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17 TANIKA TURLEY and
18 CHRISTOPHER THOMPSON

12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF SAN FRANCISCO**

16 TANIKA TURLEY, individually and on
17 behalf of all others similarly situated,

18 Plaintiffs,

19 v.

20 CHIPOTLE SERVICES, LLC, and DOE
21 ONE through and including DOE ONE-
22 HUNDED,

23 Defendants.

Case No. CGC-15-544936

ASSIGNED FOR ALL PURPOSES TO
HON. ANNE-CHRISTINE MASSULLO
DEPARTMENT 304

**AMENDED STIPULATION OF CLASS
ACTION SETTLEMENT AND
SETTLEMENT AGREEMENT**

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STIPULATION OF CLASS ACTION SETTLEMENT AND SETTLEMENT AGREEMENT

Subject to its terms and conditions and the approval of the Court, this Joint Stipulation of Class Action Settlement and Class Action Settlement Agreement and Release (the “Settlement” or “Agreement”) is made and entered into by and between Plaintiffs TANIKA TURLEY and Christopher Thompson, individually and on behalf of the putative class (“Plaintiffs”), and Defendant CHIPOTLE SERVICES, LLC (herein “CHIPOTLE” or “Defendant”). Plaintiffs and Defendant are collectively referred to in this Settlement as the “Parties.”

I. DEFINITIONS

1. In addition to terms defined elsewhere in the Settlement, as used in this Settlement the following terms have the meanings indicated below:

a. “Action” means the civil action initiated on March 25, 2015, in San Francisco Superior Court styled as *TANIKA TURLEY v. CHIPOTLE Inc.*, Case No. CGC-15-544936 (the “Action”).

b. “Claims Administrator” means an administrator mutually agreed to by the Parties and approved by the Court that will perform the customary duties of a claims administrator including but not limited to, the duties enumerated in this Agreement. The parties have sought bids from several reputable administrators, and currently anticipate that they will seek approval from the Court to utilize Phoenix Class Action Administrators as the Claims Administrator.

c. “Class Member” shall refer to any current or former employee of Defendant who falls within the definition of the class. Subject to Court approval, the settlement class shall consist of all current and former non-exempt employees of Defendant that worked in California at any time between October 1, 2014 and the earlier of March 1, 2020 or preliminary approval (“Class Period”).

Each person in the class is a “Class Member,” and all such persons are referred to as the “Class.”

There are approximately 77,043 Class Members who have worked approximately 1,300,000 pay periods from October 2, 2014 to October 4, 2019, during the Class Period.

1 Of the total number of Class Members identified herein, approximately 7,000 are part of the
 2 class previously certified by this Court, consisting of employees that were hired before August 1,
 3 2014 and who worked at any time during the class period (as further defined below, the “Pre-August
 4 2014 Class Members”).

5 The remaining Class Members, i.e., approximately 70,000, are referred to herein (as further
 6 defined below) as the “Post-August 2014 Class Members.”

7 Excluded from the Class are any California employees that have opted in to the currently
 8 pending *Turner v. Chipotle Mexican Grill, Inc., Case No. 1:14-cv-02612-JLK-CBS* or who filed
 9 individual arbitrations related to that action, as well as any other person who had a pending
 10 arbitration or lawsuit against Defendant as of January 3, 2020.

11 d. The “Pre-August 2014 Class Members” are all current and former non-
 12 exempt employees of Defendant, who were hired before August 1, 2014 and who worked in
 13 California at any time during the Class Period.

14 e. The “Post-August 2014 Class Members” is any Class Member who is
 15 not a Pre-August 2014 Class Member.

16 f. “Class Counsel” shall refer to Alan Harris, Priya Mohan and David
 17 Garrett of Harris & Ruble and David Harris of North Bay Law Group.

18 g. “Class Notice” means the Notice, which the Claims Administrator will
 19 mail to each Class Member explaining the terms of the settlement contemplated by this Agreement,
 20 in a format that is mutually acceptable to the parties. The Class Notice shall be accompanied by a
 21 Voucher Option Form and Opt-Out Notice. The Class Notice, Voucher Option Form and Opt-Out
 22 Notice are collectively referred to as the “Notice Materials”. The form of Notice Materials to be
 23 used are attached collectively hereto as **Exhibit A**. The approved Notice Materials shall also be
 24 translated into Spanish, which shall be included in the Claims Administrator bid.

25 h. “Pre-August 2014 Class Representative” shall refer to Plaintiff Tanika
 26 Turley. “Post-August 2014 Class Representative” shall refer to Christopher Thompson.
 27 Collectively, the Pre-August 2014 Class Representative and the Post-August 2014 Class
 28 Representative shall be referred to as the Class Representatives.

i. “Class Representative Payment” means the Court-approved service payment to Class Representatives for their services as Class Representative and for their execution of a general release of claims known and unknown.

j. “Counsel for Defendant” or “Defense Counsel” means Angela C. Agrusa, Levi W. Heath, and Steve L. Hernández of DLA PIPER LLP (US).

k. “Class Period” shall be from October 1, 2014 through and the earlier of March 1, 2020 or preliminary approval.

l. “Defendant” means CHIPOTLE SERVICES, LLC.

m. “Final Approval Hearing” means the hearing contemplated by the Parties, at which the Court will approve, in final, the settlement and make such other final rulings as are contemplated by this Settlement Agreement.

n. “Final Approval Order” means the Court’s order granting final approval of the Settlement, which will constitute a “judgment” within the meaning of Code of Civil Procedure section 577. The form of Final Approval Order to be submitted is attached hereto as **Exhibit C**.

o. “Final Effective Date” shall be the first date after all of the following events or conditions have been met or have occurred:

(1) the Court has, by entry of a Preliminary Approval Order:

(a) Approved the certification of the Class for settlement purposes;

(b) Preliminarily approved the settlement set forth in this Settlement Agreement, and the method of providing the Court-approved Class Notice to the certified class;

(2) The Court has entered a Final Approval Order approving this settlement and the Court has entered the Final Judgment as provided in Paragraph 1.p. below;

(3) No valid rescission of the Settlement Agreement has occurred;

(4) The time to appeal from the Final Approval Order has expired and no notice of appeal has been filed; and

1 (5) In the event that an appeal is actually filed, the latest of the
2 following, if applicable, has occurred:

3 (a) Any appeal from the Final Approval Order has been
4 finally dismissed;

5 (b) The Final Approval Order has been affirmed on appeal
6 in a form substantially identical to the form of the Final
7 Approval Order entered by the Court;

8 (c) The time to petition for review with respect to any
9 appellate decision affirming the Final Approval Order has
10 expired; or

11 (d) If a petition for review of an appellate decision is filed,
12 the petition has been denied or dismissed, or, if granted, has
13 resulted in affirmance of the Final Approval Order in a form
14 substantially identical to the form of the Final Approval Order
15 entered by the Court.

16 p. “Final Judgment” means the judgment entered by the Court in
17 conjunction with the Final Approval Order. The Parties shall submit an order of Final Judgment
18 setting forth the terms of this Settlement Agreement, by incorporation or otherwise, for execution
19 and entry by the Court at the time of the Final Approval Hearing or at such other time as the Court
20 deems appropriate. The form of Final Judgment to be submitted is attached hereto as **Exhibit D**.

21 q. “Gross Individual Settlement Payment” means the gross amount of the
22 Net Settlement Amount (cash or food voucher) each Participating Class Member will be paid. The
23 sum of these Gross Individual Settlement Payments to individual Participating Class Members shall
24 constitute the “Class Settlement Payment.” The allocation of payment of claims between the class
25 members and tax treatment of such claims shall be 25% wages, 25% interest, and 50% penalties and
26 expense reimbursement.

