, and paragraph numbers, in this
14 Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or
15 describe the scope or intent of the provisions of this Agreement.

16 74. Governing Law. This Agreement shall be interpreted, construed, enforced, and
17 administered in accordance with the laws of the State of California, without regard to conflict of
18 law rules.

19 75. Reservation of Jurisdiction. Notwithstanding the entry of the Final Approval Order
20 and Judgment, the Court shall retain jurisdiction for purposes of interpreting and enforcing the
21 terms of this Agreement.

22 76. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
23 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
24 against one Party than another merely by virtue of the fact that it may have been prepared by
25 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
26 between the Parties, all Parties have contributed to the preparation of this Agreement.

27 77. Representation and Warranties. Class Counsel and the Named Plaintiff represent
28 and warrant to Defendant that they are not aware of any attorneys beyond those named as Class

1 Counsel who have claims for fees arising out of the Action or the Settlement contemplated by this
2 Agreement.

3 78. Authorization to Act. Each Party to this Agreement covenants and warrants that
4 (a) such Party has full power and authority to enter into and consummate all transactions
5 contemplated by this Agreement and have duly authorized the execution, delivery and performance
6 of this Agreement and (b) the person executing this Agreement for such Party has the full right,
7 power and authority to enter into this Agreement on behalf of such Party, and the full right, power
8 and authority to execute any and all necessary instruments in connection with the Settlement, and
9 to fully bind such Party to the terms and obligations of this Agreement.

10 79. Representation By Counsel. The Parties acknowledge that each of them has been
11 represented by their respective counsel throughout all negotiations that preceded the execution of
12 this Agreement, and that this Agreement has been executed with the consent and after the advice
13 of their respective counsel. Further, the Named Plaintiff and Class Counsel warrant and represent
14 that there are no liens on the Settlement Agreement, and that after entry by the Court of the Final
15 Approval Order and Judgment, the Settlement Administrator may distribute funds to Participating
16 Class Members, PAGA Class Members, Class Counsel, the LWDA, and the Named Plaintiff as
17 provided by this Agreement and/or as approved by the Court in the Final Approval Order.

18 80. Representation By The Named Plaintiff. The Named Plaintiff agrees to cooperate
19 in participating in and implementing the Settlement, not to request to be excluded from the Class,
20 and not to object to any terms of this Agreement. Any such request by the Named Plaintiff for
21 exclusion or objection shall be void and of no force or effect.

22 81. Additional Attorneys' Fees and Costs. No Participating Class Member, PAGA
23 Class Member, or Class Counsel, or any other attorney acting for any Participating Class Member
24 or PAGA Class Member, may recover or seek to recover any amounts for fees, costs, or
25 disbursements arising from the Action or the Gross Settlement Amount from the Released Parties
26 except as expressly provided in this Agreement.

27 82. No Reliance on Representations. The Parties have made such investigations of the
28 facts and the law pertaining to the matters described in this Agreement as they deem necessary,

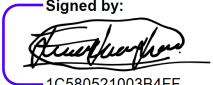
1 and have not relied, and do not rely, on any statement, promise, or representation of fact or law,
2 made by any other Party, or any of their agents, employees, attorneys, or representatives, with
3 regard to any of their rights or asserted rights, or with regard to the advisability of making and
4 executing this Agreement, or with respect to any such matters. No representations, warranties, or
5 inducements have been made to any Party concerning this Agreement.

6 83. No Collateral Attack. This Agreement will not be subject to collateral attack by
7 any Class Member or any recipient of the Class Notice after the Final Approval Order and
8 Judgment is entered. Such prohibited collateral attacks shall include but not be limited to claims
9 that the Class Member failed for any reason to receive timely notice of the procedure for disputing
10 the calculation of his or her Individual Settlement Payment, Individual PAGA Payment, or for
11 opting out of the Class Settlement.

