

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement
3 Agreement”) is made by and between Plaintiff Marcus Lopez (“Plaintiff”), on his own behalf and
4 on behalf of all members of the Class, as defined below, on the one hand, and Defendant Fairmont
5 Schools, Inc. (“Defendant”) on the other hand (Plaintiff and Defendant are collectively referred to
6 as the “Parties”), in the lawsuits entitled *Lopez v. Fairmont Schools, Inc.*, Orange County Superior
7 Court Case Number 30-2022-01269531-CU-OE-CXC (the “PAGA Action”) and *Lopez v.*
8 *Fairmont Schools, Inc.*, Orange County Superior Court Case Number 30-2022-01269635-CU-OE-
9 CXC (the “Class Action”) (collectively, the Class Action and the PAGA Action are referred to as
10 the “Litigation”). This Settlement resolves all claims that were asserted or could have been asserted
11 against Defendant pertaining to the claims in the Litigation.

12 **I. DEFINITIONS**

13 **A. “Administration Costs”** means all administrative costs of settlement, including
14 costs of notice to the Class, settlement administration, and any fees and costs incurred or charged
15 by the Settlement Administrator in connection with the execution of its duties under this Settlement.

16 **B. “Class Counsel” or “Plaintiff’s Counsel”** means Arby Aiwezian, Joanna Ghosh,
17 and Yasmin Hosseini of Lawyers *for* Justice, PC and all the lawyers of this firm acting on behalf
18 of Plaintiff and the Class.

19 **C. “Class Members”** means all current and former non-exempt employees of
20 Defendant who worked in the State of California at any time during the Class Period (collectively
21 referred to as the “Class”).

22 **D. “Class Period”** means the period from July 13, 2018 through December 31, 2023.

23 **E. “Class Settlement”** means the settlement and release of Released Class Claims.

24 **F. “Court”** means the Superior Court of the State of California for the County of
25 Orange.

26 **G. “Effective Date”** means the later of: (1) the day after the last day by which a notice
27 of appeal of the Final Approval Order and/or of an order rejecting any motion to intervene may be
28 timely filed, and none is filed; (2) if such an appeal is filed, and the Final Approval Order is

1 affirmed, the day after the last date for filing a request for further review of the decision passes and
2 no further review is requested; (3) if an appeal is filed and further review of the decision affirming
3 the Approval Order is requested, the day after the request for review is denied with prejudice and/or
4 no further review of the decision can be requested; or (4) if review is accepted, the day after the
5 United States or California Supreme Court affirms the Settlement. The Effective Date cannot
6 occur, and Defendant will not be obligated to fund the Settlement, until and unless there is no timely
7 possibility of an appeal or further appeal that could potentially prevent this Settlement Agreement
8 from becoming final and binding.

9 **H. “Final Approval Order”** as used herein means the final formal judgment entered
10 by the Court granting final approval of this Agreement.

11 **I. “Individual PAGA Payments”** means payments made to the PAGA Members from
12 the Employee PAGA Amount that PAGA Members are eligible to receive under the PAGA
13 Settlement.

14 **J. “Individual Settlement Payments”** means payments made to the Participating
15 Class Members from the Net Settlement Amount as part of the Settlement.

16 **K. “LWDA Letter”** means Plaintiff’s April 20, 2022 letter to the Labor and Workforce
17 Development Agency, pursuant to California Labor Code section 2699.3, providing notice of his
18 intention to seek civil penalties under the Private Attorneys General Act, California Labor Code
19 section 2698, et seq.

20 **L. “Gross Settlement Amount”** means the sum of Seven Hundred Fifty Thousand
21 Dollars and Zero Cents (\$750,000.00) which shall be paid by Defendant, and from which all
22 Individual Settlement Payments pursuant to Section XII, Court-approved Attorneys’ Fees and
23 Litigation Costs pursuant to Section XIV, Administration Costs pursuant to Section IX, Incentive
24 Payment pursuant to Section XV, and PAGA Penalties pursuant to Section XVII shall be made,
25 except as provided herein.

26 **M. “Net Settlement Amount”** means the Gross Settlement Amount minus any Court-
27 approved award of Attorneys’ Fees to Class Counsel, Litigation Costs to Class Counsel,
28

Administration Costs to the Settlement Administrator, Incentive Payment to Plaintiff, and PAGA Penalties, as provided in Sections VIII, IX, and XIV-XVII.

N. “PAGA Members” means all current and former non-exempt employees of Defendant who worked in the State of California at any time during the PAGA Period.

O. “Plaintiff” as used herein means Marcus Lopez.

P. “Settlement” means the disposition and agreement to resolve the Litigation.

Q. “Settlement Administrator” means ILYM Group, Inc. (“ILYM”), the settlement administrator selected by the Parties, and which will be responsible for the administration of the Gross Settlement Amount, as defined below, and all related matters. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

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

T. “PAGA Period” means the period from April 20, 2021 through December 31, 2023.

U. “PAGA Penalties” means the amount of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) from the Gross Settlement Amount which will be allocated toward penalties under the Private Attorneys General Act, California Labor Code § 2698 *et seq.*, of which seventy-five percent (75%) will be paid to the LWDA (i.e., the “LWDA Payment”), and twenty-five percent (25%) will be distributed to the PAGA Members (i.e., the “Employee PAGA Amount”).

V. “PAGA Settlement” means the settlement and release of Released PAGA Claims.

W. “Workweeks” means the number of weeks that a Class Member worked for Defendant as a non-exempt employee in California during the Class Period for at least one (1) calendar day (based on the number of workweeks in the Class List that Defendant provides to the Settlement Administrator). Each Class Member will be credited with at least one (1) Workweek. A Workweek includes any week in which a Class Member had a time worked entry of at least one (1) day in Defendant’s timekeeping system. Upon request from Class Counsel, and no later than three (3) days before the date Plaintiff files his Motion for Preliminary Approval, Defendant shall provide

1 Plaintiff with an updated count of Workweeks for the Class Members and the PAGA Members

2 **II. BACKGROUND**

3 A. On April 20, 2022, Plaintiff sent the LWDA Letter to the Labor and Workforce
4 Development Agency, pursuant to California Labor Code section 2699.3, providing notice of his
5 intent to seek civil penalties under the Private Attorneys General Act, California Labor Code
6 section 2698, et seq., for Defendant's alleged violations of California Labor Code sections 201,
7 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800
8 and 2802, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 4-
9 2001.

