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10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA BARBARA**

13 RORY MASSEY, on behalf of himself and all
14 others similarly situated and the general public,
15
16 Plaintiffs,

17 v.

18 MANN+HUMMEL WATER AND FLUID
19 SOLUTIONS, INC., a Delaware corporation;
20 MICRODYN-NADIR US, INC., a business form
unknown; and DOES 1 to 100, inclusive,
21
22 Defendants

) Case No.: 21CV02965
) Hon. Colleen K. Sterne
) Dept. 5
) CLASS ACTION

) **CLASS ACTION AND PAGA**
) **SETTLEMENT AGREEMENT**

) Action filed: July 27, 2021
) Trial Date: Not Set

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Rory Massey (“Plaintiff”) and defendants Mann + Hummel Water and Fluid
3 Solutions, Inc. and Microdyn-Nadir US, Inc. (hereinafter collective referred to as “M+H” or
4 “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or
5 individually as “Party.”

6 **1. DEFINITIONS.**

7 1.1. “Action” means Plaintiff’s lawsuit alleging wage and hour violations against
8 Defendants Mann + Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US, Inc.,
9 captioned *Massey v. Mann + Hummel Water and Fluid Solutions, Inc., et al.*, initiated on July
10 27, 2021, and pending in Superior Court of the State of California, County of Santa Barbara.

11 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed
12 to appoint to administer the Settlement.

13 1.3. “Administration Expenses Payment” means the amount the Administrator will be
14 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
15 accordance with the Administrator’s “not to exceed” bid submitted to the Court in
16 connection with Preliminary Approval of the Settlement.

17 1.4. “Aggrieved Employees” means all current and former non-exempt hourly individuals
18 employed by Defendants at any time from July 7, 2020, until the date of preliminary approval or
19 November 1, 2022, whichever occurs first.

20 1.5. “Class” means all current and former non-exempt hourly individuals employed by
21 Defendants at any time from July 27, 2017, until the date of preliminary approval or November
22 1, 2022, whichever occurs first.

23 1.6. “Class Counsel” means Janelle Carney of Janelle Carney – Attorney at Law, APC
24 and Manny Starr, Dan Ginzburg, and Adam Rose of Frontier Law Center.

25 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
26 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees
27 and expenses, respectively, incurred to prosecute the Action.

28 1.8. “Class Data” means Class Member identifying information in Defendants’

1 possession including the Class Member’s name, last-known mailing address, Social Security
2 number, and number of Class Period Workweeks and PAGA Pay Periods.

3 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as
4 either a Participating Class Member or Non-Participating Class Member (including a Non-
5 Participating Class Member who qualifies as an Aggrieved Employee).

6 1.10. “Class Member Address Search” means the Administrator’s investigation and
7 search for current Class Member mailing addresses using all reasonably available sources,
8 methods and means including, but not limited to, the National Change of Address database, skip
9 traces, and direct contact by the Administrator with Class
10 Members.

11 1.11. “Class Notice” means the NOTICE OF CLASS ACTION SETTLEMENT AND
12 HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in
13 English with a Spanish translation, if applicable in the form, without material variation, attached
14 as Exhibit 1 and incorporated by reference into this Agreement.

15 1.12. “Class Period” means the period from from July 27, 2017, until the date of
16 preliminary approval or November 1, 2022, whichever occurs first

17 1.13. “Class Representative” means Rory Massey, the named Plaintiff in the operative
18 complaint in the Action seeking Court approval to serve as a Class Representative.

19 1.14. “Class Representative Service Payment” means the payment to the Class
20 Representative for initiating the Action and providing services in support of the Action.

21 1.15. “Court” means the Superior Court of California, County of Santa Barbara.

22 1.16. “M+H” means named Defendants Mann + Hummel Water and Fluid Solutions, Inc.
23 and Microdyn-Nadir US, Inc.

24 1.17. “Defense Counsel” means Nicole Kamm and Areen Babajanian of Fisher Phillips,
25 LLC.

26 1.18. “Effective Date” means the date by when both of the following have occurred:
27 (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement;
28 and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences:

1 (a) if no Participating Class Member objects to the Settlement, the day the Court enters
2 Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after
3 the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the
4 Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

5 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

6 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final
7 Approval of the Settlement.

8 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
9 Approval of the Settlement.

10 1.22. "Gross Settlement Amount" means \$800,000.00, which is the total amount
11 Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The
12 Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA
13 Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class
14 Representative Service Payment and the Administrator's Expenses.

15 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share
16 of the Net Settlement Amount calculated according to the number of Workweeks worked during
17 the Class Period.

18 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of
19 25% of the PAGA Penalties calculated according to the number of Workweeks worked during
20 the PAGA Period.

21 1.25. "Judgment" means the judgment entered by the Court based upon the Final
22 Approval.

23 1.26. "LWDA" means the California Labor and Workforce Development Agency, the
24 agency entitled, under Labor Code section 2699, subd. (i).