12 IT IS SO AGREED:

14 PLAINTIFF FABIAN CAMILO BUITRAGO
15 MALAVER

16 Dated: 7/31/2025

17 By: 
18 Fabian Camilo Buitrago Malaver
19 Named Plaintiff

20 Dated: _____

21 DEFENDANT THE NEW IEM, LLC

22 By: _____

23 Title: _____

and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any other Party, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters. No representations, warranties, or inducements have been made to any Party concerning this Agreement.

83. No Collateral Attack. This Agreement will not be subject to collateral attack by any Class Member or any recipient of the Class Notice after the Final Approval Order and Judgment is entered. Such prohibited collateral attacks shall include but not be limited to claims that the Class Member failed for any reason to receive timely notice of the procedure for disputing the calculation of his or her Individual Settlement Payment, Individual PAGA Payment, or for opting out of the Class Settlement.

IT IS SO AGREED:

PLAINTIFF FABIAN CAMILO BUITRAGO
MALAVER

Dated: _____

By: _____
Fabian Camilo Buitrago Malaver
Named Plaintiff

Dated: July 31, 2025

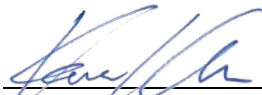
DEFENDANT THE NEW IEM, LLC

DocuSigned by:
By: Sandra Grananti
F6B7D98119F44DC...
Title: General Counsel

1 APPROVED AS TO FORM AND CONTENT AND AGREE TO BE BOUND BY
2 PARAGRAPH 65:

3 Dated: 7/31/2025

MOON LAW GROUP, PC

4
5 By: 
6 Kane Moon
7 Attorneys for Plaintiff

8 APPROVED AS TO FORM AND CONTENT:

9 Dated: _____

RUTAN & TUCKER, LLP

10
11 By: _____
12 Hope Anne Case
13 Attorneys for Defendant
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1 APPROVED AS TO FORM AND CONTENT AND AGREE TO BE BOUND BY
2 PARAGRAPH 65:

3 Dated: _____

MOON LAW GROUP, PC

4
5 By: _____

6 Kane Moon
7 Attorneys for Plaintiff

8 APPROVED AS TO FORM AND CONTENT:

9 Dated: August 1, 2025

RUTAN & TUCKER, LLP

10
11 By:  _____

12 Hope Anne Case
13 Attorneys for Defendant
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Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

THE ALAMEDA COUNTY SUPERIOR COURT HAS AUTHORIZED THIS NOTICE. IT IS NOT A SOLICITATION OR ADVERTISEMENT.

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the class settlement, object to the class settlement, or dispute the number of Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Fabian Camilo Buitrago Malaver ("Plaintiff") and Defendant The New IEM, LLC ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Fabian Camilo Buitrago Malaver, et al. v. The New IEM, LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931 ("Action"). The settlement affects your legal rights, as discussed further below. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement. The capitalized terms not defined in this Notice will have the same meaning as the Settlement Agreement and Stipulation to Resolve Class Action and PAGA Claims on file with the Court in the Action.

I. IMPORTANT DEFINITIONS

"Class" means all past and present non-exempt, hourly-paid employees of The New IEM, LLC who worked in California at any time during the Class Period, excepting those employees who have already released, assigned, or otherwise forfeited the claims asserted in the Action. **"Class Member"** means a member of the Class.

"Class Period" means the period from December 11, 2020 to [Preliminary Approval].

"Class Settlement" means the settlement and release of Class Released Claims.

"PAGA Class Members" means all past and present non-exempt, hourly-paid employees of The New IEM, LLC who worked in California at any time during the PAGA Period.

"PAGA Period" means the period from December 11, 2023 through [Preliminary Approval].

"PAGA Settlement" means the settlement and release of PAGA Released Claims.

