

Ernest M. Malaspina (State Bar No. 187946)
emalaspina@hopkinscarley.com
Michael W. M. Manoukian (State Bar No. 308121)
mmanoukian@hopkinscarley.com
HOPKINS & CARLEY
A Law Corporation
The Letitia Building
70 S First Street
San Jose, CA 95113-2406

mailing address:

P.O. Box 1469
San Jose, CA 95109-1469
Telephone: (408) 286-9800
Facsimile: (408) 998-4790

Attorneys for Defendant
TOTAL QUALITY MAINTENANCE, INC.

Cary Kletter (SBN 210230)
Kletter.Law
1528 S El Camino Real, Suite 306
San Mateo, CA 94402
E: cary@kletter.law
P: 415.434.3400

Attorneys for Plaintiffs ERIKA SANCHEZ CRUZ,
ESPERANZA GOMEZ, and on behalf of all
similarly situated persons

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

ERIKA SANCHEZ CRUZ, ESPERANZA
GOMEZ, and on behalf of all similarly
situated persons,

Plaintiffs,

v.

TOTAL QUALITY MAINTENANCE,
INC.; and DOES 1 through 20, inclusive,

Defendants.

CASE NO. 23CV413379

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

Action Filed: April 3, 2023
Trial Date: Not Yet Set

1 This Class Action and PAGA Settlement Agreement is entered into between Defendant
2 TOTAL QUALITY MAINTENANCE, INC. and Plaintiffs ERIKA SANCHEZ CRUZ, and
3 ESPERANZA GOMEZ, individually, and on behalf of all other similarly situated and as a
4 representative of the State of California.

5 **DEFINITIONS**

6 1. Action. The "Action" means the class and representative action
7 lawsuit entitled *Erika Sanchez Cruz, Esperanza Gomez*, filed in the Superior Court of California,
8 County of Santa Clara, Case No. 23CV413379.

9 2. Agreement. "Agreement" or "Settlement Agreement" shall refer to the
10 instant Class Action and PAGA Settlement Agreement.

11 3. Attorneys' Fees. "Attorneys' Fees" refers to the amount to be awarded to
12 Class Counsel for the work it has performed in furtherance of the Actions, which, pending Court
13 approval, shall not exceed Forty-One Thousand Eighty Five Dollars (\$41,085.00) and which
14 represents approximately one-third (1/3) of the Gross Settlement Amount.

15 4. Attorneys' Costs. "Attorneys' Costs" refers to the amount to be reimbursed
16 for Class Counsel's litigation costs and expenses, which, pending Court approval, shall not exceed
17 Five Thousand Dollars (\$5,000.00).

18 5. Class Counsel. "Class Counsel" shall mean Cary Kletter and Rachel Hallam
19 of Kletter Law and/or any successor(s) thereof.

20 6. Class Members and the Class. "Class Members" (individually, "Class
21 Member") are all current and former non-exempt employees of Total Quality Maintenance, Inc.
22 employed in California during the Class Period.

23 7. Class Notice. "Class Notice" means the Notice of Class Action and PAGA
24 Settlement mutually agreed upon by the Parties and approved by the Court to be sent to the Class
25 Members and PAGA Members following preliminary approval that includes the scope of release
26 language for Settled Claims and Settled PAGA Claims, notifies Class Members and PAGA
27 Members of the Settlement, explains the Class Members' options, including how Class Members
28 may opt out or object to the Settlement, and explains the facts and methods based on which the

Class Members' and PAGA Members' estimated settlement payments are calculated, substantially in the form attached hereto as Exhibit A.

8. Class Period. "Class Period" means April 3, 2019 to the date of the Preliminary Approval Order.

9. Class Settlement. "Class Settlement" refers to the settlement and resolution of the Settled Claims.

10. Complaint. "Complaint" refers to the operative complaint in the Class Action Complaint and PAGA Representative Complaint.

11. Court. "Court" refers to the Superior Court of California, Santa Clara County, or other court, that will approve the Agreement.

12. Day. "Day" or "days" refers to a calendar day(s) unless otherwise stated. If any designated date or deadline falls on a weekend or holiday, the designated date or deadline will occur on the next business day.

13. Defendant. "Defendant" means Total Quality Maintenance, Inc..

14. Effective Date. "Effective Date" of this Agreement means the first business day following the last of the following occurrences: (i) sixty (60) calendar days following the date the Court enters the Final Approval Order and Judgment; and (ii) if an appeal is taken from the Final Approval Order and Judgment, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible.

15. Final Approval Order and Judgment. "Final Approval Order and Judgment" means the order and judgment entered and filed by the Court, that: (1) ultimately approves this Agreement; (2) awards and orders the payment of all required amounts pursuant to the terms of this Agreement, and (3) enters judgment in connection with the Actions pursuant to California Rules of Court, 3.769, et seq. The Final Approval Order and Judgment will constitute a binding and final resolution, have full *res judicata* effect, and discharge Defendant and Released Parties from liability for any and all claims by Plaintiffs, all Settlement Class Members as to all Settled Claims, and the

1 State of California and PAGA Members as to all Settled PAGA Claims as set forth in this
2 Agreement.

3 16. Final Approval Hearing. "Final Approval Hearing" means the hearing at
4 which the Court shall consider the motion for final approval of this Settlement and determine
5 whether to fully and finally approve the fairness and reasonableness of this Settlement and
6 Agreement, and enter the Final Approval Order and Judgment.

7 17. Last Known Address. "Last Known Address" means the most recently
8 recorded mailing address for a Class Member and/or PAGA Member contained in Defendant's
9 payroll records.

10 18. Gross Settlement Amount. "Gross Settlement Amount" means a total
11 payment of One Hundred Twenty-Four Thousand, Five Hundred Dollars (\$124,500.00), payable
12 by Defendant under this Agreement. The Gross Settlement Amount includes all Attorneys' Fees,
13 Attorney's Costs, Settlement Administration Costs, Service Payment to Plaintiffs, the PAGA
14 Allocation, all wages withholdings for the wage portion of any individual settlement payments, and
15 the Net Distribution to Class Members. In no event shall Defendant be required to pay any amounts
16 above the Gross Settlement Amount to Plaintiffs, Class Counsel, the Class Members, the Labor and
17 Workforce Development Agency ("LWDA") or PAGA Members to effectuate this Agreement.
18 The Settlement Administrator will withhold the employees' share of wages withholding on
19 settlement payments, as provided below, and Class Members and PAGA Members shall remain
20 responsible for paying any additional taxes due on any payments they are issued under the
21 settlement. Defendant shall pay any and all employer side taxes outside of the settlement.

