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 THARALDSON HOSPITALITY MANAGEMENT, LLC,
 THARALDSON HOSPITALITY STAFFING, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

GABRIEL AGUILAR, as an individual, and on behalf of all other similarly situated employees,

Plaintiff,

vs.

THARALDSON HOSPITALITY
 MANAGEMENT, LLC, a limited liability
 company; THARALDSON HOSPITALITY
 STAFFING, LLC and DOES 1 through 10,
 inclusive,

Defendants.

Case No.: BCV-22-101680

Assigned for all purposes to Hon. Thomas S. Clark, Dept 17

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

Complaint Filed: July 7, 2022
 Trial Date: Not Set

This Joint Stipulation of Class and PAGA Action Settlement (“Joint Stipulation,” “Settlement,” or “Agreement”) is made and entered into by and between Plaintiff Gabriel Aguilar (“Plaintiff” or “Class Representative”), individually, and on behalf of all others similarly situated, and Defendants Tharaldson Hospitality Management, LLC and Tharaldson Hospitality Staffing, LLC (“Defendants”). Plaintiff and Defendants will be referred to herein collectively as the “Parties.” The Parties stipulate and agree as follows:

1.1 On July 2, 2022, Plaintiff filed with the Labor and Workforce Development Agency (“LWDA”), and sent via certified mail to Defendants, written notice of the California Labor Code sections, which he alleged Defendants had violated, pursuant to Labor Code section 2699.3, subdivision (a).

1.2 On July 7, 2022, Plaintiff filed a Class Action Complaint against Defendants, which alleged, on behalf of all non-exempt employees of Defendants who worked in California from the date four years before the filing of the complaint through the date of the signed order certifying the Class: Failure to Pay Minimum Wages [*Labor Code* §§ 510 and 1194]; Failure to Pay Overtime Wages [*Labor Code* §§ 510 and 1194]; Failure to Pay Timely Wages [*Labor Code* § 210]; Failure to Lawfully Receive Wages [*Labor Code* § 221]; Failure to Provide Meal Breaks [*Labor Code* §§ 226.7 and 512]; Failure to Provide Rest Periods [*Labor Code* § 226.7]; Failure to Provide and Maintain Accurate Itemized Wage Statements and Maintain Records [*Labor Code* § 226(a)]; Failure to Pay Timely Wages Upon Termination [*Labor Code* § 203]; and Unlawful Business Practices [*Business & Professions Code* §§ 17200, *et seq.*].

1.3 On September 30, 2022, Plaintiff filed a First Amended Class Action and Representative Action Complaint (“Operative Complaint”), which alleged an additional cause of action for Civil Penalties under the Private Attorneys General Act [*Labor Code* §§ 2698, *et. seq.*] (“PAGA”).

1.4 On April 25, 2023, the Parties participated in a private mediation with experienced,

1 professional mediator, Hon. Carl West (Ret.), and while the mediation did not immediate result in
2 settlement, the Parties' continued resolution discussion and were ultimately able to reach a
3 resolution, the terms of which are memorialized herein.

4 1.5 Now, therefore, the Parties enter into the instant Joint Stipulation and, solely for
5 purposes of settling the Action and addressing any discrepancies identified herein, stipulate and
6 agree that the requisites for establishing class certification with respect to the Class Members
7 (defined below) have been met and are met, including that the putative Class is ascertainable and so
8 numerous as to make it impracticable to join all putative Class Members; there are common
9 questions of law and fact which predominate over any question(s) affecting any individual putative
10 Class Member; Plaintiff's claims are typical of the claims of the putative Class; Plaintiff and Class
11 Counsel will fairly and adequately protect the interests of the putative Class; the prosecution of
12 separate actions by individual members of the putative Class would create the risk of inconsistent or
13 varying adjudications, which would establish incompatible standards of conduct; and a class action
14 is superior to other available means for the fair and efficient adjudication of the controversy.

15 **2. DEFINITIONS**

16 2.1. "Action" means the action entitled *Aguilar v. Tharaldson Hospitality*
17 *Management, LLC, et al.*, Kern County Superior Court, Case No. BCV-22-101680.

18 2.2. "Administrator" means the neutral entity the Parties have appointed to administer
19 the Settlement, ILYM Group, Inc.

20 2.3. "Administration Expenses Payment" means the amount the Administrator will be
21 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
22 accordance with the Administrator's "not to exceed" bid submitted to the Court in connection
23 with Preliminary Approval of the Settlement.

24 2.4. "Aggrieved Employees" means all non-exempt employees of Defendants who
25 have not signed arbitration agreements and who worked in California during the PAGA Period.

26 2.5. "Class" or "Class Members" means all non-exempt employees of Defendants
27 who have not signed arbitration agreements and who worked in California during the Class
28

Period.

2.6. "Class Counsel" means Moon Law Group, PC.

2.7. "Class Counsel Fees Payment" means the amount allocated to Class Counsel for reimbursement of their reasonable fees incurred to prosecute the Action.

2.8. "Class Counsel Litigation Expenses Payment" means the amount allocated to Class Counsel for reimbursement of their reasonable expenses incurred to prosecute the Action.

2.9. "Class Data" means Class Member identifying information, including the name, last-known mailing address and Social Security number of the Class Member.

2.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means, including, but not limited to, the National Change of Address database, skip traces and direct contact by the Administrator with Class Members.

2.11. "Class Notice" means the Court-approved notice of class action settlement and hearing date for final court approval, to be mailed to Class Members in English and Spanish.

2.12. "Class Period" means the period from October 1, 2020, through August 31, 2023.

2.13. "Class Representative" means Gabriel Aguilar, the named Plaintiff in the Action.

2.14. "Class Representative Service Payment" means the payment to the Class Representative for initiating and providing services in support of the Action and for his general release, as described in Paragraph 5.1 below.

2.15. "Court" means the Kern County Superior Court.

2.16. "Defendants" means Tharaldson Hospitality Management, LLC and Tharaldson Hospitality Staffing, LLC and each of their past, present, and future respective subsidiaries, dba's, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, and attorneys.

2.17. "Defense Counsel" means Fisher & Phillips, LLP.

1 2.18. "Effective Date" means the date on which both of the following have occurred:
2 (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b)
3 the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if
4 no Settlement Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
5 one or more Settlement Class Members object to the Settlement, the day after the deadline for
6 filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed,
7 the day after the appellate court affirms the Judgment and issues a remittitur.

8 2.19. "Final Approval" means the Court Order Granting Final Approval of the
9 Settlement.

10 2.20. "Final Approval Hearing" means the Court Hearing on the Motion for Final
11 Approval of the Settlement.

12 2.21. "Final Judgment" means the Court Judgment made upon granting final approval
13 of the Settlement.

14 2.22. "Gross Settlement Amount" means \$352,500.00, the total amount Defendants
15 agree to pay under the Settlement, except as provided in Paragraph 8 below, and which will be
16 used to pay the Individual Class Payments, PAGA Settlement Payment, Class Counsel Fees
17 Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments,
18 and Administration Expenses Payment.