10 B. On July 11, 2022, Plaintiff filed the Complaint for Enforcement Under the Private
11 Attorneys General Act, California Labor Code § 2698, Et Seq. (the "PAGA Complaint") in Case
12 No. 30-2022-01269531-CU-OE-CXC in the Orange County Superior Court, alleging a single
13 representative cause of action under the Private Attorneys General Act, California Labor Code
14 section 2698, et seq. ("PAGA") action against Defendant.

15 C. On July 13, 2022, Plaintiff filed the Class Action Complaint for Damages (the
16 "Class Action Complaint") in Case No. 30-2022-01269635-CU-OE-CXC in the Orange County
17 Superior Court, against Defendant. In the Class Action, Plaintiff alleges, *inter alia*, on behalf of
18 himself and all others similarly situated, that Defendant violated California state wage and hour
19 laws and the California Business and Professions Code Section 17200 *et seq.* as a result of
20 Defendant's California wage and hour policies and practices. Specifically, Plaintiff alleged that
21 Defendant violated the following provisions of the California Labor Code: (1) California Labor
22 Code sections 510 and 1198 (failure to pay overtime); (2) California Labor Code sections 226.7
23 and 512(a) (failure to provide compliant meal periods and associated premiums); (3) California
24 Labor Code section 226.7 (failure to provide rest periods and associated premiums); (4) California
25 Labor Code sections 1194, 1197, and 1197.1 (failure to pay minimum wages); (5) California Labor
26 Code sections 201-203 (failure to timely pay final wages); (6) California Labor Code section 204
27 (failure to timely pay wages during employment); (7) California Labor Code section 226(a) (failure
28 to provide accurate wage statements); (8) California Labor Code section 1174(d) (failure to keep

1 requisite payroll records); (9) California Labor Code sections 2800 and 2802 (failure to reimburse
2 necessary business expenses); and (10) California Business & Professions Code sections 17200, *et*
3 *seq.*

4 **D.** On August 29, 2023, the Parties participated in an all-day mediation with Lynn
5 Frank, Esq. (“Mediator”), a respected mediator of complex wage and hour actions. Eventually, with
6 the assistance of the Mediator’s evaluations, the Parties reached the settlement that is memorialized
7 herein. The settlement discussions were conducted at arm’s-length, and the settlement is a result
8 of an informed and detailed analysis of Defendant’s potential liability and exposure in relation to
9 the costs and risks associated with continued litigation. Based on the documents produced, as well
10 as Class Counsel’s own independent investigation and evaluation, Class Counsel believe that the
11 settlement with Defendant for the consideration and on the terms set forth in this Settlement is fair,
12 reasonable, and adequate and is in the best interests of the Class Members, the State of California,
13 and PAGA Members in light of all known facts and circumstances, including the risk of significant
14 delay and uncertainty associated with litigation and various defenses asserted by Defendant.

15 **E.** In order to facilitate a global settlement of the Class Action and the PAGA Action,
16 the Parties have agreed to consolidate the two actions, with the PAGA Action being designated as
17 the lead case. A stipulation and proposed order reflecting the Parties’ agreement to consolidate the
18 Class Action and the PAGA Action shall be filed with the Court on or before the date Plaintiff files
19 his Motion for Preliminary Approval.

20 **F.** Class Counsel conducted extensive investigation, discovery, review and analysis of
21 data and documents, and evaluation concerning the claims set forth in the Litigation.

22 **G.** Plaintiff and Class Counsel have engaged in good faith, arms-length negotiations
23 with Defendant concerning possible settlement of the claims asserted in the Litigation. These good
24 faith, arms-length negotiations resulted in settlement of the Litigation and are memorialized in this
25 Settlement Agreement after extensive negotiations about the terms and conditions of the
26 Settlement.

27 **H.** Class Counsel has conducted an investigation of the law and facts relating to the
28 claims asserted in the Litigation and has concluded, taking into account the sharply contested issues

1 involved, the defenses asserted by Defendant, the expense and time necessary to pursue the
2 Litigation through trial and any appeals, the risks and costs of further prosecution of the Litigation,
3 the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits
4 to be received by Plaintiff and the members of the Class and State of California pursuant to this
5 Agreement, that a settlement with Defendant on the terms and conditions set forth herein is fair,
6 reasonable, adequate, and in the best interests of the Class and State of California. Plaintiff, on his
7 own behalf, on behalf of the Class, and as a private attorney general on behalf of the State of
8 California with respect to PAGA Members, has agreed to settle the Litigation with Defendant on
9 the terms set forth herein.

10 **I.** Defendant has concluded that, because of the substantial expense of defending
11 against the Litigation, the length of time necessary to resolve the issues presented herein, the
12 inconvenience involved, and the concomitant disruption to its business operations, it is in
13 Defendant's best interest to accept the terms of this Agreement. Defendant denies each of the
14 allegations and claims asserted against it in the Litigation. However, Defendant nevertheless
15 desires to settle the Litigation for the purpose of avoiding the burden, expense and uncertainty of
16 continuing litigation and for the purpose of putting to rest the controversies engendered by the
17 Litigation.

18 **J.** This Agreement is intended to and does effectuate the full, final, and complete
19 settlement of the allegations and claims set forth in Section II.A-C.

20 **III. JURISDICTION**

21 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
22 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
23 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
24 final approval of the Settlement and after the Court has ordered the entry of judgment, pursuant to
25 California Code of Civil Procedure Section 664.6, the Court shall retain jurisdiction of the
26 Litigation solely for the purpose of interpreting, implementing, and enforcing this Settlement
27 consistent with the terms set forth herein.

28 **IV. STIPULATION OF CLASS CERTIFICATION**

1 A. The Parties stipulate to the certification of the Class for purposes of settlement only.
2 This stipulation is contingent upon the preliminary and final approval and certification of the Class
3 only for purposes of settlement. Should the Settlement not become final, for whatever reason, the
4 fact that the Parties were willing to stipulate provisionally to class certification as part of the
5 Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of
6 whether a class should be certified in a non-settlement context in the Litigation. Defendant
7 expressly reserves the right to oppose class certification and/or proactively move to deny
8 certification should this Settlement be modified or reversed on appeal or otherwise not become
9 final.