22 19. Net Distribution Fund. "Net Distribution Fund" means the amount available
23 for distribution to Settlement Class Members, which is the Gross Settlement Amount, less all
24 Attorneys' Fees, Attorney's Costs, Settlement Administration Costs, Service Payment to Plaintiffs,
25 and the PAGA Allocation. Each Settlement Class Member will be entitled to a *pro rata* share of
26 the Net Distribution Fund (referred to as "Individual Settlement Payment") based on the number of
27 Workweeks credited to each Settlement Class Member during the Class Period.

20. Objection. "Objection" means an objection to the Class Settlement that a Settlement Class Member submits in writing to the Settlement Administrator. Each "Objection" must (1) contain the full name, address, and telephone number of the Settlement Class Member objecting; (2) be signed by the Settlement Class Member; (3) be postmarked or fax stamped on or before the Response Deadline (as defined below) and returned to the Settlement Administrator at the specified address or fax number; and (4) give the factual basis for objection to the Class Settlement. If a Class Member submits both an Objection and an Opt Out Request, he or she will be excluded from the Class Settlement and the Objection will not be considered.

21. Opt Out Request. "Opt Out Request" means a request by a Class Member to be excluded from the Class Settlement. Each "Opt Out Request" must (1) contain the full name, address, and telephone number of the Class Member requesting exclusion from the Class Settlement and the case name and number of the Initial Class Action; (2) be signed by the Class Member; (3) be postmarked or fax stamped on or before the Response Deadline and returned to the Settlement Administrator at the specified address or fax number; and (4) contain a statement substantially similar to:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS CLAIMS IN THE CRUZ V. TOTAL QUALITY MAINTENANCE, INC. LAWSUIT, AND UNDERSTAND THAT IF I ASK TO BE EXCLUDED, I WILL NOT RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT. I UNDERSTAND THAT, NEVERTHELESS, SETTLED PAGA CLAIMS WILL BE RELEASED AND SETTLED."

22. Parties. "Parties" shall mean Plaintiffs and Defendant.

23. PAGA Allocation. "PAGA Allocation" refers to the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00) which is allocated to the settlement of the Settled PAGA Claims, which will be distributed 75% to the Labor and Workforce Development Agency ("LWDA Payment") and 25% to PAGA Members ("Net PAGA Distribution Amount"), on a *pro rata* basis ("Individual PAGA Payment(s)" refer to PAGA Members' *pro rata* share of 25% of the PAGA Allocation).

1 24. PAGA Members. “PAGA Members” means all current and former non-
2 exempt employees of Total Quality Maintenance, Inc. employed in the State of California during
3 the PAGA Period.

4 25. PAGA Period. “PAGA Period” means the period from January 28, 2022,
5 through the date of the Preliminary Approval Order.

6 26. PAGA Settlement. “PAGA Settlement” refers to the settlement and
7 resolution of the Settled PAGA Claims.

8 27. Plaintiffs. “Plaintiffs” mean Erika Sanchez Cruz and Esperanza Gomez.

9 28. Preliminary Approval Order. “Preliminary Approval Order” is the Order
10 entered and filed by the Court that preliminarily approves the terms and conditions of this
11 Agreement, including approval of the Parties’ Agreement that specifies the content of notice and
12 manner in which notice will be provided to the Class and responded to by the Class.

13 29. Released Parties. “Released Parties” means Defendant Total Quality
14 Maintenance, Inc. and each of its officers, directors, members, partners, owners, shareholders,
15 agents, servants, attorneys, assigns, affiliates, predecessors, successors, parent companies and
16 organizations, insurers, and any and all other persons, firms and corporations in which Defendant
17 may have an interest.

18 30. Response Deadline. The “Response Deadline” means the day that is forty-
19 five (45) days after the date the Class Notice is mailed to Class Members via First-Class U.S. Mail
20 and is the deadline to submit an Opt Out Request (as defined herein), Objection (as defined herein),
21 and/or Workweeks Dispute (as defined below). Any Class Members that have their notices remailed
22 shall have an additional fourteen (14) days to respond.

23 31. Service Payment. “Service Payment” refers to an individual payment to
24 Plaintiffs approved by the Court, not to exceed Seven Thousand Five Hundred (\$7,500.00), in
25 exchange for Plaintiffs’ service in furtherance of the Actions.

26 32. Settlement. “Settlement” shall refer to the agreement of the Parties to settle
27 the claims as set forth and embodied in this Agreement.

28

33. Settlement Administrator. "Settlement Administrator" shall mean ILYM Group, Inc., a neutral third party administrator mutually chosen by the Parties and approved by the Court.

34. Settlement Administration Costs. "Settlement Administration Costs" refers to the amount to be paid to the Settlement Administrator for the costs of administering this Settlement, not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00).

35. Settled Class Claims. "Settled Class Claims" means all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, whether known or unknown, that arise during the Class Period that each Settlement Class Member had, now has, or may hereafter claim to have against the Released Parties and that were asserted in the Complaint, or that could have been asserted in the Complaint based on any of the facts or allegations in the Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. The Settled Class Claims specifically include, but are not limited to claims for unpaid wages, claims for unpaid reporting time pay, claims for unpaid sick pay, the alleged failure to provide meal periods or compensation in lieu thereof, the alleged failure to provide paid rest periods, failure to timely furnish accurate itemized wage statements, record keeping violations, failure to timely pay wages, failure to reimburse business expenses, unfair business practices, and violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including and not limited to, for violations of California Labor Code §§ 201, 202, 203, 210, 212, 213, 226(a), 226.3, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, and Industrial Welfare Commission Wage Orders.

36. Settled PAGA Claims. "Settled PAGA Claims" means all claims for civil penalties that were asserted, or could have been asserted, or that arise, whether known or unknown, during the PAGA Period, based for any of the alleged violations of the California Labor Code and/or Industrial Welfare Commission Wage Orders that were asserted, or could have been asserted, within the Complaint and PAGA Notice based on any facts or allegations therein, including, but not limited to, violations of California Labor Code §§ 201, 202, 203, 210, 212, 213,

226(a), 226.3, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, and Industrial Welfare Commission Wage Orders.

37. Settlement Class/Settlement Class Member(s). “Settlement Class” or “Settlement Class Member(s)” means all Class Members who have not submitted a timely and valid Opt Out Request.

38. Settlement Proceeds Distribution Deadline. “Settlement Proceeds Distribution Deadline” means a date that is fourteen (14) days after the Gross Settlement Amount has been deposited by Defendant.

39. Updated Address. “Updated Address” means a mailing address that was updated by a reasonable address verification measure of the Settlement Administrator or by an updated mailing address provided by the United States Postal Service for a Class Member or PAGA Member.