19 2.23. "Individual Class Payments" means the individual payments made to each
20 Settlement Class Member from the Net Settlement Amount.

21 2.24. "Individual PAGA Payment(s)" means the allocation of twenty-five percent of the
22 PAGA Settlement Payment, to be paid to the Aggrieved Employees, pursuant to Labor Code
23 section 2699, subdivision (i).

24 2.25. "LWDA" means the California Labor and Workforce Development Agency.

25 2.26. "LWDA PAGA Payment" means the allocation of seventy-five percent of the
26 PAGA Settlement Payment, to be paid to the LWDA, pursuant to Labor Code section 2699,
27 subdivision (i).
28

1 2.27. “Net Settlement Amount” means the Gross Settlement Amount less the following
2 payments, in the amounts approved by the Court: the PAGA Settlement Payment, Class
3 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
4 Expenses Payment, and Administration Expenses Payment. The Net Settlement Amount is to
5 be paid to Settlement Class Members as Individual Class Payments.

6 2.28. “Non-Participating Class Members” means Class Members who submit a valid
7 and timely Request for Exclusion from the Settlement.

8 2.29. “PAGA” means the California Labor Code Private Attorneys General Act.

9 2.30. “PAGA Period” means the period from July 2, 2021, through August 31, 2023.

10 2.31. “PAGA Pay Period” means the pay periods in which any Aggrieved Employee
11 actually worked one shift during the PAGA Period.

12 2.32. “PAGA Settlement Payment” means \$30,000.000, the total amount of PAGA
13 civil penalties to be paid from the Gross Settlement Amount, and which shall be allocated
14 seventy-five percent to the LWDA (\$22,500.00) (“LWDA PAGA Payment”) and twenty-five
15 percent to the Aggrieved Employees (\$7,500.00) (“Individual PAGA Payment”), in settlement of
16 the Released PAGA Claims.

17 2.33. “Plaintiff” means Gabriel Aguilar.

18 2.34. “Preliminary Approval” means the Court Order Granting Preliminary Approval
19 of the Settlement and Class Notice.

20 2.35. “Released Class Claims” means the claims being released as described in
21 Paragraph 5.2 below.

22 2.36. “Released PAGA Claims” means the claims being released as described in
23 Paragraph 5.3 below.

24 2.37. “Released Parties” means: Defendants and all of their past, present, and future
25 respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their
26 current and former employees, managing agents, servants, consultants, agents, directors,
27 officers, members, independent contractors, representatives, insurers, reinsurers, attorneys; and
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any staffing agency, professional employer organization, or temporary employment agency utilized by Defendants during the Class Period.

2.38. "Request for Exclusion" means the submission of a written request by a Class Member to be excluded from the Settlement, which is signed by the Class Member.

2.39. "Response Deadline" means sixty (60) calendar days after the Administrator mails the Class Notice to the Class Members and Aggrieved Employees and the last date on which Class Members may: (a) fax, email or mail Requests for Exclusion from the Settlement, or (b) fax, email or mail Objections to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline.

2.40. "Settlement" means the disposition of the Action effected by this Agreement.

2.41. "Settlement Class Member" or "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

2.42. "Workweeks" means the weeks in which any Settlement Class Member actually worked one shift during the Class Period.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants agree to pay the Gross Settlement Amount of \$352,500.00 and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount or any payroll taxes prior to the deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Settlement Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

1 3.2.1. To Plaintiff: The Class Representative Service Payment to the Class
2 Representatives of not more than \$10,000.00 each (in addition to any Individual Class Payments
3 and Individual PAGA Payments the Class Representative are entitled to receive as Settlement
4 Class Members and Aggrieved Employees). Defendants will not oppose a request for payment
5 that does not exceed this amount. As part of his motion for the Class Counsel Fees Payment and
6 Class Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
7 Representative Service Payments no later than sixteen (16) court days prior to the Final
8 Approval Hearing. If the Court approves Class Representative Service Payments less than the
9 amount requested, the Administrator will retain the remainder in the Net Settlement Amount.
10 The Administrator will pay the Class Representative Service Payments using IRS Form 1099.
11 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class
12 Representative Service Payments.

1 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
2 \$117,500.00, or one third of the Gross Settlement Amount, and a Class Counsel Litigation
3 Expenses Payment of not more than \$20,000.00. Defendants will not oppose a request for
4 payments that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for
5 Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than
6 sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class
7 Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment less than the
8 amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount.
9 Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising
10 from any claim to any portion of any Class Counsel Fees Payment and/or Class Counsel
11 Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and
12 Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel
13 assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and
14 Class Counsel Litigation Expenses Payment and hold Defendants harmless from and indemnify
15 Defendants for any dispute or controversy regarding division or sharing of such payments.

16 3.2.3. To the Administrator: An Administration Expenses Payment not to
17 exceed \$15,000.00, except for a showing of good cause and as approved by the Court. To the
18 extent the Administration Expenses Payment is less or the Court approves payment less than
19 \$15,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

20 3.2.4. To Each Settlement Class Member: An Individual Class Payment
21 calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks
22 worked by all Settlement Class Members during the Class Period and (b) multiplying the result
23 by each Settlement Class Member's Workweeks.

24 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each
25 Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion").
26 The Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. 80%
27 of each Individual Class Payment will be allocated to settlement of claims for interest and
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1 penalties (the “Non-Wage Portion”). The Non-Wage Portion is not subject to wage
2 withholdings and will be reported on IRS 1099 Forms. Settlement Class Members assume full
3 responsibility and liability for any employee taxes owed on their Individual Class Payment.

4 3.2.4.2. Effect of Non-Participating Class Members on Calculation of
5 Individual Class Payments. Non-Participating Class Members will not receive any Individual
6 Class Payments. The Administrator will retain amounts equal to their Individual Class
7 Payments in the Net Settlement Amount for distribution to Settlement Class Members on a pro
8 rata basis.

9 3.2.5. To the LWDA and Aggrieved Employees: A PAGA Settlement Payment
10 in the amount of \$30,000.00 to be paid from the Gross Settlement Amount, with seventy-five
11 percent (\$22,500.00) allocated to the LWDA PAGA Payment and twenty-five percent
12 (\$7,500.00) allocated to the Individual PAGA Payment.

13 3.2.5.1. The Administrator will calculate each Individual PAGA
14 Payment by (a) dividing the amount of the total Individual PAGA Payment (\$7,500.00) by the
15 total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA
16 Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods.
17 Aggrieved Employees assume full responsibility and liability for any taxes owed on their
18 Individual PAGA Payment.