27 r. In consideration for the release of claims, Defendant shall pay, or
28 cause to be paid, the total sum of up to \$3,050,000.00, consisting of \$2,250,000 in cash and up to

1 \$800,000 in food vouchers or cash, as described below, for payment of all claims, payment of claims
2 administration, attorney fees, attorney expenses, a payment to the Labor Workforce Development
3 Agency (the "LWDA"), and service awards for the named plaintiffs (the "Gross Settlement
4 Amount").

5 The following litigation costs and costs of administration will be deducted from the Gross
6 Settlement Amount: (a) attorneys' fees and recoverable costs; (b) settlement administration fees; (c)
7 a payment to the Labor Workforce Development Agency in the amount of \$10,000; and (d) a service
8 award to named plaintiffs not to exceed \$2,500 for each Class Representative.

9 The "Net Settlement Amount" will equal the net amount available for payment of claims to
10 Class Members, as follows: \$1,750,000 payable to the Pre-August 2014 Class ("Wage Statement
11 Settlement Amount") (after deducting the above-referenced fees and costs), and up to \$800,000 in
12 food vouchers or cash payable to the Post-August 2014 Class Members ("Omnibus Settlement
13 Amount").

14 Pre-August 2014 Class Members who do not affirmatively opt-out of the settlement will
15 receive a check in amount equal to a pro-rata share of the Wage Statement Settlement Amount based
16 on pay periods worked during the Class Period. All Pre-August 2014 Class Member checks shall be
17 good for 180 days from the date of mailing. Following the expiration of 180 days, the Claims
18 Administrator shall inform the parties of the total amount of uncashed checks for the Pre-August
19 2014 Class Members (the "Uncashed First Checks"). Because the parties intend to provide as much
20 relief as practicable to the Class Members, the parties will facilitate a second distribution to the Pre-
21 August 2014 Class Members who cashed their checks during the first round (the "Second
22 Distribution") if the amount of Uncashed First Checks exceeds \$27,500. For the Second
23 Distribution, the Pre-August 2014 Class Members who cashed their checks during the first round
24 shall be mailed a check in an amount equal to a pro rata share of the amount of the Uncashed First
25 Checks after deductions for postage and handling by the Claims Administrator. The parties believe
26 that this method will provide as much relief as practicable to the Class Members because it will
27 result in checks of approximately \$3 to each eligible Pre-August 2014 Class Member in the Second
28 Distribution, if any, rather than checks under \$1 that might never be cashed.

Following the Second Distribution, if any, all Pre-August 2014 Class Member checks not cashed within 180 days of payment shall be paid to a *cy pres* of Defendant's selection, and approved by the Court, in accordance with Code of Civil Procedure section 384. Should the Court approve Defendant's selected *cy pres* recipient, the sum of the uncashed checks and any other unpaid residue or unclaimed or abandoned class member funds, plus any interest on that sum, shall be made payable to the California pro bono law firm, Public Counsel, pursuant to Cal. Code Civ. Proc., § 384, subd. (b).

Post-August 2014 Class Members who do not affirmatively opt-out of the settlement will receive payment in the form of a \$12.00 meal voucher ("Voucher Option") or \$6.00 in cash ("Cash Option"). The Post-August 2014 Class Members shall have a sixty (60)-day period from the Notice Date within which to elect to receive the Cash Option or the Voucher Option. Any Post-August 2014 Class Member who does not make an election within this time period shall receive the Voucher Option. The meal vouchers shall not expire, shall be fully transferable, and may be used in conjunction with other available vouchers, discounts or rebates.

Although not anticipated, if more than 66,666 Post-August 2014 Class Members (95% of the Post-August 2014 Class or higher), elect to receive Vouchers, then Defendant will send a Voucher to all Post-August 2014 Class Members who do not opt out, even though it will result in a cost greater than \$800,000. For example, if all 70,000 Post-August 2014 Class Members (100%) elect to receive Vouchers, then a total of \$840,000 in Vouchers will be sent to them ($70,000 * \$12 = \$840,000$). By way of another example, if 68,000 of the Post-August 2014 Class Members are set to receive Vouchers, then 68,000 of the Post-August 2014 Class Members will receive Vouchers ($68,000 * \$12 = \$816,000$) and 2,000 of the Post-August 2014 Class Members will receive the Cash Option ($2,000 * \$6 = \$12,000$), for a total of \$828,000, even though it will result in a cost to Defendant of greater than \$800,000. There shall not be a second distribution to the Post-August 2014 Class. If the number of Class Members exceeds 77,043 by more than 10 percent, or if the number of pay periods exceeds 1,300,000 by more than 10 percent, the Gross Settlement Amount will increase by a proportionate percentage for all additional Class Member or pay periods above the 10 percent allowance. If the number of Pre-August 2014 Class Members exceeds 6,993 by more than 10

percent, or if the number of wage statements exceeds 73,665 by more than 10 percent, the Gross Settlement Amount will increase by a proportionate percentage for all additional Pre-August 2014 Class Members or wage statements above the 10 percent allowance.

s. “PAGA Payment” means the net amount of Ten Thousand Dollars and No Cents (\$10,000.00) all of which shall be remitted to the California Labor and Workforce Development Agency for the resolution of all Class Members’ claims under the PAGA, California Labor Code Section 2698, *et. seq.*

t. “Participating Class Members” means those members of the Class who do not Opt Out.

u. “Preliminary Approval Order” means the order of the Court granting preliminary approval of this Settlement Agreement on the terms provided herein or as the same may be modified by subsequent mutual agreement of the Parties with, as appropriate, approval of the Court. The form of Preliminary Approval Order to be submitted is attached hereto as **Exhibit B**.

II. BACKGROUND AND REASONS FOR SETTLEMENT

2. On March 25, 2015, Plaintiff TANIKA TURLEY filed a Complaint in the Superior Court of the State of California, County of San Francisco, entitled *TANIKA TURLEY v. CHIPOTLE Inc.*, Case No. CGC-15-544936, on behalf of herself and other non-exempt employees who worked for Defendant in California alleging claims for: 1) failure to pay all earned wages and compensation upon termination in violation of Labor Code sections 201, 202 and 203; (2) unfair business practices in violation of California Business and Professions Code section 17200; and (3) Violation of PAGA. On March 27, 2015, Plaintiff sent by certified mail a letter to the California Labor and Workforce Development Agency (“LWDA”) notifying the agency of her allegations that Defendant violated the California Labor Code, including the theories set forth in the Complaint. The Lawsuit seeks lost wages, interest, penalties, injunctive relief, attorneys’ fees and expenses.

3. On July 23, 2015, Plaintiff TANIKA TURLEY filed a First Amended Complaint (the “FAC”) in the Superior Court of the State of California, County of San Francisco, entitled *TANIKA TURLEY v. CHIPOTLE Inc.*, Case No. CGC-15-544936, on behalf of herself and other non-exempt employees who worked for Defendant in California alleging claims for: 1) failure

1 to pay all earned wages and compensation upon termination in violation of Labor Code sections 201,
2 202 and 203; (2) failure to provide lawful wage statements in violation of Labor Code section 226;
3 (3) failure to provide proper response to document request in violation of Labor Code section 226;
4 (4) failure to provide proper rest breaks in violation of Labor Code section 226.7; (5) failure to
5 provide proper meal breaks in violation of Labor Code section 226.7; (6) unfair business practices in
6 violation of California Business and Professions Code section 17200; and (7) Violation of PAGA.

7 4. Defendant denies all of the allegations in Plaintiff's operative FAC and
8 maintains that the Court should not certify the class or representative action proposed by Plaintiff,
9 other than for the sole purpose of this Settlement, as set forth in its Answer to FAC and Affirmative
10 Defenses, filed on August 27, 2015.

11 5. The parties agreed to attempt to resolve the matters through mediation and
12 agreed to engage in informal discovery leading up to that mediation. To facilitate mediation in this
13 case, Defendant provided data on the number of paystubs issued, the number of class members, and
14 other relevant class data.