II. BACKGROUND OF THE ACTION

On December 11, 2024, Plaintiff Fabian Camilo Buitrago Malaver filed a putative class action against Defendant The New IEM, LLC in a case styled *Fabian Camilo Buitrago Malaver, et al. v. The New IEM, LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931 (the "Complaint"). The Complaint alleged that Defendant violated various wage-and-hour laws, including: by failing to pay minimum wages / failing to pay overtime compensation, failing to provide meal periods, failing to authorize and permit rest breaks, failing to indemnify necessary business expenses, failing to timely pay wages at termination, failing to provide accurate itemized wage statements, and engaging in unfair business practices in violation of California Business and Professions Code § 17200 *et seq.* On February 11, 2025, Plaintiff Fabian Camilo Buitrago Malaver filed a First Amended Class Action and Representative Action Complaint (the "First Amended Complaint") which added an additional cause of action for civil penalties under the Private Attorneys General Act, California Labor Code § 2698 *et seq.* ("PAGA"). In the First Amended Complaint, Plaintiff Fabian Camilo Buitrago Malaver seeks, among other things, the recovery of allegedly unpaid wages and meal and rest period premiums, restitution, penalties, interest, attorneys' fees, and costs.

Defendant denies all of the allegations in the Action or that it violated any law and contends that at all times it has complied with the law. The Court has made no decision on the merits of the Complaint.

The Parties participated in a full-day mediation with a respected class action mediator, and as a result of the mediation, the Parties reached a settlement. The Parties have since entered into a Settlement Agreement and Stipulation to Resolve Class Action and PAGA Claims (“Settlement” or “Settlement Agreement”), which was preliminarily approved by the Court on [date of Preliminary Approval]. The Court has preliminarily appointed Plaintiff Fabian Camilo Buitrago Malaver as representative of the Class (“Class Representative”), and has preliminarily appointed the following Plaintiff’s counsel as counsel for the Class (“Class Counsel”):

Moon Law Group, PC
Kane Moon, Esq.
Allen Feghali, Esq.
Julie S. Oh, Esq.
725 S. Figueroa Street, 31st Floor
Los Angeles, CA 90017
Telephone: (213) 232-3128

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment. You have the opportunity to opt-out or object to the Class Settlement if you so choose, as explained more fully in Section III below. Class Members who do not submit a valid and timely Opt-Out Request from the Class Settlement will be bound to the Class Settlement. If you are a PAGA Class Member, you do not need to take any action to receive an Individual PAGA Payment, and you will be bound to the PAGA Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by the Defendant that the claims in the Action have merit or that the Defendant has any liability to the Plaintiff, the Class Members, or PAGA Class Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable and adequate, and is in the best interests of the Class Members, State of California, and the PAGA Class Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total settlement amount is Seven Hundred Fifty-Nine Thousand Dollars (\$759,000) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Participating Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments, which are subject to approval by the Court: (1) Attorneys’ Fees and Costs, consisting of attorneys’ fees in an amount not to exceed one-third of the Gross Settlement Amount, estimated to be Two Hundred Fifty-Three Thousand Dollars (\$253,000) and reimbursement of actual costs in prosecuting the Action in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000) to Class Counsel; (2) a General Release Payment in an amount not to exceed Ten Thousand Dollars (\$10,000) to Plaintiff Fabian Camilo Buitrago Malaver for his full release and discharge of any claims that he ever had against the Released Parties through the date of execution of the Settlement; (3) an Enhancement Award in an amount not to exceed Five Thousand Dollars (\$5,000) to Plaintiff Fabian Camilo Buitrago Malaver for his services in the Action; (4) allocation for claims for penalties under PAGA (“PAGA Amount”) in the amount of Fifty Thousand Dollars (\$50,000); and (5) Settlement Administration Costs in an amount not to exceed Ten Thousand Five Hundred Dollars (\$10,500) to the Settlement Administrator. Note: the California Labor and Workforce Development Agency (“LWDA”) will be paid 65% of the PAGA Amount, or Thirty-Two Thousand Five Hundred Dollars (\$32,500), and the remaining 35% of the PAGA Amount (*i.e.*, Seventeen Thousand Five Hundred Dollars (\$17,500)) will be distributed to the PAGA Class Members.