19 **4. SETTLEMENT FUNDING AND PAYMENTS.**

20 4.1. Class Data. Not later than fifteen (15) business days after the Court grants
21 Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data
22 to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members’
23 privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data
24 only for purposes of this Settlement and for no other purpose, and restrict access to the Class
25 Data to Administrator employees who need access to the Class Data to effect and perform under
26 this Agreement. Defendants have a continuing duty to immediately (a) notify Class Counsel if it
27 discovers the Class Data omitted a class member and (b) provide corrected/updated Class Data
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1 as soon as reasonably feasible. Without any extension of the deadline by which Defendants
2 must send the Class Data to the Administrator, the Parties and their counsel will expeditiously
3 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to omitted
4 data.

5 4.2. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross
6 Settlement Amount and the amounts necessary to fully pay their share of payroll taxes, by
7 transmitting the funds to the Administrator no later than twenty-one (21) business days after the
8 Effective Date. If Defendants fail to timely transfer the funds as set forth in this Agreement,
9 Defendants shall have fourteen (14) business days from the last day the payment is due to cure
10 the untimely payment. Defendants shall transmit the funds pursuant to the Settlement
11 Administrator's electronic transfer instructions. Defendants' payment obligations with respect
12 to the Gross Settlement Amount, Defendants' share of payroll taxes, and any cure payment shall
13 be met upon initiating the electronic transfer of funds to the Administrator, pursuant to the
14 Administrator's instructions. In the event of an unsuccessful electronic transfer of funds, the
15 Parties agree to cooperate in good faith to resolve the issues.

16 4.3. Payments from the Gross Settlement Amount. Within fourteen (14) business
17 days after Defendants fully fund the Gross Settlement Amount, the Administrator will mail
18 checks for the Individual Class Payments, Individual PAGA Payments, LWDA PAGA
19 Payment, Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel
20 Litigation Expenses Payment, and Class Representative Service Payment. Disbursement of the
21 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class
22 Representative Service Payment shall not precede disbursement of the Individual Class
23 Payments and Individual PAGA Payments.

24 4.3.1. The Administrator will issue checks for the Individual Class Payments
25 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S.
26 Mail, postage prepaid. The face of each check shall prominently state the date (not less than
27 180 calendar days after the date of mailing) when the check will be voided. The Administrator
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1 will cancel all checks not cashed by the void date. The Administrator will send checks for
2 Individual Settlement Payments to all Settlement Class Members, including those for whom
3 Class Notice was returned undelivered.

4 4.3.2. The Administrator will send checks for Individual PAGA Payments to all
5 Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved
6 Employees, including those for whom a Class Notice was returned undelivered. The
7 Administrator may send Settlement Class Members a single check combining his or her
8 Individual Class Payment and Individual PAGA Payment. Before mailing any checks, the
9 Administrator must update the recipients' mailing addresses using the National Change of
10 Address Database.

11 4.3.3. The Administrator must conduct a Class Member Address Search for all
12 other Class Members whose checks are returned undelivered without USPS forwarding
13 addresses. Within seven (7) calendar days of receiving a returned check the Administrator must
14 re-mail checks to the USPS forwarding address provided or to an address ascertained through
15 the Class Member Address Search. The Administrator need not take further steps to deliver
16 checks to Class Members whose re-mailed checks are returned as undelivered. The
17 Administrator shall promptly send a replacement check to any Class Member whose original
18 check was lost or misplaced, requested by the Class Member prior to the void date.

19 4.3.4. Any Individual Class Payment check or Individual PAGA Payment check
20 that is uncashed and cancelled after the void date shall be canceled and funds associated with
21 such checks shall be considered unpaid, unclaimed or abandoned cash residue pursuant to Code
22 of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue will be transmitted to
23 the State of California's Unclaimed Property Fund in the name of the Class Member and/or
24 Aggrieved Employee who did not timely negotiate their check.

25 4.3.5. The payment of Individual Class Payments and Individual PAGA
26 Payments shall not obligate Defendants to confer any additional benefits or make any additional
27 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
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1 this Agreement.

2 **5. RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire
3 Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the
4 Individual Class Payments, Plaintiff, Class Members and Class Counsel will release claims
5 against all Released Parties as follows:

6 5.1. Plaintiff's Release. In addition to the Released Class Claims and Released
7 PAGA Claims described below, Plaintiff and his respective former and present spouses,
8 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally,
9 release and discharge Released Parties from all claims, demands, rights, liabilities and causes of
10 action of every nature and description whatsoever, whether known or unknown, asserted or that
11 might have been asserted, whether in tort, contract, or for violation of any state or federal
12 statute, rule, law or regulation arising out of, relating to, or in connection with any act or
13 omission of the Released Parties through the date of full execution of this Settlement Agreement
14 in connection with his employment or the termination thereof ("Plaintiff's Release"). Plaintiff's
15 Release does not extend to any claims or actions to enforce this Agreement, or to those rights
16 that as a matter of law cannot be waived, including, but not limited to any claims for vested
17 benefits, unemployment benefits, disability benefits, social security benefits, or workers'
18 compensation benefits that arose at any time. Plaintiff acknowledges that he may discover facts
19 or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to
20 be true but agree, nonetheless, that Plaintiff's Release shall be and remain effective in all
21 respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

22 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.
23 For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
24 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

1 5.2. Released Class Claims by Settlement Class Members: All Settlement Class
2 Members, on behalf of themselves and their respective former and present representatives,
3 agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from
4 all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint,
5 and ascertained in the course of the Action, that arose during the Class Period including with
6 respect to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay
7 minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant
8 meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant
9 rest periods; (e) failure to issue accurate, itemized wage statements and maintain payroll
10 records; (f) failure to pay all wages due upon separation of employment; (g) failure to reimburse
11 for necessary business expenses; (h) all claims under California Business & Professions Code §
12 17200 for unfair business practices that could have been premised on the facts, claims, causes of
13 action or legal theories described above; (i) violation of or claims under the following sections
14 of the California Labor Code sections 201, 202, 203, 204, 206, 210, 218.6, 226, 226(c), 226.3,
15 226.7, 227.3, 510, 512, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802;
16 and (j) violation of the California Industrial Wage Orders that could have been premised on the
17 facts, claims, causes of action or legal theories described above, as well as any potential
18 penalties, interest or attorneys' fees associated with all of such causes of action under California
19 law ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Settlement
20 Class Members do not release any other claims, including claims for vested benefits, wrongful
21 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
22 disability, social security, workers' compensation, or claims based on facts occurring outside the
23 Class Period.

1 5.3. Released PAGA Claims by Aggrieved Employees: All Class Members who are
2 Aggrieved Employees, regardless of whether they are Settlement Class Members or Non-
3 Participating Class Members, are deemed to release, on behalf of themselves and their
4 respective former and present representatives, agents, attorneys, heirs, administrators,
5 successors, and assigns, the Released Parties from all claims demands, rights, liabilities and
6 causes of action under the California Labor Code Private Attorneys General Act that were
7 alleged, or reasonably could have been alleged, based on the claims asserted in the Operative
8 Complaint or Plaintiff's Notice of Labor Code Violations and PAGA Penalties and ascertained
9 in the course of the Action arising during or with respect to the PAGA Period, including, but not
10 limited to, civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1197.1, and 2699 in
11 connection with violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3, 246,
12 432, 510, 512, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 1198.5, 2802, and 2810.5 ("Released
13 PAGA Claims"). The Released PAGA Claims excludes all claims outside of the PAGA Period.