25 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the
26 LWDA under Labor Code section 2699, subd. (i).

27 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following
28 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA

1 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
2 Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be
3 paid to Participating Class Members as Individual Class Payments.

4 1.29. "Non-Participating Class Member" means any Class Member who opts out of the
5 Settlement by sending the Administrator a valid and timely Request for Exclusion.

6 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee
7 worked for Defendants for at least one day during the PAGA Period.

8 1.31. "PAGA Period" means the period from July 7, 2020, until the date of preliminary
9 approval or November 1, 2022, whichever occurs first.

10 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

11 1.33. "PAGA Notice" means Plaintiff's July 7, 2021 letter to Defendants and the LWDA
12 providing notice pursuant to Labor Code section 2699.3, subd.(a).

13 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from
14 the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$6,250.00) and the
15 75% to LWDA (\$18,750.00) in settlement of PAGA

16 1.35. "Participating Class Member" means a Class Member who does not submit a valid
17 and timely Request for Exclusion from the Settlement.

18 1.36. "Plaintiff" means Rory Massey, the named plaintiff in the Action.

19 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of
20 the Settlement.

21 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary
22 Approval and Approval of PAGA Settlement.

23 1.39. "Released Class Claims" means the claims being released as described in Paragraph
24 6.2 below.

25 1.40. "Released PAGA Claims" means the claims being released as described in
26 Paragraph 6.2 below.

27 1.41. "Released Parties" means: Defendants, Mann + Hummel Water and Fluid
28 Solutions, Inc. and Microdyn-Nadir US, Inc., and their present, former, and/or future parent

1 and/or subsidiary corporations; and each of the foregoing's present, former, or future owners,
2 officers, directors, members, shareholders, partners, related affiliates, employees, insurers,
3 successors, predecessors, contractors, assigns, and managing agents; and any and all agents, legal
4 representatives, and/or attorneys of all of the foregoing entities or individuals.

5 1.42. "Request for Exclusion" means a Class Member's submission of a written request
6 to be excluded from the Class Settlement signed by the Class Member.

7 1.43. "Response Deadline" means forty-five (45) days after the Administrator mails
8 Notice to Class Members and Aggrieved Employees and shall be the last date on which Class
9 Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her
10 Objection to the Settlement. Class Members to whom Notice Packets are resent after having been
11 returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the
12 Response Deadline has expired.

13 1.44. "Settlement" means the disposition of the Action effected by this Agreement and
14 the Judgment.

15 1.45. "Workweek" means any week during which a Class Member worked for
16 Defendants for at least one day, during the Class Period.

17 **2. RECITALS.**

18 2.1. On July 27, 2021, Plaintiff commenced this Action by filing a Complaint alleging
19 causes of action against Defendants for Failure to Pay Wages, Failure to Pay Sick Time,
20 Violation of Meal Period Provisions, Violation of Rest Break Provisions, Failure to Provide
21 Accurate Itemized Wage Statements, and Waiting Time Penalties. On September 20, 2021,
22 Plaintiff filed a First Amended Complaint (FAC) alleging a PAGA cause of action. On or about
23 October 14, 2021, Plaintiff filed a Second Amended Complaint (SAC). The SAC is the operative
24 complaint in the Action ("Operative Complaint"). Defendants deny the allegations in the
25 Operative Complaint, deny any failure to comply with the laws identified in in the Operative
26 Complaint, and deny any and all liability for the causes of action alleged.

27 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice
28 to Defendants and the LWDA by sending the PAGA Notice.

1 2.3. On August 25, 2022, the Parties participated in an all-day mediation presided over by
2 Steven G. Mehta, which led to this Agreement to settle the Action after the mediation concluded.

3 2.4. Prior to mediation, Plaintiff obtained, through informal discovery a sampling of time
4 and pay records of putative class members, Defendant’s policies regarding meal and rest periods,
5 onboarding, overtime, and bonuses, and the total workweek and class members during the
6 relevant time period. Plaintiff’s investigation was sufficient to satisfy the criteria for court
7 approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and
8 *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

9 2.5. The Court has not granted class certification, as the matter was stayed pending
10 mediation.

11 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware
12 of any other pending matter or action asserting claims that will be extinguished or
13 affected by the Settlement.

14 **3. MONETARY TERMS.**

15 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
16 Defendants promise to pay \$800,000.00 and no more as the Gross Settlement Amount, and to
17 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
18 Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any
19 payroll taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator
20 will disburse the entire Gross Settlement Amount without asking or requiring Participating Class
21 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the
22 Gross Settlement Amount will revert to Defendants.