Class Members are eligible to receive payment of their share of the Net Settlement Amount (“Individual Settlement Payment”) based on the number of weeks they each were employed by Defendant as an hourly-paid or non-exempt employee in California during the Class Period (“Workweeks”). PAGA Class Members will receive payment of their share of 35%

of the PAGA Amount (“Individual PAGA Payment”), based on the number of weeks they each were employed by Defendant as an hourly-paid or non-exempt employee in California during the PAGA Period (“PAGA Workweeks”).

Your estimated Individual Settlement Payment is listed in Section III.C below. The Settlement Administrator has calculated the estimated Individual Settlement Payments for Class Members by dividing the Participating Class Member’s Workweeks by the total number of Workweeks for all Class Members and multiplying this figure by the Net Settlement Amount.

If you are a PAGA Class Member, then your estimated Individual PAGA Payment is listed in Section III.C below. The Settlement Administrator has calculated the Individual PAGA Payments for PAGA Class Members by dividing the PAGA Class Member’s PAGA Workweeks by the total number of PAGA Workweeks for all PAGA Class Members and multiplying this figure by thirty-five percent (35%) of the PAGA Payment, *i.e.* Seventeen Thousand Five Hundred Dollars (\$17,500).

Class Members who do not submit a valid and timely Opt-Out Request (“Participating Class Members”) will be issued payment of their final Individual Settlement Payment. All PAGA Class Members will be issued payment of their Individual PAGA Payment regardless of whether they opt out of the Class Settlement. Any Class Member who is also a PAGA Class Member (*i.e.*, a Class Member who worked during the PAGA Period) who submits a valid and timely Opt-Out Request will only receive his or her Individual PAGA Payment and will be bound by the PAGA Settlement and release of the PAGA Released Claims.

For tax purposes, the Parties are asking the Court to approve the following allocation of each Individual Settlement Payment: ten percent (10%) as wages, which will be reported on an IRS W-2 Form, forty-five percent (45%) as interest on non-wage damages, which will be reported on an IRS Form 1099-INT (if applicable), and forty-five percent (45%) in compromise of alleged statutory penalties, which will be reported on an IRS Form 1099-MISC (if applicable). Each Individual Settlement Payment will be paid in a net amount after applicable state and federal tax withholdings, including payroll taxes, have been deducted. Each Individual PAGA Payment will be allocated as 100% in compromise of alleged penalties, and as such the Settlement Administrator will not undertake any deductions for state and federal payroll taxes, withholdings, and contributions, and Individual PAGA Payments will be reported on an IRS Form 1099-MISC, if necessary. The Settlement Administrator may pay the Individual Settlement Payment and Individual PAGA Payment in a single check. Although the Parties have agreed to these allocation, neither Party is giving you advice on whether your payments are taxable or how much you might owe in taxes. You should consult a tax advisory if you have any questions about the tax consequences of the proposed settlement.

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Participating Class Members and Individual PAGA Payments will be mailed to PAGA Class Members at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks Based on Defendant’s Records

According to Defendant’s records:

From December 11, 2020 through [date of Preliminary Approval], you were employed by Defendant as an hourly-paid or non-exempt employee in California for [insert number] Workweeks (this is the number of Workweeks you are credited with).

From December 11, 2023 through [date of Preliminary Approval], you were employed by Defendant as an hourly-paid or non-exempt employee in California for [insert number] PAGA Workweeks (this is the number of PAGA Workweeks you are credited with).

If you wish to dispute the Workweeks credited to you, you must submit your written dispute to the Settlement Administrator, postmarked **no later than [the end of Notice Period]**. The written dispute must contain: (a) the case name and number of

the Class Action (*Fabian Camilo Buitrago Malaver, et al. v. The New IEM, LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931); (b) your full name (including your full name at the time of employment for Defendant), current address, telephone number, last four digits of your Social Security number, and signature; (c) the number of Workweeks you maintain is correct; and (d) documents to demonstrate that Defendant's calculation of the Workweeks and/or PAGA Workweeks is incorrect. In the absence of any documentation supporting your dispute, the Settlement Administrator is entitled to presume that the Workweeks contained in this Notice are correct so long as they are consistent with Defendant's records.