14 5.3.1. The foregoing release shall be binding on Plaintiff, the Aggrieved
15 Employees, and the State of California, and shall bar by res judicata any claim under the PAGA
16 brought by any person, including the Aggrieved Employees, on behalf of the State of California,
17 as to any claims predicated on the Released PAGA Claims.

18 **6. MOTION FOR PRELIMINARY APPROVAL.** Plaintiff will prepare and file a motion
19 for preliminary approval ("Motion for Preliminary Approval") that complies with California
20 law.

21 6.1. Responsibilities of Counsel. Class Counsel is responsible for timely finalizing
22 and filing the Motion for Preliminary Approval. The Parties are jointly responsible for
23 appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel
24 is responsible for delivering the Court's Preliminary Approval to the Administrator to initiate
25 the notice process.

1 6.2. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
2 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
3 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
4 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
5 Preliminary Approval or conditions Preliminary Approval on any material change to this
6 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
7 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement
8 and otherwise satisfy the Court's concerns.

9 **7. SETTLEMENT ADMINISTRATION.**

10 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc.
11 to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
12 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
13 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
14 represent that they have no interest or relationship, financial or otherwise, with the
15 Administrator other than a professional relationship arising out of prior experiences
16 administering settlements.

17 7.2. Employer Identification Number. The Administrator shall have and use its own
18 Employer Identification Number for purposes of calculating payroll tax withholdings and
19 providing reports to state and federal tax authorities.

20 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund
21 that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
22 Regulation section 468B-1.

23 7.4. Notice to Class Members.

24 7.4.1. No later than three (3) business days after receipt of the Class Data, the
25 Administrator shall notify Class Counsel that the list has been received and provide the number
26 of Class Members and Aggrieved Employees.

1 7.4.2. Using best efforts to perform as soon as possible, and in no event later
2 than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to
3 all Class Members identified in the Class Data, via first-class United States Postal Service
4 (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit**
5 **A**. The Class Notice shall prominently estimate the dollar amounts of any Individual Class
6 Payment and/or Individual PAGA Payment payable to the Settlement Class Member and/or
7 Aggrieved Employee. Before mailing Class Notices, the Administrator shall update Class Member
8 addresses using the National Change of Address database.

9 7.4.3. Not later than three (3) business days after the Administrator’s receipt of
10 any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class
11 Notice using any forwarding address provided by the USPS. If the USPS does not provide a
12 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-
13 mail the Class Notice to the most current address obtained. The Administrator has no
14 obligation to make further attempts to locate or send Class Notices to Class Members whose
15 Class Notice is returned by the USPS a second time.

16 7.4.4. The deadlines for Class Members’ written objections and Requests for
17 Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) days provided
18 in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will
19 inform the Class Member of the extended deadline with the re-mailed Class Notice.

20 7.4.5. If the Administrator, the Defendants, Defense Counsel or Class Counsel is
21 contacted by or otherwise discovers any persons who believe they should have been included in
22 the Class Data and should have received a Class Notice, the Parties will expeditiously meet and
23 confer in person or by telephone, and in good faith, in an effort to agree on whether to include
24 them as Class Members. If the Parties agree, such persons will be Class Members entitled to the
25 same rights as other Class Members, and the Administrator will send, via email or overnight
26 delivery, a Class Notice requiring them to exercise options under this Agreement no later than 14
27 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is later.
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1 7.5. Requests for Exclusion (Opt-Outs).

2 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class
3 Settlement must send the Administrator, by fax, email or mail, a signed written Request for
4 Exclusion no later than sixty (60) calendar days after the Administrator mails the Class Notice
5 (plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-
6 mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that
7 reasonably communicates the Class Member's election to be excluded from the Settlement and
8 includes the Class Member's name, address and email address or telephone number. To be
9 valid, a Request for Exclusion must be timely faxed, emailed or postmarked by the Response
10 Deadline.

11 7.5.2. The Administrator may not reject a Request for Exclusion as invalid
12 because it fails to contain all the information specified in the Class Notice. The Administrator
13 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
14 identity of the person as a Class Member and the Class Member's desire to be excluded. The
15 Administrator's determination shall be final and not appealable or otherwise susceptible to
16 challenge. If the Administrator has reason to question the authenticity of a Request for
17 Exclusion, the Administrator may demand additional proof of the Class Member's identity.

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

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

2 7.6. Objections to Settlement.

3 7.6.1. Only Settlement Class Members may object to the class action
4 components of the Settlement and/or this Agreement, including contesting the fairness of the
5 Settlement and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
6 Litigation Expenses Payment and/or Class Representative Service Payments. Non-Participating
7 Class Members have no right to object to any of the class action components of the Settlement.

8 7.6.2. Settlement Class Members may send written objections to the
9 Administrator, by fax, email, or mail. In the alternative, Settlement Class Members may appear
10 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final
11 Approval Hearing. A Settlement Class Member who elects to send a written objection to the
12 Administrator must do so not later than sixty (60) calendar days after the Administrator's
13 mailing of the Class Notice (plus an additional fourteen (14) calendar days for Class Members
14 whose Class Notice was re-mailed).

15 7.7. Administrator Duties. The Administrator has a duty to perform or observe all
16 tasks to be performed or observed by the Administrator contained in this Agreement.

17 7.7.1. Website, Email Address and Toll-Free Number. The Administrator will
18 establish and maintain and use an internet website to post information of interest to Class
19 Members including the date, time and location for the Final Approval Hearing and copies of the
20 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
21 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class
22 Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final
23 Approval and the Judgment. The Administrator will also maintain and monitor an email address
24 and a toll-free telephone number to receive Class Member calls, faxes and emails.

25 7.7.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
26 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
27 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
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1 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
2 and other identifying information of Class Members who have timely submitted valid Requests
3 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
4 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
5 Exclusion from Settlement submitted (whether valid or invalid).

6 7.7.3. Weekly Reports. The Administrator must, on a weekly basis, provide
7 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
8 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
9 Exclusion (whether valid or invalid) received, objections received, and checks mailed for
10 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly
11 Reports must include the Administrator’s assessment of the validity of Requests for Exclusion
12 and attach copies of all Requests for Exclusion and objections received.

13 7.7.4. Administrator’s Declaration. Not later than fourteen (14) days before the
14 date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
15 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
16 for filing in Court attesting to its due diligence and compliance with all of its obligations under
17 this Agreement, including, but not limited to, its mailing of the Class Notice, the Class Notices
18 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
19 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
20 number of written objections and attach the Exclusion List. The Administrator will supplement
21 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is
22 responsible for filing the Administrator’s declaration(s) in Court.