10 B. The Parties agree that class certification pursuant to California Code of Civil
11 Procedure Section 382 under the terms of this Agreement is for settlement purposes only. Nothing
12 in this Agreement will be construed as an admission or acknowledgement of any kind that any class
13 should be certified or given collective treatment in the Litigation or in any other action or
14 proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement
15 will be admissible in any court or other tribunal regarding the propriety of class certification or
16 collective treatment. In the event that this Agreement is not approved by the Court or any appellate
17 court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have
18 waived, limited, or affected in any way any claims, rights, or remedies in the Litigation, and
19 Defendant will not be deemed to have waived, limited, or affected in any way any of its objections
20 or defenses in the Litigation.

21 **V. MOTION FOR PRELIMINARY APPROVAL**

22 A. Plaintiff will bring a motion before the Court for an order preliminarily approving
23 the Settlement including the Notice of Class Action Settlement ("Class Notice"), which is attached
24 hereto as "**Exhibit A**," and including certification of the Class for settlement purposes only.

25 B. The date that the Court enters an order granting preliminary approval of the
26 Settlement will be the "Preliminary Approval Date."

27 C. Class Counsel will prepare the motion for preliminary approval of the Settlement.
28 Class Counsel shall provide to Defendant's counsel drafts of the Motion for Preliminary Approval

1 at least two (2) calendar days before its intended filing. Class Counsel may file the Motion upon
2 either receipt of formal approval by Defendant's counsel or two (2) calendar days after providing
3 the proposed papers if no response is received. To the extent that any issues/changes are raised by
4 Defendant to the proposed papers within two (2) calendar days, the Parties shall make all efforts
5 to resolve those issues in good faith. Any further disagreement regarding the form of the drafts
6 shall be submitted to Lynn Frank for determination, whose determination shall be binding. So long
7 as this procedure is followed, Defendant agrees that it will not oppose Plaintiff's Motion for
8 Preliminary Approval, nor shall it seek to delay the hearing on this motion for more than thirty (30)
9 days from the date obtained by Plaintiff. This is a material term of the Settlement and any delay or
10 opposition by Defendant will be grounds for Plaintiff to withdraw from the Settlement. The Parties
11 agree that, if Class Counsel withdraws from the Settlement, the Agreement shall be void ab initio,
12 have no force or effect whatsoever, and that neither Party will have any further obligation to
13 perform under this Agreement; provided, however, Class Counsel will remain responsible for
14 paying all Settlement Administration Expenses incurred to that point.

15 **VI. STATEMENT OF NO ADMISSION**

16 **A.** Defendant denies liability for any claim or cause of action asserted in the LWDA
17 Letter and the Litigation. This Agreement does not constitute, and is not intended to constitute, an
18 admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims
19 made against it in the LWDA Letter and the Litigation.

20 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
21 statements, discussions or communications, nor any materials prepared, exchanged, issued or used
22 during the course of the negotiations leading to this Agreement or the Settlement, is intended by
23 the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be
24 admissible in any way in this case or any other judicial, arbitral, administrative, investigative or
25 other forum or proceeding as evidence of any violation of any federal, state, or local law, statute,
26 ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The
27 Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in
28 this case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding,

1 as purported evidence of any violation of any federal, state, or local law, statute, ordinance,
2 regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other
3 purpose. Notwithstanding the foregoing, this Agreement may be used and filed in any proceeding
4 before the Court that has as its purpose the interpretation, implementation, or enforcement of this
5 Agreement or any orders or judgments of the Court entered in connection with implementation of
6 this Agreement and/or the Settlement.

7 C. None of the documents produced or created by Plaintiff or the Class in connection
8 with settlement procedures constitute, and they are not intended to constitute, an admission by
9 either Plaintiff or Defendant regarding whether or not any violation of any federal, state, or local
10 law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in
11 equity has occurred.

12 **VII. RELEASE OF CLAIMS**

13 **A. Release As to All Participating Class Members.**

14 Upon the Effective Date and the full funding of the Gross Settlement Amount, Plaintiff and
15 all Participating Class Members waive, release, and discharge Defendant, and its past, present
16 and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents,
17 representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent
18 companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers
19 (collectively, "Released Parties") of any and all wage-related claims that were alleged in or which
20 could have been alleged in the Class Action Complaint, based on the factual allegations in the Class
21 Action Complaint, arising during the Class Period, including the following claims, under any legal
22 theory of liability, for: (1) alleged failure to pay overtime wages pursuant to California Labor Code
23 sections 510, 1194, and 1198 and the IWC Wage Orders; (2) alleged failure to provide meal periods
24 pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (3) alleged
25 failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the
26 IWC Wage Orders; (4) alleged failure to pay all minimum wages owed pursuant to California Labor
27 Code sections 1194, 1194.2, 1197, and 1197.1 and the IWC Wage Orders; (5) alleged failure to pay
28 all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC

1 Wage Orders; (6) alleged failure to pay all wages in a timely manner during employment pursuant
2 to California Labor Code section 204 and the IWC Wage Orders; (7) alleged failure to furnish
3 accurate itemized wage statements pursuant to California Labor Code section 226 and the IWC
4 Wage Orders; (8) alleged failure to maintain adequate payroll records pursuant to California Labor
5 Code section 1174 and IWC Wage Orders; (9) alleged failure to reimburse all necessary business
6 expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders;
7 and (10) alleged violations of California Business & Professions Code sections 17200, *et seq.*
8 (collectively, “Released Class Claims”).

9 **B. Release as to State of California and PAGA Members.**

10 Upon the Effective Date and the full funding of the Gross Settlement Amount, Plaintiff, the
11 State of California, and PAGA Members waive, release, and discharge Released Parties of any and
12 all claims, actions, and causes of action for civil penalties under the Private Attorneys General Act,
13 California Labor Code section 2698, *et seq.*, arising during the PAGA Period, based on the factual
14 allegations and legal theories in the LWDA Letter and PAGA Complaint, for alleged violations of
15 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558,
16 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage
17 Orders, including *inter alia*, Wage Order 4-2001 (collectively, “Released PAGA Claims”).