15 6. Using the data analysis, the parties engaged in mediation under the guidance
16 of an experienced wage and hour neutral, Jeff Krivis, Esq. on October 1, 2019. With the mediator's
17 assistance, the Parties reached a settlement and were able to sign a Memorandum of Understanding
18 on or about October 17, 2019.

19 7. Prior to mediation, counsel for Plaintiff informed counsel for Defendant that
20 Plaintiff intended to amend their operative class action complaint to add a new plaintiff and claims
21 for overtime violations (Labor Code §§ 510, 1194 and 1198), unpaid minimum wages (Labor Code
22 §§ 1194, 1194.2, 1197 and 1197.1) and failure to reimburse (Labor Code § 2802). As a condition of
23 settlement, Plaintiff will amend her operative complaint to add a new plaintiff and claims for
24 overtime violations (Labor Code §§ 510, 1194 and 1198), unpaid minimum wages (Labor Code §§
25 1194, 1194.2, 1197 and 1197.1) and failure to reimburse (Labor Code § 2802). The Third Amended
26 Complaint ("TAC") is attached hereby as Exhibit E, and deemed approved by Defendant. Prior or
27 concurrent to the filing of the Motion for Preliminary Approval, the Parties have filed a Stipulation
28 and Order for filing of the TAC with the Court. The Parties have stipulated that no responsive

1 pleading need be filed in response to the TAC as the case has been settled.

2 8. Class Counsel represent that they have conducted a thorough investigation
3 into the facts of this case, and have diligently pursued an investigation of the Class Members' claims
4 against Defendant, including: (1) interviewing Class Members and analyzing the results of Class
5 Member interviews; (2) reviewing relevant policy documents; (3) researching the applicable law and
6 the potential defenses; and (4) reviewing relevant data including time records and pay data. Class
7 Counsel reviewed payroll records for the named plaintiff and other class members and prepared a
8 detailed damage analysis. Based on their own independent investigation and evaluation, Class
9 Counsel are of the opinion that the Settlement is fair, reasonable and adequate and is in the best
10 interest of the Class in light of all known facts and circumstances, including the risk of significant
11 delay, defenses asserted by Defendant, and potential appellate issues. Without admitting any
12 liability, Defendant agrees that the Settlement is fair, reasonable and adequate.

13 9. It is the mutual desire of the Parties to fully, finally, and forever settle,
14 compromise, and discharge all disputes and claims raised in or related in any way to the Action.
15 Thus, the entry of the Final Approval Order in this Action shall release all class claims which were
16 or which could have been alleged in Plaintiff's Complaint. The Parties agree to cooperate and take
17 all steps necessary and appropriate to obtain preliminary and final approval of this Settlement and to
18 effectuate its terms.

19 10. The Court must approve the settlement. The Parties will cooperate in good
20 faith and utilize best efforts to obtain approval, including in the preparation of all paperwork
21 necessary to obtain approval. Absent Court approval there is no settlement.

22 11. Plaintiff's counsel intends to apply to the Court for a fee award, plus expenses
23 and costs incurred. Defendant will not object to a claim for attorney fees of up to 35% of the Gross
24 Settlement Amount, actual costs as documented in billing statements of the attorneys for the named
25 Plaintiffs, and a service award to each named plaintiff of up to \$2,500.00. If the Court believes the
26 fees, costs, or service awards should be reduced, the other terms of the settlement will remain in
27 effect and any such reduction will not affect the remaining terms, other than adjusting the Net
28 Settlement Amount. A reduction to the fees, costs, or service awards is not a ground for rescission.

12. Pre-August 2014 Class Members who do not affirmatively opt-out of the settlement will receive a pro-rata share of the Wage Statement Settlement Amount based on pay periods worked during the Class Period.

13. Post-August 2014 Class Members who do not affirmatively opt-out of the settlement will receive payment in the form of their selection of either a \$12.00 meal voucher (“Voucher Option”) or \$6.00 in cash (“Cash Option”). The Post-August 2014 Class Members shall have a sixty (60)-day period from the Notice Date (plus any extensions due to re-mailing as indicated in ¶38 below) within which to elect to receive the Cash Option or the Voucher Option. Any Post-August 2014 Class Member who does not make an election within this time period shall receive the Voucher Option. The meal vouchers shall not expire, shall be fully transferable, and may be used in conjunction with other available vouchers, discounts or rebates.

14. If more than 10% of the class members opt-out of the settlement, Defendant may rescind the settlement.

15. The Parties and their counsel shall issue no public statements and shall make no comments to media or press with respect to the Action or the settlement at any time (including but not limited to press releases), except as required by law. In addition, the Parties and their counsel shall not make, publish, circulate or cause to be made, published or circulated any statements that represent or suggest any wrongdoing by Defendant, or that this settlement or any order by the Court regarding the settlement represents or implies any wrongdoing by, or any admission of liability by, Defendant, or a finding by the Court of liability or wrongdoing.

III. NO ADMISSION

1. Nothing contained in this Joint Stipulation and the Settlement contemplated in the Joint Stipulation shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant and Defendant denies liability therefor. While Defendant believes that this Action meets the prerequisites for certification of a settlement class, the fact that Defendant seeks approval of this Settlement in the form of a class action shall not be construed as an admission that the underlying action was properly brought as a class action or a representative action under California Business and Professions Code section 17200 or California Labor Code 2699 for

purposes other than settlement. Each of the Parties has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. Settlement of the Action, the negotiation and execution of this Joint Stipulation, and all acts performed or documents executed pursuant to or in furtherance of this Joint Stipulation or the Settlement: (1) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant, and each of them; (2) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission on the part of Defendant in any civil, criminal, administrative or arbitral proceeding in any court, administrative agency or other tribunal; and (3) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for class certification or administration other than for purposes of administering this Joint Stipulation. This Joint Stipulation is a settlement document and shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce the terms of the Joint Stipulation.

IV. CERTIFICATION OF A CODE OF CIVIL PROCEDURE SECTION 382 CLASS

2. For Settlement purposes only, the Parties stipulate to conditional certification of the Settlement Class ("Class"), an opt-out class under California Code of Civil Procedure 382, that is defined as follows:

The "Class Member" shall consist of any current or former employee of Chipotle that worked in California at any time between October 1, 2014 and the earlier of March 1, 2020 or preliminary approval ("Class Period"). Each person in the class is a "Class Member," and all such persons are referred to as the "Class."

Of the total number of Class Members identified herein, approximately 7,000 are part of a certified subclass alleging claims for violation of Labor Code § 226 (the "Pre-August 2014 Class Members").

The "Pre-August 2014 Class Members" are all current and former non-exempt employees of Defendant, who were hired before August 1, 2014 and who worked in California at any time during the Class Period.

The remaining Class Members, i.e., approximately 70,043, are referred to herein as the "Post-August 2014 Class Members."

The "Post-August 2014 Class Members" is any Class Member who is not a Pre-August 2014 Class Member.

1 Excluded from the Class are any California employees that have opted
2 in to the currently pending *Turner v. Chipotle Mexican Grill, Inc.*,
3 *Case No. 1:14-cv-02612-JLK-CBS* or who have filed individual
4 arbitrations related to that action, as well as any other person who has
5 a pending arbitration or lawsuit as of the date hereof.

6 3. The Parties stipulate that Plaintiff TANIKA TURLEY shall be appointed as
7 the Class Representative for the Pre-August 2014 Class.

8 4. The Parties stipulate that Plaintiff Christopher Thompson shall be appointed
9 as the Class Representative for the Post-August 2014 Class.

10 5. The Parties stipulate that Harris & Ruble and North Bay Law Group shall be
11 appointed Class Counsel for the Settlement Class.

12 6. The stipulations to certify the Settlement Class are completely contingent
13 upon final approval of this Agreement by the Court and are made for settlement purposes only. If
14 the Settlement is not approved by the Court, is overturned on appeal, or does not become final for
15 any other reason, the Parties agree that the certification of the Settlement Class is void ab initio and
16 that, if necessary, they shall stipulate to decertification of the Settlement Class without prejudice to
17 the propriety of class certification being adjudicated on the merits.