23 7.7.5. Final Report by Administrator. Within ten (10) days after the
24 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will
25 provide Class Counsel and Defense Counsel with a final report detailing its disbursements by
26 employee identification number only of all payments made under this Agreement. At least
27 fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and
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1 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court
2 attesting to its disbursement of all payments required under this Agreement. Class Counsel is
3 responsible for filing the Administrator's declaration in Court.

4 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records,
5 Defendants estimate that, as of the date of this Settlement Agreement, there are no more than
6 23,500 total Workweeks worked by all Settlement Class Members during the Class Period. If
7 the number of Workweeks, increases by more than 10% (more than 2,350), Defendants shall, at
8 their option, either (a) increase the Gross Settlement Amount proportionally by the Workweeks
9 in excess of 25,850 multiplied by the workweek value; or (b) cap the Release Period as of the
10 date that the 10% of Workweeks is exceeded. In the event Defendants choose option (a) to
11 increase the Gross Settlement Amount, the workweek value shall be calculated by dividing the
12 Gross Settlement Amount by 23,500. The Parties agree that the workweek value amounts to and
13 the settlement amounts to \$15.00 per Workweek ($\$352,500.00 / 23,500$ workweeks). Thus, for
14 example, should there be 27,000 Workweeks in the Class Period, then the Gross Settlement
15 Amount shall be increased by \$17,250.00 ($[27,000 \text{ workweeks} - 25,850 \text{ workweeks}] \times \15.00
16 per Workweek).

17 **9. DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for
18 Exclusion identified in the Exclusion List exceeds 10% of the Class Members representing more
19 than an aggregate total of 10% of the verified Workweeks, Defendants may, but are not
20 obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendants
21 withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that
22 neither Party will have any further obligation to perform under this Agreement; provided,
23 however, Defendants will remain responsible for paying all Settlement Administration
24 Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its
25 election to withdraw not later than seven (7) days after the Administrator sends the final
26 Exclusion List to Defense Counsel; late elections will have no effect.

1 **10. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the
2 calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of
3 the Settlement that includes a request for approval of the PAGA settlement under Labor Code
4 section 2699, subd. (l), a Proposed Final Approval Order, and a proposed Judgment
5 (collectively “Motion for Final Approval”).

6 10.1. Response to Objections. Each Party retains the right to respond to any objection
7 raised by a Settlement Class Member, including the right to file responsive documents in Court
8 no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
9 accepted by the Court.

10 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions
11 Final Approval on any material change to the Settlement (including, but not limited to, the
12 scope of release to be granted by Class Members), the Parties will expeditiously work together
13 in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain
14 Final Approval. The Court’s decision to award less than the amounts requested for the Class
15 Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation
16 Expenses Payment and/or Administration Expenses Payment shall not constitute a material
17 modification to the Agreement within the meaning of this paragraph.

18 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of
19 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely
20 for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
21 administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

22 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
23 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
24 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties,
25 their respective counsel, and all Settlement Class Members who did not object to the Settlement
26 as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights
27 to post-judgment and appellate proceedings, the right to file motions to vacate judgment,
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1 motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include
2 any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the
3 Judgment, the Parties' obligations to perform under this Agreement will be suspended until such
4 time as the appeal is finally resolved and the Judgment becomes final, except as to matters that
5 do not affect the amount of the Net Settlement Amount.

6 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
7 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
8 material modification of this Agreement (including, but not limited to, the scope of release to be
9 granted by Class Members), this Agreement shall be null and void. The Parties shall
10 nevertheless expeditiously work together in good faith to address the appellate court's concerns
11 and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional
12 Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate,
13 reverse, or modify the Court's award of the Class Representative Service Payments or any
14 payments to Class Counsel shall not constitute a material modification of the Judgment within
15 the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

16 11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil
17 Procedure section 384, the Parties will work together in good faith to jointly submit a proposed
18 amended judgment.

19 12. ADDITIONAL PROVISIONS.

20 12.1. No Admission of Liability, Class Certification or Representative Manageability
21 for Other Purposes. This Agreement represents a compromise and settlement of highly
22 disputed claims. Nothing in this Agreement is intended or should be construed as an admission
23 by Defendants that any of the allegations in the Operative Complaint have merit or that
24 Defendants have any liability for any claims asserted; nor should it be intended or construed as
25 an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree
26 that class certification and representative treatment is for purposes of this Settlement only. If,
27 for any reason the Court does not grant Preliminary Approval, Final Approval or enter
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1 Judgment, or if Defendants exercise their option pursuant to paragraph 9 of this Joint
2 Stipulation to nullify the settlement, Defendants reserve the right to contest certification of any
3 class for any reasons and all available defenses to the claims in the Action, and Plaintiff reserves
4 the right to move for class certification on any grounds available and to contest Defendants'
5 defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have
6 no bearing on, and will not be admissible in connection with, any litigation, except for
7 proceedings to enforce or effectuate the Settlement and this Agreement.

8 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel,
9 Defendants and Defense Counsel separately agree that, until the Motion for Preliminary
10 Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or
11 publicize, or cause or permit another person to disclose, disseminate or publicize, any of the
12 terms of the Agreement directly or indirectly, specifically or generally, to any person,
13 corporation, association, government agency, or other entity except: (1) to the Parties' attorneys,
14 accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2)
15 counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing
16 authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or
17 subpoena issued by a state or federal government agency.

18 12.3. Each Party agrees to immediately notify each other of any judicial or agency
19 order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and
20 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
21 communication, before the filing of the Motion for Preliminary Approval, with any third party
22 regarding this Agreement or the matters giving rise to this Agreement except to respond only
23 that "the matter was resolved," or words to that effect. This paragraph does not restrict Class
24 Counsel's communications with Class Members in accordance with Class Counsel's ethical
25 obligations owed to Class Members.

26 12.4. No Solicitation. The Parties separately agree that they and their respective
27 counsel and employees will not solicit any Class Member to opt out of or object to the
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1 Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to
2 restrict Class Counsel's ability to communicate with Class Members in accordance with Class
3 Counsel's ethical obligations owed to Class Members.

4 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this
5 Agreement together with its attached exhibits shall constitute the entire agreement between the
6 Parties relating to the Settlement, superseding any and all oral representations, warranties,
7 covenants, or inducements made to or by any Party.

8 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant
9 and represent that they are authorized by Plaintiff and Defendants, respectively, to take all
10 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
11 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
12 terms of this Agreement including any amendments to this Agreement.

13 12.7. Cooperation. The Parties and their counsel will cooperate with each other and
14 use their best efforts, in good faith, to implement the Settlement by, among other things,
15 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
16 points and authorities as requested by the Court. In the event the Parties are unable to agree
17 upon the form or content of any document necessary to implement the Settlement, or on any
18 modification of the Agreement that may become necessary to implement the Settlement, the
19 Parties will seek the assistance of a mediator and/or the Court for resolution.