18 **C. General Release by Plaintiff Only.**

19 In addition to the releases made in Section VII.A-B, Plaintiff makes the additional following
20 general release of all claims, known or unknown. Plaintiff releases the Released Parties from all
21 claims, demands, rights, liabilities and causes of action of every nature and description whatsoever,
22 known or unknown, asserted or that might have been asserted, whether in tort, contract, or for
23 violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection
24 with Plaintiff’s relationship with Defendant as well as any and all acts or omissions by or on the
25 part of Defendant, excluding only claims that, by law, may not be privately released. (The release
26 set forth in this Section VII.C shall be referred to hereinafter as the “General Release.”)

27 With respect to the General Release, Plaintiff stipulates and agrees that, upon the Effective
28 Date, Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent

permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, 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.

This release specifically excludes claims for unemployment insurance, disability, social security, and workers compensation (with the exception of claims arising pursuant to California Labor Code Sections 132(a) and 4553). Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other than or different from the facts now believed to be true, the release of claims contained herein shall be effective as to all unknown claims.

VIII. MONETARY CONSIDERATION FOR SETTLEMENT

A. Consideration for This Agreement.

As consideration for this Agreement, Defendant will make a payment that totals the Gross Settlement Amount of \$750,000.00, and any such employer-side payroll taxes separately and in addition to the Gross Settlement Amount. The payment of the Gross Settlement Amount represents full and complete settlement of this matter. The Gross Settlement Amount includes all Attorneys' Fees, Litigation Costs, Administration Costs, Incentive Payment to the Plaintiff, and PAGA Penalties. The balance of the Gross Settlement Amount, after deduction of Attorneys' Fees, Litigation Costs, Administration Costs, Incentive Payment, and PAGA Penalties, will be the Net Settlement Amount. Defendant's employer payroll taxes and contributions in connection with the wages portion of the Settlement ("Employer Taxes") shall be paid separately and in addition to the Gross Settlement Amount.

B. Potential Increase to the Settlement Amount.

Defendant represented that there were 35,000 Workweeks for the period from July 13, 2018 until August 29, 2023. If the number of Workweeks during the Class Period is actually more than 10% higher than 35,000 Workweeks, i.e., there are more than 38,500 Workweeks for the referenced time period ("Workweeks Threshold"), the Gross Settlement Amount will increase on a *pro rata*

1 basis to the extent the Workweeks Threshold is exceeded. For example, if the Workweeks for the
2 referenced time period exceed the Workweeks Threshold by 1%, then the Gross Settlement Amount
3 will be increased by 1%.

4 **IX. SETTLEMENT ADMINISTRATOR**

5 Plaintiff and Defendant, through their respective counsel, have selected ILYM Group, Inc.
6 (“Settlement Administrator”) to administer the Settlement, which includes but is not limited to,
7 translating the Class Notice from English into Spanish, distributing and responding to inquiries
8 about the Class Notice, determining the timeliness, validity, and/or completion of any objections,
9 Requests for Exclusion, and/or Workweeks Disputes, and calculating all amounts to be paid from
10 the Net Settlement Amount. Charges and expenses of the Settlement Administrator, estimated to
11 be no more than Fifteen Thousand Dollars (\$15,000.00) (“Administration Costs”), will be paid
12 from the Gross Settlement Amount. Any charges and expenses of the Settlement Administrator
13 greater than the allocated \$15,000.00 will be paid from the Gross Settlement Amount. If the actual
14 Administration Costs awarded are less than the amount provided herein, the difference will be part
15 of the Net Settlement Amount. The Parties agree that this Agreement may be provided to the
16 Settlement Administrator to effectuate its implementation of the settlement procedures herein.

17 **X. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

18 **A. Notice to the Class.**

19 Plaintiff and Defendant, through their respective attorneys, have jointly prepared the Class
20 Notice, which in substance will be provided to the Class Members as follows:

21 **1.** As soon as practicable following preliminary approval of the Settlement, but no later
22 than thirty (30) calendar days after the Preliminary Approval Date, Defendant will provide to the
23 Settlement Administrator the following information for each Class Member in a Microsoft Excel
24 spreadsheet: (1) full name; (2) last known mailing address; (3) Social Security Number; (4) start
25 and end dates of active employment as a non-exempt employee of Defendant in the State of
26 California; (5) total Workweeks during the Class Period; (6) total Workweeks during the PAGA
27 Period; and (7) any other information required by the Settlement Administrator (collectively,
28 “Class List”). Defendant will also provide the Settlement Administrator with the last known

1 telephone number for the Class Members upon request of the Settlement Administrator. The
2 Settlement Administrator is authorized to provide Plaintiff's Counsel with a redacted Class List
3 that shall only disclose an identification number attributed to each Class Member and their
4 associated Workweeks during the Class Period and PAGA Period.

5 **2.** The Settlement Administrator shall run all the addresses provided through
6 the United States Postal Service NCOA database (which provides updated addresses for any
7 individual who has moved in the previous four years who has notified the U.S. Postal Service of a
8 forwarding address) to obtain current address information, and shall mail the Class Notice to the
9 Class Members via first-class U.S. Mail using the most current mailing address information
10 available, within seven (7) calendar days of the receipt of the Class List from Defendant.

11 **3.** The Class Notice will include information regarding the nature of the
12 Litigation; a summary of the terms of the Settlement; the definition of the Class; a statement that
13 the Court has preliminarily approved the Settlement; the nature and scope of the claims being
14 released; the procedure and time period for objecting to the Class Settlement, the date and location
15 of the Final Approval Hearing; information regarding the procedure for opting out of the Class
16 Settlement; the number of Workweeks credited to each Class Member and PAGA Member and the
17 procedure for disputing the number of Workweeks credited; and the estimated Individual
18 Settlement Payment for the Class Member.