18 **V. TERMS OF THE SETTLEMENT**

19 **A. Gross Settlement Amount**

20 1. In consideration for the release of claims, Defendant shall pay, or cause to be
21 paid, the total sum of \$3,050,000.00, consisting of \$2,250,000 in cash and up to \$800,000 in food
22 vouchers or cash, as described below, for payment of all claims, payment of claims administration,
23 attorney fees, attorney expenses, a payment to the LWDA, and service awards for the named
24 plaintiffs (the "Gross Settlement Amount").

25 2. The following litigation costs and costs of administration will be deducted
26 from the Gross Settlement Amount: (a) attorneys' fees and recoverable costs; (b) settlement
27 administration fees; (c) a payment to the Labor Workforce Development Agency in the amount of
28 \$10,000; and (d) a service award to named plaintiffs not to exceed \$2,500 for each Class
Representative.

3. The "Net Settlement Amount" will equal the net amount available for payment of claims to Class Members (after deducting the above-referenced fees and costs from the Gross Settlement Amount), as follows: \$1,750,000 payable to the Pre-August 2014 Class ("Wage Statement Settlement Amount"), and up to \$800,000 in food vouchers or cash payable to the Post-August 2014 Class Members ("Omnibus Settlement Amount").

4. This is a non-reversionary settlement and none of the Gross Settlement Amount will revert to the Defendant.

5. The allocation of payment of claims between the class members and tax treatment of such claims shall be 25% wages, 25% interest, and 50% penalties and expense reimbursement.

6. If the number of Class Members exceeds 77,043 by more than 10%, or if the number of pay periods exceeds 1,300,000 by more than 10%, the Gross Settlement Amount will increase by a proportionate percentage for all additional Class Member or pay periods above the 10% allowance.

7. If the number of Pre-August 2014 Class Members exceeds 6,993 by more than 10%, or if the number of wage statements exceeds 73,665 by more than 10%, the Gross Settlement Amount will increase by a proportionate percentage for all additional Pre-August 2014 Class Member or wage statements above the 10 percent allowance.

8. This Settlement does not establish a fund for the payment of claims except as expressly provided for herein. The maximum Gross Settlement Amount shall remain in the possession, custody, and control of Defendant until the settlement amounts are distributed as set forth herein. The maximum Gross Settlement Amount shall not be segregated but shall remain in Defendant's general funds until distributed or shall be provided to the Claims Administrator for distribution sufficiently in advance for the Claims Administrator to meet its obligations under the Settlement Agreement.

9. In the event that this Settlement Agreement is canceled, rescinded, terminated, voided, or nullified, however that may occur, or the settlement of the Action is barred by operation of law, is invalidated, is not approved or otherwise is ordered not to be carried out by the Court or

any court of competent jurisdiction, Defendant will cease to have any obligation to pay or provide any portion of the maximum Gross Settlement Amount to anyone under the terms of this Settlement Agreement.

B. Attorneys' Fees and Costs

10. The Action alleges a potential claim for attorneys' fees and costs pursuant to, inter alia, the California Labor Code. The Parties agree that any and all such claims for attorneys' fees and costs have been settled in this Joint Stipulation subject only to approval by the Court.

11. Defendant understands that Class Counsel will apply to the Court for an award of attorneys' fees and costs, which will be scheduled for determination at the final fairness and approval hearing described below. Plaintiff's counsel intends to apply to the Court for a fee award, plus expenses and costs incurred. Defendant will not object to a claim for attorney fees of up to 35% of the Gross Settlement Amount, costs as documented in billing statements of the attorneys for the named Plaintiffs, and a service award to each named plaintiff of up to \$2,500.00. If the Court believes the fees, costs, or service awards should be reduced, the other terms of the settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. A reduction to the fees, costs, or service awards is not a ground for rescinding the settlement.

12. The fee award shall be paid exclusively from the maximum Gross Settlement Amount, and will compensate Class Counsel for all of the work already performed in the Action and all work remaining to be performed in documenting the Settlement, securing Court approval of the Settlement, administering the Settlement, ensuring that the Settlement is fairly administered and implemented, and defending against any appeals, as well as all associated expenses. The litigation costs and expenses shall be those costs and expenses incurred by Plaintiff as set forth on Class Counsel's billing statement, including but not limited to mediation fees, expert and consultant fees, filing fees, attorney service charges, online research charges, travel expenses (including mileage, parking, meals, hotels and flights), copying expenses, deposition expenses, Belaire West class notice expenses (if not covered by the claims administrator bid), courier fees, postage and delivery charges. Neither the Class Representatives, Class Counsel, nor any other Class Member shall seek

1 payment of attorneys' fees or reimbursement of costs or expenses from Defendant except as
2 expressly set forth in this Joint Stipulation.

3 13. The substance of Class Counsel's application for attorneys' fees and costs is
4 not a material part of this Joint Stipulation, and is to be considered separately from the consideration
5 of the fairness, reasonableness, adequacy, and good faith of the settlement of the Action. However,
6 all claims for attorneys' fees and costs or expenses that the Settlement Class may possess against
7 Defendant have been compromised and resolved in this Joint Stipulation. Any proceedings related
8 to Class Counsel's application for attorneys' fees and costs shall not terminate or cancel this Joint
9 Stipulation. If Class Counsel appeals an adverse ruling of the Court regarding its fee and cost
10 application, the ruling of the appellate court (regardless of its substance) shall not constitute a
11 material alteration of a term of this Joint Stipulation. Class Counsel waives and releases any claim
12 for fees and costs in excess of that which are allowed by the Court or on appellate review of the
13 Court's fees and costs decision or otherwise. The amount, if any, by which the finally approved fees
14 and costs are less than the maximum amount which can be sought pursuant to this Agreement shall
15 be a part of the wages and non-wage income provided Class Members in equal proportions.

16 14. No later than fifteen (15) calendar days after the Court's approval of Class
17 Counsel's application for attorneys' fees and costs, Class Counsel shall deliver to the Claims
18 Administrator written instructions that describe the manner and mode of payment of such attorneys'
19 fees and costs (and, in the absence of such instructions, such attorneys' fees and costs shall be sent
20 by wire transfer as set forth below), and fully-executed Form W-9s with respect to all persons or
21 entities to whom some or all of the attorneys' fees and costs shall be paid.

22 15. No later than ten (10) calendar days after the Final Effective Date, Defendant
23 shall wire transfer the maximum Gross Settlement Amount to the Claims Administrator. Assuming
24 the conditions in Paragraph 17 have been met, no later than five (5) calendar days after the receipt of
25 the maximum Gross Settlement Amount from Defendant, the Claims Administrator shall issue a
26 payment to Class Counsel for the amount of attorneys' fees and costs approved by the Court and in
27 accordance with the instructions provided by Class Counsel.
28

1 16. The Claims Administrator will issue to Class Counsel IRS Form 1099s for the
2 amounts paid for attorneys' fees and costs under this Settlement.

3 **C. Payment to Claims Administrator**

4 17. The fees and expenses of the Claims Administrator are estimated at \$231,129
5 i.e. approximately \$3 per class member. To the extent that the costs of administration exceed the
6 amount agreed upon, the shortfall will be taken from the Net Settlement Amount and thereby reduce
7 the amount of penalties payable to the Participating Class Members. To the extent the cost of
8 administration is less than the amount agreed upon, the excess shall become part of the Net
9 Settlement Amount and shall increase the amount of penalties payable to the Participating Class
10 Members.

11 18. On or before the date of the Final Approval Hearing, the Claims
12 Administrator shall deliver to counsel for Defendant a fully-executed Form W-9.