20 12.8. No Prior Assignments. The Parties separately represent and warrant that they
21 have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
22 transfer, or encumber to any person or entity and portion of any liability, claim, demand, action,
23 cause of action, or right released and discharged by the Party in this Settlement.

24 12.9. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense
25 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
26 Settlement be relied upon as such within the meaning of United States Treasury Department
27 Circular 230 (31 CFR Part 10, as amended) or otherwise.
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1 12.10. Modification of Agreement. This Agreement, and all parts of it, may be
2 amended, modified, changed, or waived only by an express written instrument signed by all
3 Parties or their representatives, and approved by the Court.

4 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and
5 inure to the benefit of, the successors of each of the Parties.

6 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits
7 will be governed by and interpreted according to the internal laws of the state of California,
8 without regard to conflict of law principles.

9 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and
10 preparation of this Agreement. This Agreement will not be construed against any Party on the
11 basis that the Party was the drafter or participated in the drafting.

12 12.14. Confidentiality. To the extent permitted by law, all agreements made, and
13 orders entered during Action and in this Agreement relating to the confidentiality of information
14 shall survive the execution of this Agreement.

15 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant
16 to Cal. Evid. Code section 1152, and all copies and summaries of the Class Data provided to
17 Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or
18 in connection with the Settlement, may be used only with respect to this Settlement, and no
19 other purpose, and may not be used in any way that violates any existing contractual agreement,
20 statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges
21 the Administrator's obligation to provide a Declaration confirming the final pay out of all
22 Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received
23 from Defendants unless, prior to the Court's discharge of the Administrator's obligation,
24 Defendants make a written request to Class Counsel for the return, rather than the destructions,
25 of Class Data.

26 12.16. Headings. The descriptive heading of any section or paragraph of this
27 Agreement is inserted for convenience of reference only and does not constitute a part of this
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1 Agreement.

2 12.17. Calendar Days. Unless otherwise noted, all reference to “days” in this
3 Agreement shall be to calendar days. In the event any date or deadline set forth in this
4 Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first
5 business day thereafter.

6 12.18. Notice. All notices, demands or other communications between the Parties in
7 connection with this Agreement will be in writing and deemed to have been duly given as of the
8 third business day after mailing by United States mail, or the day sent by email or messenger,
9 addressed as follows:

10 To Plaintiff:

11 **MOON LAW GROUP, PC**

12 Kane Moon
13 Allen Feghali
14 Lannie Pham
15 1055 West Seventh Street, Suite 1880
16 Los Angeles, California 90017

17 To Defendants:

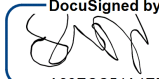
18 **FISHER & PHILLIPS, LLP**

19 Jeffrey R. Thurrell
20 Andrew C. Crane
21 2050 Main Street, Suite 1000
22 Irvine, California 92614


23 12.19. Execution in Counterparts. This Agreement may be executed in one or more
24 counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this
25 Agreement shall be accepted as an original. All executed counterparts and each of them will be
26 deemed to be one and the same instrument if counsel for the Parties will exchange between
27 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
28 prove the existence and contents of this Agreement.

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


Dated: 11/15/2023

By: 
DocuSigned by:
A89ECC54A4FE495
Gabriel Aguilar


Dated: 11/16/2023

By: 
For Tharaldson Hospitality
Management, LLC

Dated: 11/16/2023


By: 
For Tharaldson Hospitality Staffing,
LLC
MOON LAW GROUP, PC

Dated: 11/15/2023

By: 
Kane Moon, Esq.
Allen Feghali, Esq.
Lannie Pham, Esq.
Attorneys for Plaintiff, Gabriel Aguilar

FISHER & PHILLIPS, LLP

Dated: 11/17/2023

By: 
Jeffrey R. Thurrell, Esq.
Andrew C. Crane, Esq.
*Attorneys for Defendants, Tharaldson
Hospitality Management, LLC and
Tharaldson Hospitality Staffing, LLC*

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EXHIBIT A

NOTICE OF CLASS AND PAGA ACTION SETTLEMENT

Gabriel Aguilar v. Tharaldson Hospitality Management, LLC, et al.

Kern County Superior Court, Case No. BCV-22-101680

PLEASE READ THIS NOTICE

The above class and representative action (“Action”) was filed by Plaintiff Gabriel Aguilar (“Plaintiff”) against Defendants Tharaldson Hospitality Management, LLC and Tharaldson Hospitality Staffing, LLC (collectively, “Tharaldson”). In the Action, Plaintiff alleges Tharaldson failed to pay minimum wages for all hours worked; failed to pay overtime compensation; failed to provide compliant meal periods or compensation in lieu thereof; failed to provide compliant rest breaks or compensation in lieu thereof; failed to indemnify necessary business expenses; failed to timely pay all compensation due upon termination or resignation; failed to provide accurate itemized wage statements; engaged in unfair competition in violation of Business and Professions Code sections 17200, *et. seq.*; and owes civil penalties to the Labor and Workforce Development Agency (“LWDA”) and all Aggrieved Employees under the Private Attorneys General Act, California Labor Code sections 2698, *et. seq.* (“PAGA”). Tharaldson denies these allegations and contends that it complied with all applicable law.

A Joint Stipulation of Class and PAGA Action Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) has been reached in the Action and preliminarily approved by the Court. You have been identified by Tharaldson’s records as a Class Member, as defined below. Thus, you are subject to the terms of the Settlement. Please read this notice carefully, as it may affect your legal rights.

“Class” or “Class Member(s)” is defined as: all non-exempt employees of Tharaldson who have not signed arbitration agreements and who worked in California from October 1, 2020, through August 31, 2023 (“Class Period”). “Aggrieved Employee(s)” is defined as: all non-exempt employees of Tharaldson who have not signed arbitration agreements who worked in California from July 2, 2021, through August 31, 2023 (“PAGA Period”).

YOUR LEGAL RIGHTS AND OPTIONS WITH RESPECT TO THE SETTLEMENT	
Participate in the Settlement	If you want to be bound by the Settlement, remain in the Class, and receive your Individual Class Payment and, <i>if eligible</i> , Individual PAGA Payment, you do not need to do anything.
Exclude Yourself From the Settlement	If you do not want to be bound by the Settlement or remain in the Class, you should follow the instructions in Section 6, below. If you exclude yourself, you will not receive your Individual Class Payment, and you will not release the Released Claims against the Released Parties (defined in Section 4 below). If this Settlement is approved by the Court and you are an Aggrieved Employee, you <i>will</i> receive your Individual PAGA Payment and release the Released PAGA Claims, even if you exclude yourself from the Settlement.
Object to the Settlement	If you want to object to the Settlement but remain in the Class, you should follow the instructions in Section 7, below. If you object, you will still be bound by the terms of the Settlement, if the Settlement is approved by the Court.