40. Workweek. “Workweek” shall mean any calendar week (*i.e.*, a week beginning on Sunday and ending on Saturday) in which a Class Member or PAGA Member was employed by Defendant for at least one day. The Parties agree that, for purposes of determining a Class Member’s and/or PAGA Member’s Workweeks under this Agreement, Workweeks may be calculated as the number of days between a Class Member’s hire date(s) or the start of the applicable Class Period or PAGA Period, which ever is later, and termination date(s), or the date of preliminary approval of the Settlement Agreement in the absence of a subsequent termination date, based on a 360-day year (using Microsoft Excel’s DAYS360 or similar function which returns the number of days between two dates) and dividing the result by 7 and then rounding that number up to the nearest whole number.

RECITALS

41. Plaintiffs’ Class Action Complaint for Damages was filed on April 3, 2023 in the Superior Court of California, County of Santa Clara. Plaintiffs allege the following causes of action: (1) failure to pay all wages; (2) failure to pay overtime pay; (3) meal period violations; (4) rest period violation; (5) failure to provide accurate, itemized wage statement; (6) waiting time

1 panealties; (7) failure to wages timely during employment; and (8) unfair business practices; and
2 (9) PAGA.

3 42. Plaintiffs contend that on February 1, 2023, they provided the LWDA notice
4 of intent to pursue civil penalties against Defendant under the Private Attorneys General Act for
5 alleged violations of the California Labor Code and applicable Industrial Welfare Commission
6 Wage Orders (the "PAGA Notice").

7 43. There are approximately 577 putative class members who were employed
8 for approximately 53,758 workweeks during the Class period. For the PAGA claim, there are
9 approximately 337 allegedly aggrieved employees who were employed for approximately 9,743
10 pay periods during the putative PAGA period. A number of the individuals that were employed
11 during the Class/PAGA periods had one or more time periods where they were on TQM's payroll
12 but not actually working, i.e., they were inactive but not terminated. These periods of inactivity
13 reduce the number of workweeks and pay periods at issue given the employees were not performing
14 any work during the periods of inactivity.

15 44. Plaintiffs, on behalf of themselves and Class Members, and Defendant
16 attended and early neutral evaluation and mediation with David Sarnoff of Sarnoff Mediations on
17 October 2, 2023. The Parties did not resolve their claims on October 2, 2023, but continued
18 negotiations, which resulted in the instant Agreement.

19 45. The Parties agree that the terms and conditions of this Agreement are the
20 result of lengthy, intensive arms-length negotiations between the Parties supervised by an
21 experienced employment law mediator. The Parties agree that the Agreement is entered into in
22 good faith as to each Class Member and PAGA Member, and based on the difficulties of proof and
23 class certification, that the Settlement is fair, reasonable and adequate as to each Class Member and
24 PAGA Member.

25 **TERMS AND CONDITIONS OF SETTLEMENT**

26 NOW THEREFORE, in consideration of the recitals listed above and the promises and
27 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of
28 the consideration and undertakings set forth herein, Plaintiffs, individually on their own behalf and

1 on behalf of the Class Members and the State of California pursuant to the Private Attorneys
2 General Act, on the one hand, and Defendant, on the other hand, agree that the Actions shall be,
3 and are finally and fully compromised and settled on the following terms and conditions.

4 46. Non-Admission of Liability. The Parties enter into this Agreement to
5 resolve the Actions and to avoid the burden, expense, and risk of continued litigation. In entering
6 into this Agreement, Defendant does not admit, and specifically denies, that Defendant has: violated
7 any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any
8 statute or any other applicable laws, regulations, or legal requirements; breached any contract; or
9 engaged in any other culpable, wrongful or unlawful conduct with respect to its employees or any
10 other person or entity. Neither this Agreement, nor any of its terms or provisions, nor any of the
11 negotiations connected with it or proceedings, payouts, or other events associated with it, shall be
12 construed as an admission or concession by Defendant of any such violation(s) or failure(s) to
13 comply with any applicable law by Defendant or any Released Parties. The Parties intend this
14 Settlement to be contingent upon the Court's granting preliminary and final approval of this
15 Agreement; and in the event final approval of this Agreement is not obtained, the Parties do not
16 waive, and instead expressly reserve, their respective rights to prosecute and defend the Actions as
17 if this Agreement never existed. In the event that final approval of this Agreement is denied by the
18 Court, fails to become effective, or is reversed, withdrawn, or modified by the Court or any other
19 court with jurisdiction over the Actions, the Agreement shall become null and void *ab initio* and
20 shall have no bearing on, and shall not be admissible in connection with, further proceedings in the
21 Actions.

22 47. Stipulation for Class Certification. The Parties stipulate to the certification
23 of the Class for purposes of this Settlement only. If, however, the Settlement does not become final
24 for any reason, the Parties' Agreement shall become null and void *ab initio* and shall have no
25 bearing on, and shall not be admissible in connection with, whether class certification would be
26 appropriate in any other context in the Actions, or any other action.

27 48. Release of Settled Class Claims. As of the Effective Date and full funding
28 of the Gross Settlement Amount, Plaintiffs and all Settlement Class Members shall be deemed to

1 have fully, finally, and forever released, settled, compromised, relinquished, and discharged any
2 and all Settled Class Claims against any and all Released Parties. The Settlement includes a release
3 of all Settled Class Claims during the Class Period by Settlement Class Members.

4 a. The Parties agree for settlement purposes only that, because the Class
5 Members are so numerous, it is impossible or impracticable to have each Class Member execute
6 this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature
7 of the Class Settlement as to Settlement Class Members and the binding nature of the PAGA
8 Settlement as to the State of California and all PAGA Members, and such notice shall have the
9 same force and effect as if the Agreement were executed by each Class Member.

10 b. The Parties agree that this is a settlement of disputed claims not
11 involving undisputed wages, and that Labor Code Section 206.5 is therefore inapplicable.

12 49. Release of Settled PAGA Claims. As of the Effective Date and full funding
13 of the Gross Settlement Amount, the State of California, with respect to Plaintiffs and all PAGA
14 Members, shall be deemed to have fully, finally, and forever released, settled, compromised,
15 relinquished, and discharged any and all of the Released Parties of and from any and all Settled
16 PAGA Claims. The Parties agree that it is their intent that the terms set forth in this Agreement
17 will release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or
18 other action of any kind, by each and every PAGA Member to obtain any recovery based on the
19 Settled PAGA Claims.