19 **4.** If a Class Notice is returned as undeliverable within thirty (30) calendar days
20 after the initial mailing, the Settlement Administrator will perform a skip trace in an attempt to
21 locate a more current address within three (3) business days of receipt of the returned mail. If the
22 Settlement Administrator is successful in locating an updated address, it will re-mail the Class
23 Notice to the Class Member as soon as possible. Further, any Class Notices returned with a
24 forwarding address to the Settlement Administrator before the Response Deadline, shall be re-
25 mailed to the forwarding address affixed thereto.

26 **5.** Class Members will be given sixty (60) calendar days after the Class Notice
27 is initially mailed to the Class Members, to submit Workweeks Disputes, Requests for Exclusion,
28 and/or written objections ("Response Deadline"). With respect to any Class Notice that is re-

1 mailed, the Response Deadline for the Class Member whose Class Notice is re-mailed will be
2 extended an additional fifteen (15) calendar days from the original Response Deadline.

3 **6.** No later than twenty-five (25) calendar days before the Final Approval
4 Hearing, the Settlement Administrator shall provide counsel for Defendant and Class Counsel with
5 a declaration attesting to the completion of the settlement notice administration process, including
6 the number of attempts to obtain valid mailing addresses for and re-sending of any returned Notices,
7 as well as the number of Workweeks Disputes, Requests for Exclusion, and objections received.

8 **B. Objections.**

9 Class Members who do not submit a Request for Exclusion (i.e., Participating Class
10 Members) may object to the Class Settlement. To object to the Class Settlement, a Participating
11 Class Member may send a written objection to the Settlement Administrator and/or may appear at
12 the Final Approval Hearing to present his or her objection directly to the Court. The Participating
13 Class Member may appear personally or through an attorney, at his or her own expense, at the Final
14 Approval Hearing to present his or her objection directly to the Court. However, any attorney who
15 will represent an objector must file a notice of appearance with the Court and serve Class Counsel
16 and Defendant's counsel no later than the Response Deadline. A written objection to the Class
17 Settlement must: (1) contain the case name and number of the Litigation; (2) contain the
18 Participating Class Member's full name, address, telephone number, signature, and last four digits
19 of his or her Social Security number; (3) clearly state the grounds for the objection; (4) state whether
20 the Participating Class Member intends to appear at the Final Approval Hearing; and (5) be mailed
21 to the Settlement Administrator, postmarked no later than the Response Deadline. If a Class
22 Member objects to the Class Settlement, the Class Member will remain a Participating Class
23 Member and if the Court approves this Agreement, the Participating Class Member will be bound
24 by the terms of the Class Settlement in the same way and to the same extent as a Participating Class
25 Member who does not object to the Class Settlement. The date of mailing of the Class Notice to
26 the objecting Participating Class Member shall be conclusively determined according to the records
27 of the Settlement Administrator. The Court retains final authority with respect to the consideration
28 and admissibility of any objections to the Class Settlement from Participating Class Members. The

1 Class Notice shall contain instructions on how to object to the Class Settlement.

2 **C. Opportunity to Be Excluded from the Class Settlement and Defendant's Opt-Out**
3 **Threshold.**

4 1. In order for any Class Member to validly exclude himself or herself from the
5 Class Settlement (i.e., to validly opt out of the Class Settlement), a written request for exclusion
6 from the Class Settlement ("Request for Exclusion") must: (1) contain the case name and number
7 of the Litigation; (2) contain the Class Member's full name, address, telephone number, and last
8 four digits of his or her Social Security number; (3) be signed by the Class Member or his or her
9 authorized representative; (4) contain a clear statement that the Class Member requests to be
10 excluded from the Class Settlement; and (5) be sent to the Settlement Administrator, postmarked
11 by no later than the Response Deadline. The Class Notice shall contain instructions on how to opt
12 out.

13 2. The date of the initial mailing of the Class Notice, and the date the signed
14 Request for Exclusion was postmarked, shall be conclusively determined according to the records
15 of the Settlement Administrator. Any Class Member who timely and validly submits a Request for
16 Exclusion will not be entitled to an Individual Settlement Payment, will not be bound by the Class
17 Settlement, and will not have any right to object, appeal, or comment thereon.

18 3. Any Class Member who does not submit a timely and valid Request for
19 Exclusion to the Settlement Administrator will be deemed bound to the Class Settlement in
20 accordance with this Settlement. All PAGA Members shall be bound to the PAGA Settlement
21 regardless of their decision to participate in the Class Settlement.

22 4. In the event that more than two percent (2%) of the Class Members exercise
23 their right to exclude themselves and opt out of the Class Settlement, Defendant retains the
24 exclusive right, but not the obligation, to withdraw from and terminate the Settlement and return
25 all Parties back to their same position before the Settlement was reached and the Settlement
26 Agreement was entered into. Defendant must meet and confer with Class Counsel prior to
27 exercising its right to withdraw from the Settlement under this Section. In the event that Defendant
28 exercises such rights under this Section, Plaintiff and Defendant shall resume the Litigation.

1 Defendant must notify Class Counsel and the Court in writing of such a decision to withdraw and
2 terminate the Settlement no later than five (5) business days after receiving written notice from the
3 Settlement Administrator that the number of opt outs exceeds 2% of the Class. In the event of
4 Defendant's withdrawal, no Party may use the fact that the Parties agreed to the Settlement for any
5 reason, and Defendant shall pay all administration expenses incurred through the date of its
6 termination of the Settlement.

7 **D. Cooperation.**

8 The Parties and their respective counsel agree not to encourage members of the Class to opt
9 out of the Class Settlement or to object to the Class Settlement, directly or indirectly, through any
10 means. However, if a Class Member contacts Class Counsel, Class Counsel may discuss the terms
11 of the Settlement and the Class Member's options with respect to the Settlement.

12 **XI. WORKWEEKS DISPUTE PROCEDURE**

13 **A.** If a Class Member and/or PAGA Member disputes the number of Workweeks
14 credited to him or her for the Class Period and/or PAGA Period, which will be set forth in the Class
15 Notice, he or she must submit a written dispute ("Workweeks Dispute") that: (1) contains the case
16 name and number of the Litigation; (2) contains the Class Member's full name, address, telephone
17 number, signature, and last four digits of his or her Social Security number; (3) contains a statement
18 setting forth the number of Workweeks during the Class Period and/or PAGA Period that he or she
19 contends is correct and attaches any relevant documentation in support thereof; and (4) is submitted
20 to the Settlement Administrator by mail, postmarked no later than the Response Deadline. If a Class
21 Member and/or PAGA Member does not dispute his or her number of Workweeks, the number of
22 Workweeks set forth in the Class Notice will govern the Individual Settlement Payment to the Class
23 Member and/or the Individual PAGA Payment to the PAGA Member, and such individual need
24 not take further action to participate in the Settlement.