1. WHY DID I GET THIS NOTICE?

You have received this Notice because Tharaldson's records reflect that you are a Class Member, as defined above. This Notice provides you with information about (1) the monetary terms of the Settlement, (2) your estimated Individual Class Payment, provided you remain a "Settlement Class Member" (*i.e.*, a Class Member who does not request to be excluded from the Settlement), (3) your estimated Individual PAGA Payment, provided you are an "Aggrieved Employee," (4) the claims that are being released under the Settlement, (5) how to participate in, exclude yourself from, or object to the Settlement, and (6) where to find additional information regarding the Action and Settlement.

2. WHAT IS THIS CASE ABOUT?

Plaintiff Gabriel Aguilar filed a Class Action Complaint on July 7, 2022, which commenced the lawsuit entitled *Gabriel Aguilar v. Tharaldson Hospitality Management, LLC, et al.*, Kern County Superior Court, Case No. BCV-22-101680. Plaintiff amended his Class Action Complaint to add a claim for civil penalties pursuant to the Private Attorneys General Act ("PAGA"), which was titled the First Amended Complaint (hereinafter the "Operative Complaint"). .

The Operative Complaint alleges that Tharaldson: failed to pay Class Members minimum wages for all hours worked; failed to pay Class Members overtime compensation; failed to provide Class Members with compliant meal periods or compensation in lieu thereof; failed to provide Class Members with compliant rest breaks or compensation in lieu thereof; failed to indemnify Class Members for necessary business expenses; failed to timely pay Class Members all compensation due upon termination or resignation; failed to provide Class Members with accurate itemized wage statements; engaged in unfair competition in violation of Business and Professions Code sections 17200, *et seq.*; and owes civil penalties under PAGA.

Tharaldson denies any liability or wrongdoing of any kind. Tharaldson contends, among other things, that it complied at all times with the California Labor Code, Industrial Welfare Commission Wage Orders and Business and Professions Code, that employees were correctly and timely paid all wages, and that meal periods and rest breaks were provided as required by applicable law.

The Court has not ruled on the merits of the claims alleged in the Operative Complaint. By preliminarily approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case on the merits. Rather, the Court has determined only that there is sufficient evidence to determine, on a preliminary basis, that the proposed Settlement is fair, adequate and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. Tharaldson reserves the right, if for any reason the Settlement fails, to contest any factual or legal allegations.

3. THE MONETARY TERMS OF THE SETTLEMENT AND CALCULATION OF YOUR INDIVIDUAL CLASS PAYMENT AND INDIVIDUAL PAGA PAYMENT

Without admitting any wrongdoing, and to avoid the business disruptions caused by litigating these claims, Tharaldson has agreed to pay a Gross Settlement Amount of Three Hundred Fifty-Two Thousand Five Hundred Dollars and Zero Cents (\$352,500.00) to settle the Action.

The following amounts will be paid from the Gross Settlement Amount:

- A Class Counsel Litigation Expenses Payment, which is not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) and is to be paid to Class Counsel for reimbursement of all reasonable litigation costs and expenses (“Class Counsel Litigation Expenses Payment”);
- A Class Counsel Fees Payment, which is not to exceed One Hundred Seventeen Thousand Five Hundred Dollars and Zero Cents (\$117,500.00) and is to be paid to Class Counsel for their work in furtherance of the Action (“Class Counsel Fees Payment”);
- An Administration Expenses Payment, which is not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) and is to cover costs incurred by the Administrator in administering the terms of the Settlement (“Administration Expenses Payment”);
- Class Representative Service Payment, which is not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) and is for Plaintiff’s service as Class Representative and his general releases (“Class Representative Service Payment”); and
- A PAGA Settlement Payment, which is Thirty Thousand Dollars and Zero Cents (\$30,000.00) and will be allocated to the payment of civil penalties under PAGA (“PAGA Settlement Payment”).

The amount remaining from the Gross Settlement Amount after the above amounts are deducted is called the Net Settlement Amount. The Net Settlement Amount will be allocated to all Settlement Class Members (*i.e.*, Class Members who do not request to be excluded from the Settlement) on a *pro rata* basis. Each such payment is called an Individual Class Payment and will be calculated as follows:

1. The Administrator will determine the number of weeks in which any Settlement Class Member actually worked one shift during the Class Period (“Workweeks”);
2. The Administrator will determine the value of a single Workweek by dividing the Net Settlement Amount by the total number of Workweeks worked by all Settlement Class Members; and
3. Each Settlement Class Member shall receive an Individual Class Payment equal to his or her Workweeks multiplied by the value of a single Workweek.

You have been credited with [REDACTED] Workweeks. Based on these Workweeks, your Individual Class Payment, prior to any applicable withholdings, is estimated to be \$ [REDACTED].

PAGA Settlement Payment: A total of Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Gross Settlement Amount has been allocated to the PAGA Settlement Payment. Seventy-five percent (75%) of this amount (\$22,500.00) (“LWDA PAGA Payment”) will be paid to the California LWDA, and twenty-five percent (25%) of this amount (\$7,500.00) (“Individual PAGA

Payment”) will be paid on a *pro rata* basis to all Aggrieved Employees. Each such payment is called an Individual PAGA Payment and will be calculated as follows:

1. The Administrator will determine the number of pay periods in which any Aggrieved Employee actually worked one shift during the PAGA Period (“PAGA Pay Periods”);
2. The Administrator will determine the value of a single PAGA Pay Period by dividing the Individual PAGA Payment by the total number of PAGA Pay Periods worked by all Aggrieved Employees; and
3. Each Aggrieved Employee shall receive an Individual PAGA Payment equal to his or her PAGA Pay Periods multiplied by the value of a single PAGA Pay Period.

You have been credited with [REDACTED] PAGA Pay Periods. Based on these PAGA Pay Periods, your Individual PAGA Payment is estimated to be \$ [REDACTED].

If you dispute the above information, you may submit a written dispute to the Administrator. Your Dispute must (1) contain your name, address, and telephone number and the case name and number of the Action (i.e., *Aguilar v. Tharaldson Hospitality Management, LLC, et al.*, Kern County Superior Court, Case No. BCV-22-101680; (2) be signed by you; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Administrator at the address or fax number listed below; (4) clearly state the basis on which you dispute your Individual Class or PAGA Payment; and (5) attach any documentary evidence you have in support of that basis.

[Administrator]
[contact info including e-mail address]

Twenty percent (20%) of each Individual Class Payment will be allocated to wages and subject to all applicable employee state and federal tax withholdings; forty percent (40%) of each Individual Class Payment will be considered penalties; and forty percent (40%) of each Individual Class Payment shall be allocated to interest and any other non-wage related amount. The amount allocated as wages will be reported on an IRS form W-2 and the remaining amount allocated as penalties, liquidated damages, interest and other non-wage payments will be reported on an IRS form 1099. One hundred percent (100%) of each Individual PAGA Payment will be allocated as penalties and reported on an IRS form 1099.