20 50. Calculation of Settlement Payments. The Gross Settlement Amount shall be
21 apportioned as follows:

22 a. Attorneys' Fees. Class Counsel will apply to the Court for an award
23 of attorneys' fees of one-third (1/3) of the Gross Settlement Amount, which is no more than Forty-
24 One Thousand Eighty-Five Dollars (\$41,085.00) (*i.e.*, Attorneys' Fees). The Attorneys' Fees shall
25 be paid from and be deducted from the Gross Settlement Amount subject to Court approval, and
26 Defendant will not oppose such application. In the event the Court approves an amount of
27 attorneys' fees that is less than the amount provided herein, the unawarded amount shall become
28 part of the Net Distribution Fund for distribution to Settlement Class Members. Any reduction by

1 the Court shall not constitute grounds for revocation or cancellation of this Agreement by Plaintiffs,
2 or grounds for an appeal of the Court's Order approving Attorneys' Fees.

3 b. Attorneys' Costs. Class Counsel shall request approval of an amount
4 not to exceed Five Thousand Dollars (\$5,000.00) for reimbursement of litigation costs and expenses
5 incurred in the Actions (*i.e.*, Attorneys' Costs), which will be paid and deducted from the Gross
6 Settlement Amount subject to Court approval. Defendant will not oppose such application. Any
7 unawarded Attorneys' Costs shall become part of the Net Distribution Fund for distribution to
8 Settlement Class Members. Any reduction by the Court shall not constitute grounds for revocation
9 or cancellation of this Agreement by Plaintiffs, or grounds for an appeal of the Court's Order
10 approving attorneys' costs. Attorneys' Fees as specified in the preceding paragraph and Attorneys'
11 Costs as specified in this paragraph shall cover all claimed and unclaimed Attorneys' Fees,
12 Attorneys' Costs, and other amounts payable or awardable against Defendant for Class Counsel's
13 work, effort, or involvement in the Actions and in carrying out the Agreement and includes any and
14 all work, effort, or involvement to carry out the terms of the Agreement and as may be potentially
15 or actually necessary or advisable to defend the Agreement and/or Settlement through appeal, or
16 collateral attack or in any other forum or proceeding. These specified Attorneys' Fees and
17 Attorneys' Costs shall be the sole payment for attorneys' fees and costs and, otherwise, the Parties
18 and Class Members and their counsel shall bear their own fees and costs in connection with the
19 Actions.

20 c. Settlement Administration Costs. Class Counsel will also apply to
21 the Court for approval of costs of settlement administration in an amount estimated to be up to
22 Eight Thousand Dollars (\$8,000.00), which the Parties agree will be paid and deducted from the
23 Gross Settlement Amount (*i.e.*, Settlement Administration Costs) subject to Court approval. Any
24 unawarded amount shall become part of the Net Distribution Fund for distribution to Settlement
25 Class Members. Class Counsel will specify the amount sought for such costs, up to the foregoing
26 maximum, in Plaintiffs' motion for final approval of the Settlement.

27 d. Plaintiffs' Service Payment. Class Counsel will apply to the Court
28 for approval of an enhancement award for Plaintiffs in an amount not to exceed Seven Thousand

Five Hundred Dollars (\$7,500.00) each to be paid and deducted from the Gross Settlement Amount, subject to Court approval. Defendant will not oppose such application. Any unawarded amount shall become part of the Net Distribution Fund for distribution to Settlement Class Members. Any reduction by the Court shall not constitute grounds for revocation or cancellation of this Agreement by Plaintiffs, or grounds for an appeal of the Court's Order approving Plaintiffs' Service Payment.

e. PAGA Allocation and Payments. Pursuant to California Labor Code Section 2698, *et seq.*, the Parties designate Twenty Thousand Dollars (\$20,000.00) of the Gross Settlement Amount to resolve the Settled PAGA Claims (*i.e.*, the PAGA Allocation). Pursuant to the California Labor Code, seventy-five percent (75%) of the PAGA Allocation, which is Fifteen Thousand Dollars (\$15,000.00), will be paid to the LWDA (*i.e.*, the LWDA Payment). The remaining twenty-five percent (25%) of the PAGA Allocation, which is Five Thousand Dollars (\$5,000.00) ("Net PAGA Distribution Amount"), shall be paid to PAGA Members on a *pro rata* basis based on the number of Workweeks worked by the PAGA Member during the PAGA Period as follows:

i. The Settlement Administrator will use the number of Workweeks worked by PAGA Members during the PAGA Period ("Qualifying PAGA Workweek(s)") as reflected in the Class List to be provided by Defendant to the Settlement Administrator;

ii. Each of the PAGA Members is eligible to receive a *pro rata* share of the Net PAGA Distribution Amount based on his or her share of the total number of Qualifying PAGA Workweeks worked.

iii. The value of a single Qualifying PAGA Workweek shall be determined by dividing the Net PAGA Distribution Amount by the total number of Qualifying PAGA Workweeks by all PAGA Members. Each PAGA Member shall receive an Individual PAGA Payment equal to his or her individual Qualifying PAGA Workweeks multiplied by the value of a single Qualifying PAGA Workweek. PAGA Members shall receive their respective PAGA Payments regardless of whether they opt out with respect to their class claims.

f. Net Distribution Fund and Individual Settlement Payments to Settlement Class Members. Individual Settlement Payments to the Settlement Class Members will be calculated as follows:

i. The Settlement Administrator will use the number of Workweeks worked by Class Members during the Class Period ("Qualifying Workweek(s)") as reflected in the Class List to be provided by Defendant to the Settlement Administrator;

ii. Each of the Class Members is eligible to receive a *pro rata* share of the Net Distribution Fund based on his or her share of the total number of Qualifying Workweeks worked.

iii. The value of a single Qualifying Workweek shall be determined by dividing the Net Distribution Fund by the total number of Qualifying Workweeks worked by all Settlement Class Members. Each Settlement Class Member shall receive a gross Individual Settlement Payment equal to his or her Qualifying Workweeks multiplied by the value of a single Qualifying Workweek.

g. The Parties agree that under no circumstances shall Defendant be obligated to pay any amounts under this Agreement to any Class Member other than the Individual Settlement Payment to Settlement Class Members and Individual PAGA Payment to PAGA Members that is provided for under this Agreement.

h. The Parties acknowledge and agree that the formula used to calculate Individual Settlement Payments and Individual PAGA Payments does not imply that all of the elements of damages covered by the release are not being taken into account.

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

1 will not affect any rights, contributions, or amounts to which any Settlement Class Members and/or
2 PAGA Members may be entitled under any benefit plans.

3 52. Taxation of Settlement Proceeds.

4 a. The Parties agree that the Individual Settlement Payments shall be
5 allocated as follows: twenty five percent (25%) of each participating Class Member's Individual
6 Settlement Payment will be allocated to settlement of wage claims (the "Wage Portions"), and
7 seventy five percent (75%) allocated to penalties and interest. The Wage Portions are subject to tax
8 withholding and will be reported on an IRS W-2 Form. The portion allocated to penalties and
9 interest (i.e. Non-Wage Portions) are not subject to wage withholdings and will be reported on IRS
10 1099 Forms (if required). Participating Class Members assume full responsibility and liability for
11 any employee taxes owed on their Individual Settlement Payment.