25 **B.** Upon timely receipt of any such challenge, the Settlement Administrator, in
26 consultation with Class Counsel and counsel for Defendant, will review the pertinent records
27 showing the dates the Class Member worked for Defendant in California and the number of
28

1 Workweeks worked, which records Defendant agrees to make available to the Settlement
2 Administrator and Class Counsel.

3 C. After consulting with Class Counsel and counsel for Defendant, the Settlement
4 Administrator shall compute the number of Workweeks to be used in computing the Class
5 Member's *pro rata* share of the Net Settlement Amount and the PAGA Members' *pro rata* share
6 of the Employee PAGA Amount. In the event that there is a disparity between the number of
7 Workweeks a Class Member claims he or she worked during the Class Period and/or number of
8 Workweeks a PAGA Member claims he or she worked during PAGA Period and the number of
9 Workweeks indicated by Defendant's records, Defendant's records will control unless inconsistent
10 with records provided by the Class Member and/or PAGA Member (or bona fide copies thereof),
11 in which case the records provided by the Class Member and/or PAGA Member will control. The
12 Settlement Administrator's decision as to the number of Workweeks to be credited to a Class
13 Member and/or PAGA Member shall be final and non-appealable. The Settlement Administrator
14 shall send written notice of the decision on any such dispute to the Class Member and/or PAGA
15 Member, to Class Counsel, and counsel for Defendant within ten (10) calendar days of receipt of
16 the Workweeks Dispute.

17 **XII. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

18 **A. Formula for Calculating Individual Settlement Payments.**

19 Participating Class Members (i.e., Class Members who do not submit a timely and valid
20 Request for Exclusion) will receive a lump sum payment as good and valuable consideration for
21 the waiver and release of Released Class Claims set forth in Section VII.A, above, in an amount
22 determined by the Settlement Administrator in accordance with the provisions of this Agreement.
23 Each Participating Class Member's Individual Settlement Payment will be determined as follows:

24 1. Defendant will calculate the number of Workweeks of each Participating
25 Class Member during the Class Period and include this information in the Class List.

26 2. The value of each Workweek shall be determined by the Settlement
27 Administrator by dividing the Net Settlement Amount by the total number of Workweeks of all
28 Participating Class Members ("Class Workweek Point Value").

1 3. Each Participating Class Member's individual Workweeks will be
2 multiplied by the Class Workweek Point Value to arrive at his or her Individual Settlement
3 Payment. Individual Settlement Payments for each Participating Class Member will be reduced by
4 any required legal deductions for the employee's share of taxes and withholdings on the wages
5 portion of the Individual Settlement Payments.

6 **B. Formula for Calculating Individual PAGA Payments.**

7 PAGA Members will receive a lump sum payment as good and valuable consideration for
8 the waiver and release of Released PAGA Claims set forth in Section VII.B, above, in an amount
9 determined by the Settlement Administrator in accordance with the provisions of this Agreement.
10 Each PAGA Member's Individual PAGA Payment will be determined as follows:

11 1. Defendant will calculate the number of Workweeks of each PAGA Member
12 during the PAGA Period ("PAGA Workweeks") and include this information in the Class List.

13 2. The value of each PAGA Workweek shall be determined by the Settlement
14 Administrator by dividing the Employee PAGA Amount by the total number of PAGA Workweeks
15 of all PAGA Members ("PAGA Workweek Point Value").

16 3. Each PAGA Member's individual PAGA Workweeks will be multiplied by
17 the PAGA Workweek Point Value to arrive at his or her Individual PAGA Payment.

18 **C. Funding of Settlement.**

19 Within thirty (30) calendar days following entry of the Final Approval Order, Defendant
20 will deposit the Gross Settlement Amount into a qualified settlement fund established by the
21 Settlement Administrator pursuant to 26 CFR Section 1.468B-1 for administration of the
22 Settlement. At no time prior to the Effective Date shall Defendant be required to escrow any portion
23 of the Gross Settlement Amount. Notwithstanding the foregoing, Defendant shall be allowed to
24 pre-fund any amount of the Gross Settlement Amount (including none or all) into the qualified
25 settlement fund at any time. To the extent any portion of the Gross Settlement Amount has not
26 already been funded within 30 days following entry of the Final Approval Order, it shall be funded
27 at that time.

28 **D. Time for Distribution.**

1 1. The Settlement Administrator shall distribute the Court-approved Attorney's
2 Fees and Litigation Costs to Class Counsel, Court-approved Incentive Payment to Plaintiff, Court-
3 approved Administration Costs to the Settlement Administrator, LWDA Payment to the LWDA,
4 Individual Settlement Payments to Participating Class Members, and the Individual PAGA
5 Payments to PAGA Members within seven (7) calendar days following the full funding of the
6 Settlement.

7 2. If an Individual Settlement Payment and/or Individual PAGA Payment
8 check is returned to the Settlement Administrator as undeliverable within thirty (30) calendar days
9 of the mailing of the check, the Settlement Administrator shall promptly attempt to obtain a valid
10 mailing address by performing a skip trace search and, if another address is identified, shall mail
11 the check to the newly identified address. The Settlement Administrator may, at its discretion,
12 distribute the Individual Settlement Payment and Individual PAGA Payment by way of a single
13 check that combines both payments (if applicable).

14 3. Any checks issued by the Settlement Administrator to Participating Class
15 Members and PAGA Members will be valid and negotiable for one hundred and eighty (180) days
16 after issuance, and thereafter, the checks will be cancelled. The funds remaining and associated
17 with cancelled Individual Settlement Payment and/or Individual PAGA Payment checks will be
18 forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law,
19 California Civil Code § 1500, *et seq.*, to be held in trust for those Participating Class Members and
20 PAGA Members who did not timely cash their Settlement checks. The Parties agree that this
21 disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as all
22 payments to the Participating Class Members and PAGA Members will be paid out, whether or not
23 these individuals cash their Settlement checks.