13 19. No later than ten (10) calendar days after the Final Effective Date, Defendant
14 shall mail or wire transfer the maximum Gross Settlement Amount to the Claims Administrator. At
15 the time it receives the maximum Gross Settlement, the Claims Administrator may issue a payment
16 to itself for the amount of fees approved by the Court.

17 20. Defendant will issue to the Claims Administrator an IRS Form 1099 for the
18 sum paid to it under this Settlement.

19 **D. Class Representative Payments to Class Representatives**

20 21. Defendant understands that Plaintiffs and Class Counsel will apply to the
21 Court for Class Representative Payments, which will be scheduled for determination at the final
22 fairness and approval hearing. Plaintiff and Class Counsel will apply for a Class Representative
23 Payment in an amount up to, but not to exceed, Two Thousand Five Hundred Dollars and No Cents
24 (\$2,500.00) to each of the Class Representatives, which shall be paid exclusively from the maximum
25 Gross Settlement Amount, and will compensate Plaintiffs for their services as the Class
26 Representatives. Defendant will not oppose Plaintiff's application for the Class Representative
27 Payments up to the stated amount. The amount, if any, by which the Class Representative Payment
28

are less than the maximum amount which can be sought pursuant to this Agreement shall be part of the Net Settlement Distribution Amount.

22. As condition precedent to the payment of this Class Representative Payment, Plaintiff releases any and all claims against Defendant as set forth in the Class Representative Release.

23. Any Class Representative Payment awarded by the Court shall be in addition to the payment, if any, Plaintiff may otherwise receive as a Participating Class Member and shall not be subject to payroll tax withholding and deductions for this payment.

24. No later than seven (7) calendar days after the receipt of the maximum Gross Settlement Amount from Defendant, the Claims Administrator shall issue the Class Representative Payment to Class Counsel on behalf of Plaintiff in the amount approved by the Court, subject to all authorized and required deductions.

25. The Claims Administrator will issue IRS Form 1099-MISC to Plaintiff for the amount of the Class Representative Payment.

E. Distribution to Participating Class Members

26. The following litigation costs and costs of administration will be deducted from the Gross Settlement Amount: (a) attorneys' fees and recoverable costs; (b) settlement administration fees; (c) a net payment to the Labor Workforce Development Agency in the amount of \$10,000; and (d) a service award to named plaintiffs not to exceed \$2,500 for each Class Representative.

27. The "Net Settlement Amount" will equal the net amount available for payment of claims to Class Members (after deducting the above-referenced fees and costs from the Gross Settlement Amount), as follows: \$1,750,000 payable to the Pre-August 2014 Class ("Wage Statement Settlement Amount"), and up to \$800,000 in food vouchers or cash payable to the Post-August 2014 Class Members ("Omnibus Settlement Amount").

28. Pre-August 2014 Class Members who do not affirmatively opt-out of the settlement will receive a pro-rata share of the Wage Statement Settlement Amount based on pay

1 periods worked during the Class Period. All checks not cashed within 180 days of payment shall be
2 paid to a *cy pres* of Defendant's selection, in accordance with Code of Civil Procedure section 384.

3 29. Post-August 2014 Class Members who do not affirmatively opt-out of the
4 settlement will receive payment in the form of either a \$12.00 meal voucher ("Voucher Option") or
5 \$6.00 in cash ("Cash Option"). The Post-August 2014 Class Members shall have a sixty (60)-day
6 period from the Notice Date (plus any extension due to re-mailing as indicated in ¶38 below) within
7 which to elect to receive the Cash Option or the Voucher Option. Any Post-August 2014 Class
8 Member who does not make an election within this time period shall receive the Voucher Option.
9 The meal vouchers shall not expire, shall be fully transferable, and may be used in conjunction with
10 other available vouchers, discounts or rebates.

11 30. The Participating Class Members shall be paid their respective Individual
12 Settlement Payments as provided in this Agreement pursuant to section IX below. The allocation of
13 payment of claims between the class members and tax treatment of such claims shall be 25% wages,
14 25% interest, and 50% penalties and expense reimbursement.

15 **F. PAGA Payment**

16 31. The Parties have agreed to allocate Ten Thousand Dollars and Zero Cents
17 (\$10,000.00) for the resolution of all Class Members' claims under the California Private Attorney
18 General Act, California Labor Code Section 2698, et. seq. The PAGA Payment will be remitted to
19 the California Labor and Workforce Development Agency.

20 32. This amount is subject to review and approval by the Court as part of the
21 settlement process pursuant to Labor Code section 2699(1)(2). This Settlement is contingent on the
22 Court approving the PAGA release and payment. Plaintiff's counsel will submit a copy of the
23 Settlement to the LWDA at the same time the Settlement is submitted to the Court in accordance
24 with Labor Code section 2699 (1)(2).

25 33. Within five (5) calendar days after the receipt of the maximum Gross
26 Settlement Amount from Defendant, the Claims Administrator will remit the PAGA Payment to the
27 California Labor and Workforce Development Agency.
28

VI. APPOINTMENT AND DUTIES OF CLAIMS ADMINISTRATOR

34. The Claims Administrator shall perform the following duties in connection with administration of the Settlement: (1) using the data provided by Defendant to prepare the Notice Materials for each Class Member, as described in section VII.A of this Settlement; (2) mailing the Notice Materials to Class Members; (3) tracking non-delivered Notice Materials and taking reasonable steps to re-send them to Class Members' current addresses; (4) sending out reminder postcards to Class Members; (5) setting up a settlement website which contains copies of all papers and orders filed in connection with preliminary and final approval, including the final Settlement Agreement, Complaint, and Final Judgment; (6) tracking and timely reporting to Class Counsel and Counsel for Defendant about the received Voucher Option Forms and any Opt-Outs/requests for exclusion; (7) calculating and paying the amounts due to each Participating Class Member pursuant to the Settlement; (8) resolving disputes (if any) by Class Members regarding the categorization in Group 1, 2 or 3, or other matters, after timely notice to and consultation with Class Counsel and counsel for Defendant; (10) transmitting funds as required by applicable garnishments and liens; (11) contacting all Participating Class Members who have not cashed their Settlement Checks to remind them to do so before the six-month deadline for doing so expires; (12) transmitting funds to resolve the PAGA claim to the State of California as designated; (13) issuing payments to Class Counsel and Class Representative and associated tax forms; (14) escheating the funds to the agreed upon *cy pres* recipient.

35. Any unresolved, material disputes between the parties regarding the Claims Administrator's performance of its duties in this case will be referred to the Court, if necessary, which will have continuing jurisdiction over this Settlement, pursuant to Code of Civil Procedure section 664.6 and Rule 3.769(h) of the California Rules of Court, until all payments and obligations contemplated by this Settlement have been fully carried out.

VII. NOTICE TO THE CLASS OF THE SETTLEMENT

A. Mailing or Emailing the Notice Packets to the Class Members

36. Within fifteen (15) calendar days after the Court enters its Preliminary Approval Order, Defendant will provide to the Claims Administrator a database that lists, for each

1 Class Member, the individual's name, Social Security Number, last known email and/or address and
2 telephone number; last known email address, and dates of employment with Defendant during the
3 Covered Period. This database will be drawn from Defendant's payroll and other business records
4 and will be in a format acceptable to the Claims Administrator and Defendant. Defendant will
5 consult with the Claims Administrator prior to the date for providing this information to ensure that
6 the format will be acceptable to the Claims Administrator. The data provided to the Claims
7 Administrator and Class Counsel will remain confidential and will not be disclosed to anyone,
8 except as required to applicable tax authorities, pursuant to Defendant's express written consent, or
9 by order of the Court.

10 37. Within fifteen (15) calendar days after Defendant provides the Claims
11 Administrator the information stated pursuant to Paragraph 36, above, the Claims Administrator will
12 email and mail, by first-class mail (as approved by the Court), the Notice Materials to all Class
13 Members at their last known address, unless modified by any updated address information that the
14 Claims Administrator obtains in the course of administration of the Settlement. The email notice
15 will be a short form notice (as approved by the Court) notifying the Class Member of the settlement,
16 advising them that they will be receiving a long form notice by mail and directing them to the claims
17 administrator's website for the relevant documents.