In addition to the Gross Settlement Amount, Tharaldson will pay all employer payroll taxes and contributions in connection with the portion of the Settlement allocated towards wages. Class Members are responsible for paying taxes on any amounts received. This Notice is not tax advice and you should consult your tax advisor.

Checks will be valid and negotiable for 180 days. After that, checks will become void and a stop payment will be placed on the uncashed checks. Settlement checks that are not cashed within 180 days of mailing, or are returned to the Administrator, will be cancelled, and the Administrator shall send the funds associated with uncashed checks to the State of California Unclaimed Property fund in the name of the Class Members or Aggrieved Employees who did not timely negotiate their settlement checks. Settlement Class Members who do not timely cash their checks should contact

the Administrator to determine how they can obtain their payment. **Settlement Class Members will be bound by the Settlement even if they do not cash their settlement checks.**

4. WHAT AM I RELEASING AS A CLASS MEMBER UNDER THE SETTLEMENT?

If and when the Court grants final approval of the Settlement, as of the Effective Date (as defined in the Agreement), all Class Members who do not opt out of the Settlement (*i.e.*, all Settlement Class Members) do and shall be deemed to have fully, finally and forever released, settled, compromised, relinquished and discharged any and all Released Class Claims against any and all Released Parties.

“Released Class Claims” means all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint, and ascertained in the course of the Action, that arose during the Class Period, including, but not limited to, the following claims: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime compensation; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (e) failure to issue accurate, itemized wage statements; (f) failure to pay all wages due upon separation of employment; (g) failure to reimburse for necessary business expenses; (h) all claims under California Business and Professions Code sections 17200, *et seq.* for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above; (i) violation of or claims under the following sections of the California Labor Code sections 201, 202, 203, 204, 206, 210, 218.5, 218.6, 226, 226(c), 226.3, 226.7, 227.3, 510, 512, 558, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2698, 2699, 2699.3, 2802; and (j) violation of the California Industrial Wage Orders that could have been premised on the facts, claims, causes of action or legal theories described above, as well as any potential penalties, interest or attorneys’ fees associated with all of such causes of action under California law.

“Released Parties” means Tharaldson and each of their past, present, and future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, attorneys; and any staffing agency, professional employer organization, or temporary employment agency utilized by Tharaldson during the Class Period.

5. WHAT AM I RELEASING AS AN AGGRIEVED EMPLOYEE UNDER THE SETTLEMENT?

If and when the Court grants final approval of the Settlement, as of the Effective Date (as defined in the Agreement), and after payment of all funds due under the terms of the Settlement, all Aggrieved Employees do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the Released Parties of and from any and all Released PAGA Claims. Released Parties is defined in Section 4 of this Notice, above.

“Released PAGA Claims” means all claims demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act that were alleged, or reasonably could

have been alleged, based on the claims asserted in the Operative Complaint or Plaintiff's Notice of Labor Code Violations and PAGA Penalties and ascertained in the course of the Action arising during or with respect to the PAGA Period.

AGGRIEVED EMPLOYEES CANNOT OPT-OUT OR EXCLUDE THEMSELVES FROM THE PAGA SETTLEMENT OR THE RELEASE OF RELEASED PAGA CLAIMS.

6. WHAT IF I DON'T WANT TO PARTICIPATE IN THE CLASS SETTLEMENT?

You have the right to request exclusion from the Settlement as a Class Member and with regards to the settlement of Released Class Claims, but you are not able to exclude yourself as an Aggrieved Employee. To exclude yourself as a Settlement Class Member, you should submit a written request for exclusion to the Administrator ("Opt Out Request") at the address or fax number listed in Section 3 of this Notice, above.

A valid and complete Opt Out Request must (1) contain the name, address and telephone number of the Class Member requesting exclusion and the case name and number of the Action (i.e., *Aguilar v. Tharaldson Hospitality Management, LLC, et al.*, Kern County Superior Court, Case No. BCV-22-101680); (2) be signed by the Class Member; (3) be postmarked, e-mailed or fax stamped on or before [Response Deadline] and returned to the Settlement Administrator at the specified address or fax number listed in Section 3 of this Notice, above; and (4) contain a statement substantially similar to:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS CLAIMS IN THE *AGUILAR V. THARALDSON HOSPITALITY*, LAWSUIT. I UNDERSTAND THAT THE PAGA CLAIM WILL STILL BE RELEASED AND SETTLED."

It is your responsibility to ensure that the Administrator timely receives your request to be excluded from the Settlement. Unless you timely request to be excluded from the Settlement, you will be bound by the judgment upon final approval of the Settlement.

7. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Settlement Class Member may object to the Settlement or to any settlement term. If you wish to object, you may submit your objection in writing to the Settlement Administrator ("Objection") at the specified address, e-mail address or fax number listed in Section 3 of this Notice, above. A valid and timely Objection should (1) contain the name, address and telephone number of the Settlement Class Member objecting and the case name and number of the Action (i.e., *Aguilar v. Tharaldson Hospitality Management, LLC, et al.*, Kern County Superior Court, Case No. BCV-22-101680); (2) be signed by the Settlement Class Member; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Settlement Administrator at the specified address or fax number listed in Section 3 of this Notice, above; and (4) give the legal and factual basis for their objection.

Filing an objection will **not** exclude you from the Settlement. If the Court grants final approval of the Settlement, you will still receive an Individual Class Payment and you will be barred from

pursuing the Released Class Claims. **Do not file both an Objection and Opt Out Request. You may file one or neither.** If you file neither, then you will be automatically included in the Settlement and do not need to take any further action to receive a payment.

8. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing is scheduled to take place on _____, at _____ a.m. in the Superior Court of the State of California, County of Kern, Department 17, located at 1215 Truxtun Ave., Bakersfield, CA 93301.

9. WHO ARE THE ATTORNEYS?

Attorneys for Plaintiff and the Class:

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Allen Feghali, Esq.
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Attorneys for Defendants:

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The Court has decided that the Attorneys for Plaintiff and the Class are qualified to represent the Settlement Class Members. Other than the Attorneys' Fees and Costs approved by the Court, to be paid out of the Gross Settlement Amount, **you will not be charged for their services.**

10. SHOULD I GET MY OWN LAWYER?

You do not need to get your own lawyer. If you want your own lawyer to speak for you or appear in Court, you have the right to hire one, but you will have to pay for that lawyer yourself.

11. FURTHER INFORMATION

The foregoing is only a summary of the Settlement. For the precise terms and conditions of the Settlement and other important case documents, please see the settlement agreement available at www._____.com, by contacting Class Counsel at the address or telephone number provided in Section 9, above, or by visiting the office of the Clerk of the Superior Court of the State of California, County of Kern, located at 1215 Truxtun Ave., Bakersfield, CA 93301, or the Court's website <https://www.kern.courts.ca.gov/>.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.