12 b. The Individual PAGA Payments to PAGA Members will be
13 designated one hundred percent (100%) as penalties and will be report on an IRS Form 1099 (if
14 required).

15 c. The Settlement Administrator shall calculate, withhold from the
16 Individual Settlement Payments, and remit to applicable governmental agencies sufficient amounts,
17 if any, as may be owed by Settlement Class Members for applicable employee taxes. The
18 Settlement Administrator will issue appropriate tax forms, as required, to each such Settlement
19 Class Member and PAGA Member consistent with the above allocations.

20 d. All Parties represent that they have not received, and shall not rely
21 on, advice or representations from other Parties or their agents regarding the tax treatment of
22 payments under federal, state, or local law. In this regard, Defendant makes no representations
23 regarding the taxability of the Individual Settlement Payments, Individual PAGA Payments, or any
24 other payments made under this Agreement.

25 e. Class Counsel will be issued an IRS Form 1099 for the Attorneys'
26 Fees and Attorneys' Costs awarded by the Court.

1 f. Plaintiffs will be issued an IRS Form 1099 for any Service Payments
2 approved by the Court. The Service Payments payable to Plaintiffs shall be in addition to the
3 Individual Settlement Payment and, if applicable, Individual PAGA Payment that they will receive.

4 53. Provisional Approval of Settlement. Within thirty (30) calendar days of all
5 Parties signing this Agreement, Plaintiffs shall file a motion in the Initial Class Action and take all
6 other necessary steps to request that the Court enter the Preliminary Approval Order based on an
7 agreed-upon Settlement schedule, subject to Court approval, including:

8 a. Class certification on the terms set forth in this Agreement solely for
9 purposes of Settlement;

10 b. Preliminarily approving the proposed Settlement and this
11 Agreement, including the payments to the Settlement Class Members, Class Counsel, Plaintiffs,
12 PAGA Members, the Settlement Administrator, and the LWDA;

13 c. Preliminarily approving the appointment of Plaintiffs as
14 representatives of the Class for settlement purposes;

15 d. Preliminarily approving the appointment of counsel for Plaintiffs as
16 Class Counsel;

17 e. Appointing and approving the Settlement Administrator, to comply
18 with the duties and obligations as required by this Agreement;

19 f. Approving the form of the Class Notice mutually agreed upon by the
20 Parties;

21 g. Scheduling the Final Approval Hearing for consideration of whether
22 to grant final approval of this Agreement;

23 h. Approving the procedure to submit an Opt Out Request, Objection,
24 or Workweeks Dispute;

25 Defendant shall not oppose Plaintiffs' motion for preliminary approval and final
26 approval of the Settlement so long as the motions and supporting papers are consistent with the
27 terms of this Agreement. Class Counsel shall provide Defendant with at least two (2) business days
28 to review and provide comments on the motions for preliminary and final approval of the

1 Settlement before the motions and supporting papers are filed with the Court. Failure of the Court
2 to grant preliminary approval will be grounds for the Parties to terminate the Settlement and the
3 terms of the Agreement. A request by the Court for supplemental briefing, or a preliminary denial
4 pending additional briefing, shall not be deemed a denial of preliminary approval or final approval.
5 To the extent the Court requests further or supplemental briefing, the Parties will work in good faith
6 to address the Court's concerns and questions.

7 54. Notice Procedure.

8 a. *Class and PAGA Member Data.* Within twenty-one (21) calendar
9 days after notice of entry of the Preliminary Approval Order, Defendant shall provide to the
10 Settlement Administrator a data file that identifies for each individual, his/her full name, last-known
11 address, Social Security number, and the number of Qualifying Workweeks and, if applicable,
12 Qualifying PAGA Workweeks for each Class Member (collectively referred to as the "Class List").
13 The Settlement Administrator will keep the Class List confidential and shall not provide it to
14 anyone, including Class Counsel, absent express written approval from Defendant, and shall use it
15 only for the purposes described herein, take adequate safeguards to protect confidential or private
16 information, and return or certify the destruction of the information upon completion of the
17 Settlement Administration process.

18 b. *Settlement Administrator Duties.* Prior to mailing the Class Notice,
19 the Settlement Administrator will update the addresses for the Class Members and PAGA Members
20 using skip trace. To the extent this process yields a different address from the one supplied by
21 Defendant, that Updated Address shall replace the address supplied by Defendant (*i.e.*, Last Known
22 Address) and be treated as the new Last Known Address for purposes of this Agreement and for
23 subsequent mailings in particular.

24 c. *Notice Process.* Within fourteen (14) calendar days following
25 receipt of the Class List, the Settlement Administrator shall prepare and mail the approved Class
26 Notice in English and Spanish. The Settlement Administrator shall deliver the Class Notice by
27 First-Class U.S. Mail to each Class Member and PAGA Member's Last Known Address or Updated
28 Address (if applicable).

1 d. *Opt Out Request.* Any Class Member may exclude himself or herself
2 from the Class Settlement. Any such Opt Out Request must be submitted to the Settlement
3 Administrator in writing on or before the Response Deadline. Opt Out Requests do not apply to
4 the PAGA Settlement; PAGA Members will be bound to the PAGA Settlement (*i.e.*, the settlement
5 and release of Settled PAGA Claims) irrespective of whether they exclude themselves from the
6 Class Settlement.

7 e. *Objections.* Any Settlement Class Member may object to the
8 Class Settlement by submitting an Objection to the Settlement Administrator. The Parties shall be
9 permitted to file responses to any Objections prior to the Final Approval Hearing and/or to respond
10 to or address the Objection at the Final Approval Hearing. At no time shall any of the Parties or
11 their counsel seek to solicit or otherwise encourage Settlement Class Members to submit any
12 Objections to the Settlement or appeal from the Final Approval Order and Judgment. Class Counsel
13 shall not represent any Settlement Class Members with respect to any such Objections. Within two
14 (2) business days after receipt of an Objection, the Settlement Administrator shall serve the
15 Objection on the Parties, and at least sixteen (16) court days before the Final Approval Hearing,
16 the Settlement Administrator shall submit all Objections received by the Settlement Administrator
17 to the Court. The Court may consider any Opt Outs, and/or Objections submitted at or before the
18 hearing on Final Approval.