24 **XIII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

25 The amounts paid under this Agreement do not represent a modification of any previously
26 credited hours of service under any employee benefit plan, policy, or bonus program sponsored by
27 Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or
28 any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant's

1 policies or bonus programs. Any payments made under the terms of this Settlement shall not be
2 applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other
3 form of compensation for the purposes of Defendant's benefit plan, policy, or bonus program.
4 Defendant retains the right to modify the language of its benefit plan, policies, and bonus programs
5 to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for
6 "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by
7 applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or
8 any other purpose, and that additional contributions or benefits are not required by this Settlement.

9 **XIV. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

10 Defendant shall not oppose an application by Class Counsel for an amount up to thirty-five
11 percent (35%) of the Gross Settlement Amount (i.e., \$262,500.00, if the Gross Settlement Amount
12 remains \$750,000.00) for all past and future attorneys' fees necessary to prosecute, settle, and
13 administer the Litigation and this Settlement ("Attorneys' Fees"). Additionally, Defendant shall
14 not oppose an application by Class Counsel for an amount up to Twenty-Five Thousand Dollars
15 and Zero Cents (\$25,000.00) for all past and future litigation costs and expenses necessary to
16 prosecute, settle, and administer the Litigation and the Settlement ("Litigation Costs"). Any
17 Attorneys' Fees or Litigation Costs awarded to Class Counsel by the Court as part of the Settlement
18 shall be deducted from the Gross Settlement Amount for the purpose of determining the Net
19 Settlement Amount. The "future" aspect of these amounts includes, without limitation, all time
20 and expenses expended by Class Counsel in implementing the Settlement and securing preliminary
21 and final approval (including any appeals therein). There will be no additional consideration paid
22 by Defendant for such work; although such work may cause Class Counsel's lodestar to increase,
23 Class Counsel will be limited to the Attorneys' Fees and Litigation Costs provided for under the
24 Settlement. The Attorneys' Fees and Litigation Costs shall include all attorneys' fees, litigation
25 costs, and expenses for which Plaintiff and Class Counsel could claim under any legal theory
26 whatsoever with respect to the Litigation. Within seven (7) calendar days following the full funding
27 of the Settlement, the Settlement Administrator shall disburse payment to Class Counsel from the
28 Gross Settlement Amount for the Court-approved Attorneys' Fees and Litigation Costs. Should

1 the Court approve a lesser percentage or amount of Attorneys' Fees and/or Litigation Costs than
2 the amount that Class Counsel ultimately seeks, then any such unapproved portion or portions shall
3 be part of the Net Settlement Amount to be distributed to Participating Class Members on a *pro*
4 *rata* basis.

5 **XV. INCENTIVE PAYMENT TO PLAINTIFF**

6 Defendant shall not oppose an application by Plaintiff, and Plaintiff shall not seek or receive
7 an amount in excess of Ten Thousand Dollars and Zero Cents (\$10,000.00) for his participation in
8 and assistance with the Litigation ("Incentive Payment"). Any Incentive Payment awarded to
9 Plaintiff by the Court as part of the Settlement shall be deducted from the Gross Settlement Amount
10 for the purpose of determining the Net Settlement Amount, and shall be reported on IRS Form
11 1099. If the Court approves an Incentive Payment of less than \$10,000.00 to Plaintiff, then the
12 unapproved portion or portions shall be part of the Net Settlement Amount to be distributed to
13 Participating Class Members on a *pro rata* basis.

14 **XVI. TAXATION AND ALLOCATION**

15 **A.** The Parties agree that all employees' share of employment taxes and other legally
16 required withholdings will be withheld from payments to the Participating Class Members and
17 Plaintiff based on the Parties' stipulated allocation of the Net Settlement Amount as provided for
18 in this Section.

19 **B.** In Defendant's sole discretion, and to which Plaintiff and Class Counsel do not
20 object, the amount of federal income tax withholding will be based upon a flat withholding rate for
21 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or
22 supplemented. Income tax withholdings will also be made pursuant to applicable state and/or local
23 withholding codes or regulations.

24 **C.** For withholding tax characterization purposes and payment of taxes, the Individual
25 Settlement Payments to Participating Class Members shall be deemed ten percent (10%) wages,
26 forty-five percent (45%) interest, and forty-five percent (45%) penalties.

27 **D.** For withholding tax characterization purposes and payment of taxes, the Individual
28 PAGA Payments to PAGA Members shall be deemed one hundred percent (100%) penalties.

1 E. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner
2 required by the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement,
3 by the Settlement Administrator. If the Code, the regulations promulgated thereunder, or other
4 applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section
5 may be modified in a manner to bring Defendant into compliance with any such changes.

6 F. The employer’s share of payroll taxes and contributions on the wages portion of
7 Individual Settlement Payments will be paid by Defendant in addition to and not as a deduction
8 from the Gross Settlement Amount.

9 **XVII. PAGA ALLOCATION**

10 In order to implement the terms of this Settlement and to settle claims alleged under the
11 Private Attorneys General Act, California Labor Code section 2698 *et seq.*, the Parties agree to
12 allocate \$100,000.00 from the Gross Settlement Amount as penalties authorized by the PAGA
13 (“PAGA Penalties”). Seventy-five percent (75%), which is \$75,000.00 of the PAGA Penalties, will
14 be distributed to the Labor and Workforce Development Agency (“LWDA Payment”) and twenty-
15 five percent (25%), which is \$25,000.00 of the PAGA Penalties will be distributed on a *pro-rata*
16 basis to the PAGA Members (“Employee PAGA Amount”). Plaintiff’s Counsel will provide notice
17 to the LWDA of the fact that the Settlement has been approved by the Court along with a copy of
18 the Final Approval Order through the appropriate LWDA/DIR website. PAGA Members will be
19 issued their Individual PAGA Payments regardless of their decision to opt-out of the Class
20 Settlement.