C. Your Estimated Individual Settlement Payment and Individual PAGA Payment

As explained above, your estimated Individual Settlement Payment is based on the number of Workweeks credited to you during the Class Period.

Under the terms of the Settlement, your Individual Settlement Payment is estimated to be \$ [REDACTED]. The Individual Settlement Payment is subject to reduction for the employee's share of state and federal payroll taxes, withholdings, and contributions with respect to the wages portion of the Individual Settlement Payment and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

As explained above, your estimated Individual PAGA Payment is based on the number of Workweeks credited to you during the PAGA Period (*i.e.*, PAGA Workweeks).

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED]. The Individual PAGA Payment will not have taxes withheld before distribution and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Payment and Individual PAGA Payment (if eligible) reflected in this Notice is only an estimate. Your actual Individual Settlement Payment and/or Individual PAGA Payment (if eligible) may be higher or lower.

D. Release of Claims

As of the Effective Date of the Settlement, Plaintiff Fabian Camilo Buitrago Malaver and all Class Members who do not submit a valid and timely Opt-Out Request (*i.e.*, Participating Class Members) shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties from the Class Released Claims, as defined below, and all PAGA Class Members and the State of California will be deemed to forever completely release and discharge the Released Parties from the PAGA Released Claims, as defined below.

"Class Released Claims" means any and all claims, known or unknown, contingent or accrued, against Defendant and the other Released Parties that arise from the facts, transactions or occurrences alleged in the Action, or that reasonably could have been alleged based on any fact set forth in the Action, arising during the Class Period, including and not limited to, claims for failure to pay all wages earned for all hours worked at the correct rate including minimum, regular, and overtime wages (*e.g.*, including, but not limited to, failure to pay paid sick leave and PTO at the correct rates), failure to provide meal periods and rest breaks or pay premium payments at the correct rate, failure to provide meal periods and rest breaks or pay premium payments at the correct rate, failure to provide and maintain complete and accurate itemized wage statements that include all information required by the California Labor Code, untimely payment of wages during employment and at the time of termination, failure to reimburse business expenses, violations of the corresponding California Labor Code provisions, including §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 246, 246.5, 247, 247.5, 248, 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2802, the applicable California Wage Orders, and all related or corresponding local and federal laws, violation of California Business and Professions Code Section 17200 *et seq.*, including attorneys' fees, costs, and interest, arising from the foregoing violations, except those arising under California Labor Code Section 2698 *et seq.*

"PAGA Released Claims" means any and all claims for civil penalties against Defendant and the other Released Parties that

arise from the facts, transactions or occurrences alleged in the letter sent by Class Counsel to the Labor and Workforce Development Agency on or about December 7, 2024 (“LWDA Letter”) and the Action, or that reasonably could have been alleged based on any fact set forth in the LWDA Letter and the Action, pursuant to PAGA, arising during the PAGA Period, for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 246, 246.5, 247, 247.5, 248, 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2699, and 2802, and the applicable California Wage Orders, including attorneys’ fees, costs and interest arising from the foregoing.

“Released Parties” means and includes The New IEM, LLC and its respective current and former parents, predecessors or successors, holding companies, affiliated companies or entities, owners, shareholders, members, partners, officers, directors, managers, employees, and agents.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount of up to one-third of the Gross Settlement Amount, currently estimated to be Two Hundred Fifty-Three Thousand Dollars (\$253,000) and reimbursement of actual costs incurred by Class Counsel in prosecuting the Action, in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. All Attorneys’ Fees and Costs awarded by the Court will be paid from the Gross Settlement Amount.