19 55. *Workweeks Disputes.* Class Members will have the right to challenge the
20 number of Qualifying Workweeks and/or Qualifying PAGA Workweeks allocated to them. Class
21 Members shall have until the Response Deadline to submit to the Settlement Administrator their
22 dispute in writing ("Workweek Dispute") in English or Spanish at the address indicated on the
23 Class Notice. Each Workweeks Dispute must: (1) contain the full name, address, and telephone
24 number of the Class Member and reference this Settlement; (2) be signed by the Class Member; (3)
25 be postmarked or fax stamped on or before the Response Deadline and returned to the Settlement
26 Administrator at the specified address or fax number; (4) clearly state the number of Workweeks
27 and/or PAGA Workweeks he or she believes is correct; and (5) attach any documents the Class
28 Member has to support his or her position that they be credited with the contended number of

1 Workweeks and/or PAGA Workweeks. The Settlement Administrator will inform Class Counsel
2 and Defendant's counsel in writing of any timely submitted Workweeks Disputes. Defendant shall
3 have the right to respond to any Workweek Dispute submitted by any Class Members within seven
4 (7) calendar days of being informed of a timely submitted Workweek Dispute, and shall cooperate
5 in providing the Settlement Administrator with information to determine all such Workweek
6 Disputes. The Settlement Administrator will determine all such Workweek Disputes following
7 Defendant's opportunity to respond. Subject to Court approval, Workweek Disputes will be
8 resolved without hearing by the Settlement Administrator, who will make a decision based on
9 Defendant's records and any documents or other information presented by the Class Member and/or
10 PAGA Member making the Workweek Dispute, Class Counsel, or Defendant.

11 f. *Settlement Administrator Follow-up efforts.*

12 i. If a Class Notice is returned by the Post Office as
13 undeliverable, but with a forwarding address, on or before the Response Deadline, then, the
14 Settlement Administrator shall re-mail it by First-Class U.S. mail. If a Class Member personally
15 provides an updated address to the Settlement Administrator on or before the Response Deadline,
16 then, the Settlement Administrator shall re-mail said Class Member's Class Notice by First-Class
17 U.S. mail to the updated address provided by the Class Member. If a Class Notice is returned by
18 the Post Office as undeliverable, without a forwarding address, on or before the Response Deadline,
19 then, the Settlement Administrator shall conduct a search of the National Change of Address
20 database and, if an alternate address that is likely to be more current is located, proceed to re-mail
21 the Class Notice by First-Class U.S. mail to the alternate address.

22 g. *Documenting Communications.* The Settlement Administrator shall
23 date stamp documents it receives, including Opt Out Requests, Objections, Workweek Disputes,
24 and any correspondences and documents from Class Members and PAGA Members.

25 h. *Settlement Administrator Declaration.* At least fifteen (15) court
26 days before the Final Approval Hearing, the Settlement Administrator shall prepare, subject to the
27 Parties' input and approval, a declaration setting forth the due diligence and proof of mailing of the
28 Class Notice, the results of the Settlement Administrator's mailings, including tracing and re-

1 mailing efforts, and the Class Members' and PAGA Members' responses to those mailing, and
2 provide additional information deemed necessary to approve the settlement.

3 i. *Settlement Administrator Written Reports.* Once every two weeks
4 after initially mailing the Class Notices and prior to the Response Deadline, the Settlement
5 Administrator shall provide the Parties with a report listing the number of Class Members that
6 submitted Opt Out Requests, Objections, and/or Workweek Disputes. Within seven (7) calendar
7 days after the Response Deadline, the Settlement Administrator will provide a final report listing
8 the number of Class Members who submitted Opt Out Requests, Objections, and/or Workweeks
9 Disputes.

10 j. *Settlement Administrator Calculations of Individual Settlement*
11 *Payments.* Within seven (7) calendar days after resolving all Workweek Disputes made by
12 Settlement Class Members, and following entry of the Final Approval Order and Judgment, the
13 Settlement Administrator shall provide to the Parties a report showing its calculation of all amounts
14 that must be funded by Defendant under the Settlement, including and not limited to, calculations
15 of the Individual Settlement Payments to be made to Settlement Class Members and Individual
16 PAGA Payments to be made to PAGA Members. After receiving the Settlement Administrator's
17 report, Class Counsel and Defendant's counsel shall review the same to determine if the calculation
18 of payments is consistent with this Agreement and the Court's orders, and shall notify the
19 Settlement Administrator if either counsel does not believe the calculation is consistent with the
20 Agreement and/or the Court's orders. After receipt of comments from counsel, the Settlement
21 Administrator shall finalize its calculations of payments, at least five (5) calendar days prior to the
22 distribution of such payments, and shall provide Class Counsel and Defendant's counsel with a
23 final report listing the amount of all payments to be made to each Settlement Class Member from
24 the Net Distribution Fund and listing the amount of all payments to be made to each PAGA Member
25 from the Net PAGA Distribution Amount. The Settlement Administrator will also provide
26 information that is requested and approved by both Parties regarding its duties and other aspects of
27 the Settlement, and that is necessary to carry out the terms of the Settlement.

28 56. Requirements for Recovery of Individual Settlement Payments.

1 a. *Class Members.* No claim form is necessary to participate in the
2 Class Settlement. Unless a Class Member submits a valid and timely Opt Out Request, that Class
3 Member will be a Settlement Class Member, bound by the Final Approval Order and Judgment and
4 Class Settlement, and will receive a payment from the Net Distribution Fund (*i.e.*, an Individual
5 Settlement Payment).

6 b. *PAGA Members.* All PAGA Members shall be bound by the PAGA
7 Settlement, and will be issued payment from the Net PAGA Distribution Amount (*i.e.*, and
8 Individual PAGA payment).

9 c. *Late Submissions.* The Settlement Administrator shall not accept as
10 timely any Opt Out Request, Objection, or Workweek Dispute postmarked after the Response
11 Deadline. It shall be presumed that, if an Opt Out Request, Objection, or Workweek Dispute is not
12 postmarked or fax stamped on or before the Response Deadline, the Class Member did not return
13 the Opt Out Request, Objection, or Workweek Dispute in a timely manner. However, the Court
14 may consider any Opt Outs, and/or Objections submitted at or before the Final Approval Hearing.

15 d. *Opt-Out Procedure.* A Class Member will not be entitled to opt out
16 of the Class Settlement established by this Agreement unless he or she submits to the Settlement
17 Administrator a timely and valid Opt Out Request.

18 i. The Settlement Administrator shall not have the authority to
19 extend the deadline for Class Members to submit an Opt Out Request absent agreement by both
20 Parties.

21 ii. Class Members shall be permitted to rescind in writing their
22 Opt Out Request by submitting a written rescission statement to the Settlement Administrator no
23 later than the day before the Final Approval Hearing.