18 38. The Claims Administrator will use standard devices, including the National
19 Change of Address ("NCOA") database or equivalent, to obtain forwarding addresses prior to the
20 initial mailing of the Notice Materials and will use appropriate skip tracing databases ("Skip
21 Tracing") prior to the initial mailing to maximize the probability that the Class Notice and Voucher
22 Option Form will be received by all Class Members. For returned or undeliverable Class Notice
23 Materials, the Claims Administrator will utilize both the NCOA and Skip Tracing on a rolling basis
24 during the week that notices are returned to maximize the probability that the Class Notice and
25 Voucher Option Form will be received by all Class Members. Class Members to whom the Class
26 Notice Materials are resent after having been returned undeliverable to the Claims Administrator
27 shall have ten (10) calendar days thereafter, or until the response deadline has expired, whichever is
28 later, (the "Extended Response Deadline") to mail, fax or email the request for exclusion (opt out),

1 submit a dispute, submit an objection, or elect a cash payment. Notice Materials that are resent shall
2 inform the recipient of this adjusted deadline. If a Class Member's Notice Materials are returned to
3 the Claims Administrator more than once as non-deliverable, no additional Notice Materials shall be
4 sent. The Claims Administrator will provide the parties with weekly reports regarding the Skip
5 Tracing efforts to re-mail returned or undeliverable notices.

6 39. Within thirty (30) calendar days after the Claims Administrator mails out the
7 Notice Materials, the Claim Administrator will mail out mutually acceptable reminder postcards (or
8 emails, as appropriate) to Class Members reminding them of their right to submit a Voucher Option
9 Form, submit an Opt-Out Form, object to the settlement, or dispute the Defendant's employment
10 records used to determine the Class Members' Gross Individual Settlement Payment.

11 40. The Claims Administrator shall provide regular reports to Class Counsel and
12 Defendant's counsel as to the mailings of Notice Materials, and the receipt of Voucher Option
13 Forms, Opt-Out Forms, and objections prior to the close of the period in which claims can be made.

14 **B. Voucher Option Forms**

15 41. Post-August 2014 Class Members will be sent a Voucher Option Form either
16 by mail or email, as appropriate. The Post-August 2014 Class Members shall have a sixty (60)-day
17 period from the Notice Date (or Extended Response Deadline, as applicable) within which to elect to
18 receive the Cash Option or the Voucher Option by selecting an option on the Voucher Option Form
19 and returning it to the Claims Administrator. Any Post-August 2014 Class Member who does not
20 make an election by returning the Voucher Option Form with a selection made within this time
21 period shall receive the Voucher Option. The meal vouchers shall not expire, shall be fully
22 transferable, and may be used in conjunction with other available vouchers, discounts or rebates. The
23 Class Member must submit a valid, fully-executed Voucher Option Form to the Claims
24 Administrator that is postmarked by no later than sixty (60) calendar days after the initial date of
25 mailing of the Notice Materials, subject to the Extended Response Deadline set forth in paragraph 38
26 above for re-mailed notices. No Voucher Option Forms will be accepted if physically postmarked
27 after the deadline (or Extended Response Deadline, as applicable) indicated and any Class Member
28

1 submitting a late form shall receive the voucher option. All original Voucher Option Forms shall be
2 sent directly to the Claims Administrator at the address indicated on the Form.

3 **C. Disputes**

4 42. Defendant's records will be presumed correct, pursuant to California Evidence
5 Code section 630 (burden of producing evidence), *unless* a Class Member submits a dispute. In that
6 case, there shall be no presumption regarding whether the disputed records are correct or not.
7 Thereafter, the Claims Administrator will evaluate the written and documentary evidence submitted
8 by the Class Member, without regard to any presumption, utilizing its independent judgment,
9 compared to records provided by Defendant, and will make a final determination based on its
10 evaluation of all the evidence presented. In determining whether the dispute will be accepted, the
11 Claims Administrator may provide the submitted dispute and related documents to counsel for the
12 parties for review. The counsel for the parties may provide additional information to the Claims
13 Administrator to aid in the final determination. All determinations will be made no later than fifteen
14 (15) calendar days within receipt of the challenge. Any workweek dispute should be postmarked by
15 no later than sixty (60) calendar days after the initial date of mailing of the Notice Materials, subject
16 to the Extended Response Deadline set forth in paragraph 38 above for re-mailed notices.

17 **D. Objections to Settlement**

18 43. Subject to the Extended Response Deadline set forth in paragraph 38 above
19 for re-mailed notices, the Class Members will have sixty (60) calendar days after the date on which
20 the Claims Administrator mails the Class Notice to object to the Settlement by mailing, emailing or
21 faxing to the Claims Administrator, received by email or fax or postmarked by the sixty (60)-day
22 deadline (or Extended Response Deadline, as applicable), a written objection to the Settlement.

23 44. Nevertheless, the Court may entertain subsequently objections or oral
24 argument from a class member or his or her counsel at the final fairness hearing.

25 45. Any Class Member who has elected to opt-out of the Settlement (pursuant to
26 the procedure set forth below) may not submit an objection to the Settlement.

27 46. The Claims Administrator shall provide the Parties a copy of any objections
28 received within three (3) days of receipt. Counsel for the Parties shall file any objections and any

1 response thereto at least seven (7) calendar days before the Final Approval Hearing.

2 **E. Election Not to Participate in the Class Settlement**

3 47. In order for a Class Member to validly and effectively request exclusion from,
4 and opt out of, this Settlement, the Class Member must submit to the Claims Administrator an Opt-
5 Out Form according to the procedures set forth in the Class Notice. Substantial compliance with the
6 requirements set forth in the Class Notice will in most cases be sufficient. To the extent additional
7 information is required, the Claims Administrator will communicate with the Class Member. Subject
8 to the Extended Response Deadline set forth in paragraph 38 above for re-mailed notices, in order to
9 be valid, the Opt-Out Form must be postmarked for delivery to the Claims Administrator no later
10 than sixty (60) calendar days after the date of mailing of the Class Notice. No request for exclusion
11 will be accepted if postmarked for delivery to the Claims Administrator after the deadline indicated.,
12 subject to the Extended Response Deadline set forth in paragraph 38 above for re-mailed notices.

13 48. Any Class Member who does not properly and timely submit an Opt-Out
14 Form will automatically be bound by all terms and conditions of the Settlement, including its release
15 of claims, if the Settlement is approved by the Court, and be bound by the Final Approval Order,
16 regardless of whether he or she has submitted a Voucher Option Form or objected to the Settlement.

17 49. A Class Member who properly and timely submits an Opt-Out Form will not
18 be bound by the Settlement, and will remain free to contest any claim brought by Plaintiff that would
19 have been barred by the Settlement, and nothing in this Settlement will constitute or be construed as
20 a waiver of any defense Defendant has or could assert against such a claim.

21 50. Plaintiff may not opt-out of the Settlement Class.

22 **F. Reports and Declaration by Claims Administrator**

23 51. By no later than fifteen (15) calendar days after expiration of the 60-day
24 deadline for submission of Voucher Option and Opt-Out Forms , the Claims Administrator will
25 submit to Class Counsel and Counsel for Defendant a report setting forth the number of individuals
26 who as of that date have submitted (a) valid Voucher Option Forms, (b) valid Opt-Out Forms , and
27 (c) invalid requests to be excluded from the Settlement. In the event that the Claims Administrator
28 subsequently receives a Voucher Option Form or an Opt-Out Form, it will promptly distribute an

1 updated report.