F. General Release Payment and Enhancement Award to Plaintiff

Plaintiff Fabian Camilo Buitrago Malaver will seek the amount of Ten Thousand Dollars (\$10,000) for Plaintiff Fabian Camilo Buitrago Malaver (“General Release Payment”) for his full release and discharge of any claims that he has ever had against the Released Parties through the date of execution of the Settlement, including his threatened, individual claims against Defendant arising under the Fair Employment and Housing Act. Plaintiff Fabian Camilo Buitrago Malaver will also seek the amount of Five Thousand Dollars (\$5,000) for Plaintiff Fabian Camilo Buitrago Malaver (“Enhancement Award”), in recognition of his services in connection with the Action. The General Release Payment and the Enhancement Award will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Ten Thousand Five Hundred Dollars (\$10,500) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, creating and maintaining a settlement website, processing Opt-Out Requests, objections, and disputes of Workweeks and/or PAGA Workweeks, calculating Individual Settlement Payments and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Class Released Claims described in Section III.D above.

If eligible, you will automatically be issued an Individual PAGA Payment and release the PAGA Released Claims described in Section III.D above.

B. Opt-Out of the Class Settlement

If you do not wish to participate in the Class Settlement, you must opt-out of the Class Settlement by submitting a written request (“Opt-Out Request”) to the Settlement Administrator.

An Opt-Out Request must: (a) contain the case name and number of the Class Action (*Fabian Camilo Buitrago Malaver, et al. v. The New IEM, LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931); (b) state your full name (including your full name at the time of employment for Defendant), current address, last four digits of your Social Security number, and signature; (c) clearly indicate that you desire to be excluded (or opt out) of the Class Settlement; and (d) be returned to the Settlement Administrator so that it is postmarked **on or before [end of Notice Period]**, at the following mailing address:

[Settlement Administrator]

[Mailing Address]

[Fax Number]

If the Court grants final approval of the Settlement, any Class Member who submits a valid and timely Opt-Out Request will not be entitled to receive the Individual Settlement Payment from the Settlement, will not be bound by the Class Settlement and release of Class Released Claims described in Section III.D above, and will not have any right to object to, appeal, or comment on the Class Settlement. Regardless of whether a Class Member submits a valid and timely Opt-Out Request, if the Class Member is also a PAGA Class Member, the Class Member will be bound by the PAGA Settlement and release of the PAGA Released Claims described in Section III.D above, and will be paid an Individual PAGA Payment.

C. Object to the Class Settlement

You can object to the terms of the Class Settlement by submitting a written objection to the Settlement Administrator by mail, postmarked **no later than [the end of Notice Period]**, or by appearing at the Final Approval Hearing and presenting your objection to the Court at that time.

An objection must contain: (a) the case name and number of the Class Action (*Fabian Camilo Buitrago Malaver, et al. v. The New IEM, LLC, et al.*, Alameda County Superior Court, Case No. 24CV102931); (b) your full name, current address and signature (by you or your legally-authorized representative); and (c) a statement of the specific reasons why you believe the Class Settlement is unfair or otherwise object to the Class Settlement; and (d) a statement of whether you intend to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 21 of the Alameda County Superior Court, located at 1225 Fallon Street, Oakland, California 94612, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Attorneys’ Fees and Costs to Class Counsel, the General Release Payment and Enhancement Award to Plaintiff Fabian Camilo Buitrago Malaver, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued by the Court without further notice to Class Members. You don't need to appear at the Final Approval Hearing, although you may appear if you wish to. You may contact the Settlement Administrator or check the Settlement Administrator’s or the Court’s website beforehand to verify the date and time of the Final Approval Hearing.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Clerk of the Alameda County Superior Court, located at the Alameda County Superior Court, 1225 Fallon Street, Oakland, California

94612. Some documents and information regarding the Action can also be accessed online for free or at a minimal charge at the Alameda County Superior Court's website, using the eCourt Public Portal or Odyssey Portal, at the following web address: <https://www.alameda.courts.ca.gov/general-information/records>, using the case number in the first paragraph of this notice. You can also view the Settlement Agreement and other settlement documents on the Settlement Administrator's website at [URL]. If the Court grants final approval of the Settlement and enters a judgment, the Court's final approval order and judgment will be posted on the Settlement Administrator's website.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.