24 iii. If more than ten percent (10%) of the Class Members timely
25 opt out of the Class Settlement, Defendant shall have the sole and absolute discretion to withdraw
26 from this Agreement within seven (7) calendar days after the Response Deadline and written notice
27 from the Settlement Administrator of the final opt out rate. Defendant shall provide written notice
28 of such withdrawal to Class Counsel. In the event that Defendant elects to so withdraw, the

1 withdrawal shall have the same effect as a termination of this Agreement for failure to satisfy a
2 condition of Settlement, and the Agreement shall become null and void and have no further force
3 or effect, and Defendant will be responsible for any and all Settlement Administration Costs
4 incurred thus far.

5 57. Final Approval Hearing and Final Approval Order and Judgment.

6 a. *Entry of Final Judgment.* At the Final Approval Hearing, Plaintiffs
7 will request, and Defendant will concur in said request, that the Court enter a jointly-agreed upon
8 Final Approval Order and Judgment.

9 b. *Motion.* Within thirty (30) calendar days of the Response Deadline,
10 Plaintiffs will draft and file a motion for final approval in conformity with any requirements from
11 the Court and will take any other actions necessary to request the entry of a Final Approval Order
12 and Judgment in accordance with this Agreement. In conjunction with the motion for final approval
13 and requesting an award of Attorneys' Fees, Attorneys' Costs, and Service Payment, Class Counsel
14 shall file a declaration from the Settlement Administrator confirming that the Class Notice was
15 mailed to all Class Members as required by this Agreement, as well as any additional information
16 Class Counsel, with the input and approval of Defendant, deems appropriate to provide to the Court.

17 c. *Order.* The Parties shall take all reasonable efforts to secure entry of
18 the Final Approval Order and Judgment. If the Court denies final approval of the Settlement, this
19 Agreement shall be void *ab initio*, and Defendant shall have no obligation to make any payments
20 under the Agreement besides any Settlement Administration Costs incurred thus far. A request by
21 the Court for supplemental briefing, or a preliminary denial pending additional briefing, shall not
22 be deemed a denial of final approval of the Settlement. To the extent the Court requests further or
23 supplemental briefing, the Parties will work in good faith to address the Court's concerns and
24 questions. Said Final Approval Order and Judgment shall contain the following provisions:

25 i. Wherein the Court enters judgment, finding that this
26 Agreement and Settlement is fair, just, equitable, reasonable, adequate, and in the best interests of
27 the Class and was reached as a result of intensive, serious, and non-collusive arms-length
28

negotiations and was achieved with the aid of an experienced mediator and in good faith as to each Class Member;

ii. Affirming that each side will bear its own costs and fees (including attorneys' fees), except as provided by the Agreement, and that Defendant shall not be required to pay any amounts other than as set forth in the Agreement;

iii. Confirming the certification of the Class for purposes of Settlement only;

iv. Finding that the Settlement Administration process as carried out afforded adequate protections to Class Members, provided the best notice practicable, and satisfied the requirements of law and due process;

v. Ruling on any Objections to the Settlement;

vi. Approving the settlement of Settled PAGA Claims consistent with the Settlement;

vii. Retaining Court jurisdiction after entry of judgment to oversee administration and enforcement of the terms of the Agreement; and

viii. Requiring the Parties to carry out the provisions of this Agreement.

58. Notice to the Labor and Workforce Development Agency. Class Counsel is responsible for complying with all requirements of the PAGA governing notice to the LWDA of settlement and/or judgment. Specifically, Class Counsel will provide a copy of this Agreement to the LWDA at the same time that it is submitted to the Court and will further provide a copy of the Court's Preliminary Approval Order and Final Approval Order and Judgment to the LWDA within ten (10) calendar days after entry of said judgment or order as required by Labor Code sections 2699(1)(2)-(3).

59. Payment of Settlement. Defendant will deposit the Gross Settlement Amount into an account established by the Settlement Administrator within thirty (30) days of the Effective Date.

1 a. The Parties agree that the Gross Settlement Amount will qualify as a
 2 settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal Revenue Code of
 3 1986, as amended, and Section 1.468B-1 *et seq.* of the income tax regulations. Furthermore, the
 4 Settlement Administrator is hereby designated as the “administrator” of the qualified settlement
 5 funds for purposes of Section 1.468B-2(k) of the income tax regulations. As such, all employee
 6 taxes imposed on the gross income of that settlement fund and any tax-related expenses arising
 7 from any income tax returns or other reporting documents that may be required by the Internal
 8 Revenue Service or any state or local taxing body will be paid from the Net Distribution Fund by
 9 the Settlement Administrator.

10 b. The Settlement Administrator shall be deemed to have timely
 11 distributed Individual Settlement Payments and Individual PAGA Payments if it places said
 12 payments in the mail (First-Class U.S.) within fourteen (14) days of Defendant funding the Gross
 13 Settlement Amount. If, within forty-five (45) days of the initial mailing of the payment(s), the
 14 Settlement Administrator receives notice from Settlement Class Members or PAGA Members that
 15 they have not received their settlement check due to changes of address or other circumstances, the
 16 Settlement Administrator shall make reasonable efforts to ensure the initial payment is cancelled
 17 and re-issue the payment to the Settlement Class Member or PAGA Member. The Settlement
 18 Administrator shall only undertake one re-issuance of a payment upon request of a Settlement Class
 19 Member.

20 c. The distribution of Attorneys’ Fees, Attorneys’ Costs, LWDA
 21 Payment, and the Service Payment shall occur no later than the Settlement Proceeds Distribution
 22 Deadline. Under no circumstances shall the foregoing payments be made prior to the distribution
 23 of payments to Settlement Class Members and PAGA Members.

24 60. Individual Settlement Payment and Individual PAGA Payment checks will
 25 be valid for one hundred eighty (180) days after mailing by the Settlement Administrator.

26 61. After the one hundred eighty (180) day check validity period, settlement
 27 checks will become cancelled and funds associated with the cancelled checks will be transmitted
 28 to Katherine and George Alexander Community Law Center, a jointly-selected non-profit

1 organization in compliance with California Code of Civil Procedure section 384. Settlement Class
2 Members and PAGA Members who fail to deposit or negotiate their check(s) in a timely fashion
3 shall, nevertheless, remain subject to the terms of the Agreement and the Final Approval Order and
4 Judgment.

5 62. Upon completion of administration of the Settlement, the Settlement
6 Administrator shall provide written certification of such completion to the Court, Class Counsel,
7 and Defendant's counsel.

8 63. Binding Effect of Agreement on Settlement Class Members and PAGA
9 Members. Subject to final Court approval, all Settlement Class Members, the State of California,
10 and PAGA Members shall be bound by this Agreement and Final Approval Order and Judgment
11 shall be entered in the Initial Action.