2 52. By no later than the date when Plaintiff files her motion for final approval of
3 the Settlement, the Claims Administrator will prepare and submit for filing in support of the motion a
4 declaration attesting to its mailing of the Class Notice, its receipt of requests for exclusion and
5 objections, and its inability to deliver the Class Notice to potential Class Members due to invalid
6 addresses. As applicable, the Claims Administrator will prepare and submit for filing in support of
7 the motion for final approval, any supplemental declaration.

8 **G. Settlement Website**

9 53. The Claims Administrator will create a settlement website which contains
10 copies of all papers and orders filed in connection with preliminary and final approval, including the
11 Class Notice Materials, the final Settlement Agreement, the Motion for Preliminary Approval, any
12 related approval orders (including all orders denying attempts to secure preliminary approval), the
13 operative Complaint, and the Final Judgment, if entered. The website will go “live” and these
14 documents will be posted no later than the date of the initial mailing of the Notice Materials and will
15 remain posted until at least the date of final approval, if that occurs. The Claim Administrator will
16 also post on its website Notice of Final Judgment, if entered.

17 **VIII. RIGHT TO RESCIND**

18 54. In the event that ten percent (10%) or more of the Class Members submit valid
19 requests not to participate in the Settlement, Defendant will have the exclusive right in its sole
20 discretion to rescind the Settlement, and all actions taken in its furtherance will be null and void.
21 Defendant must exercise this right within fifteen (15) days after the date on which the Claims
22 Administrator first informs Defendant that at least ten percent (10%) of the potential Class Members
23 have made valid requests to be excluded from the Settlement.

24 **IX. DISTRIBUTION OF THE SETTLEMENT PAYMENTS**

25 55. Defendant or Class Counsel shall serve the Claims Administrator with notice
26 of the Final Effective Date as soon as possible. No later than fifteen (15) calendar days after the
27 Final Effective Date, the Claims Administrator will prepare and provide counsel for Defendant and
28 Class Counsel with a report summarizing the total Participating Class Members and the Gross

Individual Settlement Payment for each Participating Class Member on that list. The sum of the Gross Individual Settlement Payments due to the individuals on that list shall constitute the “Class Settlement Payment.”

56. Defendant will cause the maximum Gross Settlement Amount to be wired to the Claims Administrator no later than fifteen (15) calendar days after the Final Effective Date. Within the same fifteen (15) calendar days, Defendant also will provide the Claims Administrator a list identifying all Participating Class Members who have garnishments and liens, the amounts of each individual’s garnishments and liens, and the name and address of the person or entity that is entitled to receive payment of such garnishments and liens.

57. Within fifteen (15) calendar days after the receipt of the maximum Gross Settlement Amount from Defendant, the Claims Administrator will distribute to every Participating Class Member his or her Net Individual Settlement Payment. The Claims Administrator shall make appropriate tax reporting and withholdings in accordance with this Agreement and applicable law and regulations.

58. The Claims Administrator will timely remit any taxes associated with the settlement payments to the proper authorities, as required by law. In addition, the Claims Administrator will timely prepare and issue an IRS Form 1099-MISC and/or W-2 Form as appropriate to each Participating Class Member to the extent required by law.

59. If any Participating Class Member does not cash his or her settlement check(s) within six (6) months after issuance, fifteen (15) calendar days after the check-cashing deadline the Claims Administrator shall escheat the funds to Public Counsel as the *cy pres* recipient hereto, subject to Court approval. The Parties agree that this obligation shall satisfy and fully discharge Defendant’s obligations under California Code of Civil Procedure Section 384 and the doctrines of *Cy Pres* and *escheat*.

X. RELEASE OF CLAIMS

A. Released Claims by Class Members Who Do Not Opt Out

60. Class members who do not opt-out of the settlement will be bound by a release of claims.

61. The release of claims includes Released Claims which could have been pled based on or reasonably related to the facts and claims alleged in the Complaint, FAC, SAC, or arising out of or reasonably related to the transactions and occurrences pled in the Complaint, FAC, or SAC of which a Class Member does not know or suspect to exist in his or her favor against Defendant as of the date of Final Approval.

62. As of the date the Final Approval Order is entered by the Court and except as to such rights or claims as may be created by this Settlement, to the maximum extent allowed by law, each Class Member who has not timely and effectively opted out will be deemed to have released claims as both a matter of contract and judicial procedure as follows, which release shall be incorporated into the Class Notice:

Once the settlement is finalized, all Class Members who have not submitted timely and valid Exclusion Letters will release and discharge Defendant, their past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (the "Released Parties") from all claims, demands, rights, liabilities and causes of action that were or could have been asserted (whether in tort, contract or otherwise) for violation of the California Labor Code, the California Business and Professions Code, the applicable Industrial Welfare Commission Orders or any similar state or federal law, whether for economic damages, non-economic damages, liquidated damages, punitive damages, restitution, penalties, other monies, or other relief based on any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act pled or arising out of or reasonably related to the facts, transactions, and occurrences pled in the Complaint, the First Amended Complaint, the Second Amended Complaint, or the Third Amended Complaint which are or could be the basis of claims for: (1) unpaid wages; (2) unpaid minimum wages; (3) unpaid or underpaid overtime wages; (4) failure to provide meal periods and claims regarding meal period premium pay; (5) failure to provide rest periods and claims

1 regarding rest period premium pay; (6) failure to reimburse expenses; (7) failure to
 2 provide accurate wage statements; (8) failure to timely pay wages upon termination
 3 and during employment; (9) claims for unfair competition arising from the facts
 4 alleged in the operative complaints; and (10) related claims for penalties pursuant to
 5 the Labor Code Private Attorneys General Act of 2004 (“PAGA) for California Labor
 6 Code sections 201, 202, and 203; Wage Order 5 of the Industrial Welfare
 7 Commission; and section 17200 of the California Business & Professions Code,
 8 (collectively, the “Released Claims”). The release will exclude claims for vested
 9 benefits, wrongful termination (apart from that of Plaintiff Turley and any other
 10 named Plaintiff who will execute general releases of claims under Civil Code section
 11 1542), unemployment insurance, disability, workers’ compensation, and claims
 12 outside of the Class Period.

13 63. The Gross Individual Settlement Payment to Participating Class Members will
 14 not result in any additional benefit payments beyond those provided by this Agreement to Plaintiff
 15 and Participating Class Members. Participating Class Members will be deemed to have waived all
 16 such claims for benefits premised upon the Gross Individual Settlement Payments to them, whether
 17 known or unknown by them, as part of their Released Claims under this Agreement.

18 **B. Released Claims by the Class Representative**

19 64. As of the date the Final Approval Order is entered by the Court and except as
 20 to such rights or claims as may be created by this Settlement, to the maximum extent allowed by
 21 law, the Class Representatives will be deemed to have released claims as follows:

22 The Class Representative hereby fully and finally releases and discharges the
 23 Released Parties (defined in Paragraph 62, above) from any and all of the Released
 24 Claims (defined in Paragraph 62, above) and from any and all claims, charges,
 25 complaints, liens, demands, causes of action, obligations, damages and liabilities,
 26 known or unknown, suspected or unsuspected, that the Class Representative had, now
 27 has, or may hereafter claim to have against the Released Parties arising out of, or
 28 relating in any way to, the Class Representative’s hiring by, employment with,

separation of employment with, or otherwise relating to the Released Parties, arising or accruing from the beginning of time up through the date of the Final Approval Hearing ("Class Representative's Released Period") with the exception of any other claims which cannot be released by law ("Class Representative's Released Claims").

With respect to the Class Representative's Released Claims only, the Parties stipulate and agree that, upon the Effective Date, the Class Representative waives California 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.