21 **XVIII. COURT APPROVAL**

22 A. This Agreement and the Settlement is contingent upon final approval by the Court
23 and entry of judgment. Plaintiff and Defendant agree to take all steps as may be reasonably
24 necessary to secure both preliminary approval and final approval of the Settlement, to the extent
25 not inconsistent with the terms of this Agreement, and will not take any action adverse to each other
26 in obtaining approval by the Court, and, if necessary, appellate approval, of the Settlement in all
27 respects. Plaintiff and Defendant expressly agree that they will not file any objection to the terms
28 of the Settlement or assist or encourage any person or entity to file any such objection.

1 **B.** In the event it becomes impossible to secure approval of the Settlement, the Parties
2 shall be restored to their respective positions in the Litigation, as of the date on which the Settlement
3 was reached, except as otherwise provided in Section XIX, below. The Parties shall attend
4 mediation again in an effort to reach a settlement that will be granted approval by the Court.

5 **XIX. MISCELLANEOUS PROVISIONS**

6 **A. Interim Stay of Litigation.**

7 Plaintiff and Defendant agree to the stay of all proceedings in the Litigation, including with
8 respect to California Code of Civil Procedure section 583.310, except such proceedings necessary
9 to implement and complete the Settlement, pending final approval of the Settlement by the Court.

10 **B. Interpretation of the Agreement.**

11 This Agreement constitutes the entire agreement between Plaintiff and Defendant. Except
12 as expressly provided herein, this Agreement has not been executed in reliance upon any other
13 written or oral representations or terms, and no such extrinsic oral or written representations or
14 terms shall modify, vary from or contradict its terms. In entering into this Agreement, the Parties
15 agree that this Agreement is to be construed according to its terms and may not be varied or
16 contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws
17 of the State of California, both in its procedural and substantive aspects, without regard to its
18 conflict of laws provisions. Any claim arising out of or relating to the Agreement, or the subject
19 matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California
20 for the County of Orange, and Plaintiff and Defendant hereby consent to the personal jurisdiction
21 of the Court over them solely in connection therewith. Plaintiff, on his own behalf, on behalf of
22 the Class, and on behalf of the State of California pursuant to PAGA, and Defendant participated
23 in the negotiation and drafting of this Agreement and had available to them the advice and
24 assistance of independent counsel. As such, neither Plaintiff nor Defendant may claim that any
25 ambiguity in this Agreement should be construed against the other. The terms and conditions of
26 this Agreement constitute the exclusive and final understanding and expression of all agreements
27 between Plaintiff and Defendant with respect to the Settlement.

28 **C. Further Cooperation.**

1 Plaintiff and Defendant and their respective attorneys shall proceed diligently to prepare
2 and execute all documents, to seek the necessary approvals from the Court, and to do all things
3 reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.
4 Defendant agrees not to obtain waivers or *Pick Up Stix* agreements from the Class Members during
5 the Settlement approval process.

6 **D. Confidentiality.**

7 The Parties and their counsel agree to keep the terms of the Settlement confidential until the
8 filing of Plaintiff's motion for preliminary approval. Any communication by Class Counsel about
9 the Settlement to Class Members prior to the filing of Plaintiff's motion for preliminary approval
10 will be limited to a statement that a settlement has been reached and the details will be
11 communicated in a forthcoming Court-approved notice.

12 Plaintiff, the Settlement Administrator, and Class Counsel shall maintain the confidentiality
13 of all documents and other information obtained in the Litigation that were specifically designated
14 as confidential at the time they were produced (formally or informally) in the Litigation, unless
15 ordered to be disclosed by the Court or by a subpoena.

16 **E. Neutral Employment Reference.**

17 Defendant agrees that it will adopt a neutral reporting policy regarding any future
18 employment references related to Plaintiff. In the event that any potential or future employers of
19 Plaintiff request a reference regarding Defendant's employment of Plaintiff, Defendant shall only
20 provide Plaintiff's dates of employment and job titles during employment. Defendant shall not refer
21 to the Litigation or this Settlement.

22 **F. Counterparts.**

23 The Agreement may be executed in one or more actual or non-original counterparts, either
24 through a physical original, facsimile, electronic, or e-mail signature, all of which will be
25 considered one and the same instrument and all of which will be considered duplicate originals.

26 **G. Authority.**

27 Each individual signing below warrants that he or she has the authority to execute this
28 Agreement on behalf of the Party for whom or which that individual signs.

1 **H. No Third-Party Beneficiaries.**

2 Plaintiff, Participating Class Members, PAGA Members, the LWDA, Defendant, and
3 Released Parties are intended beneficiaries of this Agreement, and there are no other third-party
4 beneficiaries.

5 **I. Modification.**

6 Before this Agreement has been submitted to the Court in connection with seeking
7 preliminary approval of the Settlement, it may not be changed, altered, or modified, except in a
8 writing signed by the counsel for the Parties. After this Agreement has been submitted to the Court
9 in connection with seeking preliminary approval of the Settlement, it may not be changed, altered,
10 or modified, except in a writing signed by the counsel for the Parties, subject to approval by the
11 Court. Notwithstanding the forgoing, the Parties agree that any dates contained or contemplated in
12 this Agreement may be modified by agreement of counsel for the Parties in writing without
13 approval by the Court if the Parties agree and cause exists for such modification. This Agreement
14 may not be discharged except by performance in accordance with its terms or by a writing signed
15 by the Parties.

16 **J. Deadlines Falling on Weekends or Holidays.**

17 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
18 legal holiday, that deadline shall be continued until the following business day.

19 **K. California Law Governs.**

20 All terms of this Settlement Agreement and Exhibits hereto will be governed and interpreted
21 according to the laws of the State of California.

22 **L. Severability.**

23 In the event that any one or more of the provisions contained in this Agreement shall for
24 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
25 unenforceability shall in no way effect any other provision if Defendant's counsel and Class
26 Counsel, on behalf of the Parties, the Class, State of California, and PAGA Members, mutually
27 elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been
28 included in this Agreement.

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Marcus Lopez, *Plaintiff*

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LAWYERS *for* JUSTICE, PC



Joanna Ghosh
Yasmin Hosseini
Attorneys for Plaintiff Marcus Lopez and
Proposed Class Counsel

Date: September 18, 2024

KAHANA & FELD LLP



Ron S. Brand
Avi Attal
David Goodman
Attorneys for Defendant Fairmont Schools, Inc.