12 64. Automatic Voiding of Agreement if Settlement Not Finalized. If for any
13 reason the Effective Date does not occur, the Settlement shall be null and void and the orders and
14 judgment to be entered pursuant to this Agreement shall be vacated; and the Parties will be returned
15 to the status quo prior to entering this Agreement with respect to the Actions, as if the Parties had
16 never entered into this Agreement. In addition, in such event, the Agreement and all negotiations,
17 court orders and proceedings relating thereto shall be without prejudice to the rights of any and all
18 Parties hereto, and evidence relating to the Agreement and all negotiations shall not be admissible
19 or discoverable in the Actions or otherwise in any other proceeding.

20 65. Publicity, Confidentiality and Non-Disparagement.

21 a. No public comment, communications to media, or any form of
22 advertising or public announcement (including social media) regarding the Actions shall be made
23 by Plaintiffs or Class Counsel at any time.

24 b. Class Counsel agrees not to solicit any Class Members to exclude
25 themselves from the terms of this Agreement, and further agrees not to initiate, contact, or have
26 any communications with Class Members during the settlement approval process. Nothing will
27 prevent Class Counsel from responding to inquiries from Class Members. Defendant agrees that it
28

1 shall not discourage any Class Members from participating in the settlement and shall refer any
2 questions to the Settlement Administrator.

3 c. Prior to the motion for preliminary approval and submission of this
4 Agreement to the Court, Class Counsel shall not discuss the terms of the Agreement with any person
5 other than Plaintiffs, Defendant's counsel, and the Settlement Administrator, and that they will not
6 discuss the negotiations leading to Agreement with any person other than Plaintiffs and Defendant's
7 counsel. Class Counsel will, however, undertake any and all submissions of information and/or
8 materials relating to the Actions and this Settlement to the LWDA to the extent required under the
9 PAGA statute (e.g., submitting this Agreement to the LWDA at the same time as submitting it to
10 the Court for preliminary approval).

11 d. Each plaintiff acknowledges that she has not, and will not, discuss
12 the terms of the Settlement with any persons other than Class Counsel, her spouse(s), if any, her
13 tax preparer/accountant, and any other legal representative of Plaintiffs, prior to filing the motion
14 for preliminary approval and submission of this Agreement to the Court. Each plaintiff further
15 acknowledges that at no time will she disclose details of the negotiations leading to this Settlement,
16 including information learned during or after mediation.

17 e. To the extent permitted by applicable law and in order to implement
18 the Settlement, each plaintiff agrees that she will not make any defamatory or disparaging
19 statements about Defendant or any Released Party. However, Plaintiffs are not precluded from
20 submitting declarations in support of certification of the Class for purposes of this Settlement and
21 to support her receipt of a Service Payment.

22 f. To the extent documents produced, formally or informally, by
23 Defendant during the course of the Actions are confidential or otherwise subject to confidentiality,
24 Plaintiffs and Class Counsel agree to maintain the confidentiality of such materials.

25 g. Nothing in this provision will prohibit Class Counsel or Plaintiffs
26 from seeking preliminary approval or final approval of the Settlement, or from making any
27 disclosures as required by law.

1 66. Modification in Writing. Prior to the Court granting preliminary approval
2 of this Agreement, this Agreement may be altered, amended, modified or waived, in whole or in
3 part, only in a writing signed by counsel for the Parties; after the Court has granted preliminary
4 approval of this Agreement, it may be altered, amended, modified or waived, in whole or in part,
5 only in a writing signed by counsel for the Parties, subject to approval by the Court. Any waiver
6 of any provision of this Agreement shall not constitute a waiver of any other provision of this
7 Agreement unless expressly so indicated.

8 67. Ongoing Cooperation. Plaintiffs and Defendant, and each of their respective
9 counsel, shall cooperate in good faith to execute all documents and perform all acts necessary and
10 proper to effectuate and implement the terms of this Agreement, including but not limited to
11 drafting and submitting the motions for preliminary and final approval, and defending the
12 Agreement and final judgment against objections and appeals. The Parties to this Agreement shall
13 use their best efforts, including all efforts contemplated by this Agreement and any other efforts
14 that may become necessary by order of the Court or otherwise, to effectuate this Agreement and
15 the terms set forth herein.

16 68. Parties' Authority. The signatories hereby represent that they are fully
17 authorized to enter into this Agreement and bind the Parties hereto to the terms and conditions
18 hereof.

19 69. No Prior Assignments. The Parties and their counsel represent, covenant,
20 and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or
21 purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim,
22 demand, action, cause of action, or rights herein released and discharged or herein establish and/or
23 created, except as set forth herein.

24 70. Binding on Successors. This Agreement shall be binding and shall inure to
25 the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs
26 and legal representatives, including the Released Parties.

27 71. Integration/Entire Agreement. The Parties warrant that no promise or
28 inducement has been offered or made to any of the Parties except as set forth herein. This

1 Agreement constitutes the full, complete and entire understanding, agreement and arrangement
2 between each plaintiff on behalf of herself, Class Members, PAGA Members, and the State of
3 California pursuant to the Private Attorneys General Act, on the one hand, and Defendant and
4 Released Parties on the other hand, with respect to the Settlement of the Actions and the Settled
5 Class Claims and Settled PAGA Claims against the Released Parties. This Agreement supersedes
6 any and all prior oral or written understandings, agreements and arrangements, express or implied,
7 between the Parties with respect to the Settlement of the Actions and the Settled Class Claims and
8 Settled PAGA Claims against the Released Parties. The Parties explicitly recognize California
9 Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide
10 that a written agreement is to be construed according to its terms, and may not be varied or
11 contradicted by extrinsic evidence, and agree that no such extrinsic oral or written representations
12 or terms shall modify, vary, or contradict the terms of this Agreement.

13 72. Execution in Counterparts. This Agreement may be signed in one or more
14 counterparts. A photographic, scanned, electronic, or facsimile copy of signatures shall be treated
15 as an original signature for all purposes. All executed copies of this Agreement, and photocopies
16 thereof (including facsimile or email copies of the signature pages), shall have the same force and
17 effect and shall be as legally binding and enforceable as the original.

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

21 74. Governing Law. This Agreement shall be interpreted, construed, enforced,
22 and administered in accordance with the laws of the State of California, without regard to otherwise
23 applicable principles of conflicts of laws.

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

76. Resolution of Disputes. The Parties agree to refer any disputes related to the drafting of the Agreement and attached documents to mediator David Sarnoff of Sarnoff Mediations.

77. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel.

IT IS SO AGREED:

Dated: 5/20/2024, 2024

DocuSigned by:

Erika Sanchez Cruz

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Erika Sanchez Cruz

Dated: 5/16/2024, 2024

DocuSigned by:

Esperanza Gomez

6F4C5E376EF3481...

Esperanza Gomez

Total Quality Maintenance, Inc.

Dated: 5/20/24, 2024

Peter Vesanovic
Peter Vesanovic, on behalf of
Total Quality Maintenance, Inc.