XI. DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

65. The Parties shall submit this Joint Stipulation to the Court in support of Plaintiff's Motion for Preliminary Approval and determination by the Court as to its fairness, adequacy, and reasonableness. As soon as reasonably possible upon execution of this Joint Stipulation, the Parties shall apply to the Court for the entry of an Order Granting Preliminary Approval of the Settlement and Notice which shall provide for, among other things, the following:

a. Scheduling a final fairness and approval hearing on the question of whether the proposed Settlement should be finally approved as fair, reasonable and adequate as to the Settlement Class.

b. Approving as to form and content the proposed Class Notice and Voucher Option Form described herein;

c. Directing the mailing of the Class Notice and Voucher Option Form by first class mail to the Class Members;

d. Preliminarily approving the Settlement;

e. Preliminary certifying the Class for settlement purposes only; and

f. Approving Alan Harris, David Garrett and Priya Mohan of Harris & Ruble as Class Counsel, Plaintiffs as Class Representatives, and an administrator mutually agreed to by the Parties and approved by the court, as Claims Administrator.

66. After the Preliminary Approval Order is entered by the Court, and prior to the deadline for objections, Plaintiff shall file the motion for an award of attorneys' fees and costs to be heard on the same hearing date as set by the Court for the final fairness and approval hearing.

XII. DUTIES OF THE PARTIES REGARDING FINAL COURT APPROVAL

67. In connection with the final approval by the Court of the Settlement, the Parties will submit a proposed Order Granting Final Approval of the Class Action Settlement and Final Judgment substantially in the form attached as **Exhibits C and D**, respectively, which shall provide, among other things, as follows:

a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

b. Approving Class Counsel's application for an award of attorneys' fees and reimbursement of costs;

c. Approving the Class Representative's service payment;

d. Certifying the Settlement Class for purposes of this Settlement only;

e. Entering Judgment pursuant to California Rules of Court, rule 3.769(h) which retains jurisdiction and permanently bars the Class Members who do not timely and validly exclude themselves from the Settlement from prosecuting any and all Released Claims against the Released Parties, and permanently bars the Class Representative from prosecuting any and all Class Representative's Released Claims against the Released Parties. Notice of the Final Judgment shall be given by Plaintiff to Defendant as set forth in the Class Notice, which notice shall satisfy the requirements of California Rules of Court, rule 3.771.

XIII. EFFECT OF NON-APPROVAL

68. If this Agreement is not preliminarily or finally approved by the Court and/or if a Final Approval Order is not entered or if Defendant exercises the option to rescind (*e.g.*, because the Court does not approve the settlement, or the opt-outs from the Class exceed five percent and Defendant revokes the Agreement), this Agreement shall be null and void. In such event, (1) nothing in this Agreement shall be construed as a determination, admission, or concession of any issue in the Action, and nothing in this Joint Stipulation may be offered into evidence in any trial on

1 the merits of the claims asserted in the Complaint filed in the Action or in any subsequent pleading;
2 (2) the Parties expressly reserve their rights with respect to the prosecution and defense of the Action
3 as if this Agreement never existed; and (3) Defendant shall be responsible for any costs for Notice or
4 claims administration incurred by the Claims Administrator through that date. If there is any
5 reduction in the attorneys' fees or costs awards or the Class Representative Payments, such reduction
6 may be appealed but is not a basis for rendering this Agreement void, voidable and/or unenforceable.

7 **XIV. CONFIDENTIALITY PRECEDING MOTION FOR PRELIMINARY APPROVAL**

8 69. Except for disclosures authorized by Defendant or necessary to prepare the
9 motion for preliminary approval, the terms of this Settlement shall remain confidential until they are
10 presented to the Superior Court in connection with the motion for preliminary approval. The Parties
11 and their counsel shall issue no public statements and shall make no comments to media or press
12 with respect to the Action or the settlement at any time (including but not limited to press releases),
13 except as required by law. In addition, the Parties and their counsel shall not make, publish, circulate
14 or cause to be made, published or circulated any statements that represent or suggest any
15 wrongdoing by Defendant, or that this settlement or any order by the Court regarding the settlement
16 represents or implies any wrongdoing by, or any admission of liability by, Defendant, or a finding by
17 the Court of liability or wrongdoing.

18 **XV. MUTUAL FULL COOPERATION**

19 70. The Parties will fully cooperate with each other and use their best efforts,
20 including all efforts contemplated by this Settlement and any other efforts that may become
21 necessary or ordered by the Court, or otherwise, to accomplish the terms of this Settlement in
22 accordance with the terms of the parties' memorandum of understanding, including but not limited
23 to, executing such documents and taking such other action as may reasonably be necessary to obtain
24 preliminary and final approval of this Settlement and to implement its terms.

25 **XVI. NO PRIOR ASSIGNMENTS**

26 71. The Parties represent, covenant, and warrant that they have not directly or
27 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
28

person or entity any portion of any claims, causes of action, demands, rights and liabilities of every nature and description released under this Settlement.

XVII. NOTICES

72. Unless otherwise specifically provided by this Settlement, all notices, demands or other communications given under this Settlement will be in writing and be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return-receipt requested, addressed as follows:

To Plaintiff and the Settlement Class:

ALAN HARRIS
PRIYA MOHAN
DAVID GARRETT
HARRIS & RUBLE
655 North Central Avenue, 17th Floor
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XVIII. CONSTRUCTION

73. This Settlement is the result of lengthy, arms-length negotiations between the Parties. This Settlement will not be construed in favor of or against any Party by reason of the extent to which any Party or her or its counsel participated in the drafting of this Settlement.

XIX. CAPTIONS AND INTERPRETATIONS

74. Paragraph and section titles, headings, or captions contained in this Settlement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any of its provisions. Each term of this Settlement is contractual and not merely a recital, except for those set forth in Section I, above.

XX. MODIFICATION

75. The material terms of this Settlement may not be changed, altered, or modified, except in writing and signed by the Parties and approved by the Court. This Settlement may be amended through Stipulation signed by counsel for all Parties to correct typographical errors or to address non-material administrative issues as directed by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

XXI. APPLICABLE LAW

76. All terms and conditions of this Agreement will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.

XXII. INTEGRATION CLAUSE

77. This Settlement and all the attached Exhibits, which by this reference are incorporated into this Settlement, constitutes the entire agreement between the Parties relating to the Settlement and transactions contemplated by the Settlement. All prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or a Party's counsel, are merged into this Settlement. No rights under this Settlement may be waived except in writing.

XXIII. BINDING ON ASSIGNS

78. This Settlement will be binding upon and will inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

XXIV. CLASS MEMBER SIGNATORIES

79. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each Class Member who does not timely and validly opt-out execute this Settlement. The Class Notice will inform all Class Members of the binding nature of the release contained herein will have the same force and effect as if this Settlement were executed by each Class Member who does not timely and validly opt-out.

XXV. COUNTERPARTS

80. This Settlement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart will be deemed an original, and, when taken together with other signed counterparts, will constitute one Settlement, which will be binding upon and effective as to all Parties.

81. This Settlement may be signed by facsimile signature or digital signature, each of which will have the same force and effect as an original signature.

XXVI. PARTIES' AUTHORITY TO SIGN

82. The signatories to this Settlement hereby represent that they are fully authorized to enter into this Settlement on behalf of themselves or their respective principals.

EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this document to evidence their acceptance of and agreement to the Settlement.

Dated: _____, 2020

TANIKA TURLEY
Plaintiff

1 Dated: 5/28/2020, 2020

DocuSigned by:

Dale Alan Harris

ALAN HARRIS
PRIYA MOHAN
DAVID GARRETT
HARRIS & RUBLE
Attorneys for Plaintiff and Settlement Class

6 Dated: _____, 2020

CHIPOTLE INC.
Defendant
By: Roger Theodoredis, CLO/General Counsel

11 Dated: _____, 2020

ANGELA AGRUSA
LEVI W. HEATH
STEVE L. HERNÁNDEZ
DLA PIPER LLP (US)
Attorneys for Defendant

16 Dated: 5/28/2020, 2020

DocuSigned by:

Christopher Thompson

CHRISTOPHER THOMPSON
Plaintiff

21 Dated: _____, 2020

DAVID HARRIS
NORTH BAY LAW GROUPD
Attorneys for Plaintiff and Settlement Class