23 3.2. Payments from the Gross Settlement Amount. The Administrator will make and
24 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
25 the Court in the Final Approval:

26 3.2.1. To Plaintiff: Class Representative Service Payment to the Class
27 Representative of not more than \$7,500.00 (in addition to any Individual Class
28 Payment, and any Individual PAGA Payment, the Class Representative is entitled

1 to receive as a Participating Class Member). Defendants will not oppose
2 Plaintiff's request for a Class Representative Service Payment that does not
3 exceed this amount. As part of the motion for Class Counsel Fees Payment and
4 Class Litigation Expenses Payment, Plaintiff will seek Court approval for any
5 Class Representative Service Payment no later than sixteen (16) court days prior
6 to the Final Approval Hearing. If the Court approves a Class Representative
7 ServicePayment less than the amount requested, the Administrator will retain the
8 remainder in the Net Settlement Amount. The Administrator will pay the Class
9 Representative Service Payment using IRS Form 1099. Plaintiff assumes full
10 responsibility and liability for employee taxes owed on the Class Representative
11 Service Payment.

12 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
13 33.33%, which is currently estimated to be \$266,666.66 and a Class Counsel
14 Litigation Expenses Payment of not more than \$15,000.00. Defendants will not
15 oppose requests for these payments provided that do not exceed these amounts.
16 Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment
17 and Class Litigation Expenses Payment no later than 16 court days prior to the
18 Final Approval Hearing. If the Court approves a Class Counsel Fees Payment
19 and/or a Class Counsel Litigation Expenses Payment less than the amounts
20 requested, the Administrator will allocate the remainder to the Net Settlement
21 Amount. Released Parties shall have no liability to Class Counsel or any other
22 Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee
23 Payment and/or Class Counsel Litigation Expenses Payment. The Administrator
24 will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment
25 using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and
26 liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel
27 Litigation Expenses Payment and holds Defendants harmless, and indemnifies
28 Defendants, from any dispute or controversy regarding any division or sharing of

1 any of these Payments.

2 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
3 \$10,500.00 except for a showing of good cause and as approved by the Court. To
4 the extent the Administration Expenses are less or the Court approves payment
5 less than \$10,500.00, the Administrator will retain the remainder in the Net
6 Settlement Amount.

7 3.2.4. To Each Participating Class Member: Estimated proportionate share of the
8 Net Settlement Amount shall be determined by the Settlement Administrator
9 pursuant to the following formula:

- 10 1. Participating Class Members who worked as a Production
11 Employee and who were eligible to earn production bonuses will receive
12 two (2) points for each Eligible Workweek worked during the Class
13 Period;
- 14 2. Participating Class Members who worked a clerical and/or office
15 job will receive one (1) point for each Eligible Workweek worked during
16 the Class Period;
- 17 3. Each Eligible Workweek shall receive a point allocation pursuant to
18 the below (but not both), and shall not be double counted.
- 19 4. To calculate each Participating Class Members' proportionate
20 share:
 - 21 a) Add all points for all Participating Class Members together to
22 obtain the "Denominator";
 - 23 b) Divide the number of points for each Participating Class
24 Member by the Denominator to obtain each Participating Class
25 Members' "Portion of the Net Fund";
 - 26 c) Multiply each Participating Class Members' Portion of the
27 Net Settlement Amount by the Net Settlement Amount to
28 determine each Participating Class Members' Net Amount.

1 d) For each Participating Class Member, their Net Amount will
2 be the amount of their Settlement Check.

3
4 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each
5 Participating Class Member's Individual Class Payment will be allocated
6 to settlement of wage claims (the "Wage Portion"). The Wage Portions are
7 subject to tax withholding and will be reported on an IRS W-2 Form. The
8 80% of each Participating Class Member's Individual Class
9 Payment will be allocated to settlement of claims for [e.g., interest and
10 penalties] (the "Non-Wage Portion"). The Non-Wage Portions are not
11 subject to wage withholdings and will be reported on IRS 1099 Forms.
12 Participating Class Members assume full responsibility and liability for
13 any employee taxes owed on their Individual Class Payment.

14 3.2.4.2. Effect of Non-Participating Class Members on Calculation of
15 Individual Class Payments. Non-Participating Class Members will not
16 receive any Individual Class Payments. The Administrator will retain
17 amounts equal to their Individual Class Payments in the Net Settlement
18 Amount for distribution to Participating Class Members on a pro rata
19 basis.

20 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount
21 of \$25,000.00 to be paid from the Gross Settlement Amount, with 75%
22 (\$18,750.00) allocated to the LWDA PAGA Payment and 25% (\$6,250.00)
23 allocated to the Individual PAGA Payments.

24 3.2.5.1. The Administrator will calculate each Individual PAGA Payment
25 by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA
26 Penalties \$6,250.00 by the total number of PAGA Period Pay Periods
27 worked by all Aggrieved Employees during the PAGA Period and (b)
28 multiplying the result by each Aggrieved Employee's PAGA Period Pay

1 Periods. Aggrieved Employees assume full responsibility and liability for any
2 taxes owed on their Individual PAGA Payment.

3 1. Aggrieved Employees who worked as a Production
4 Employee and who were eligible to earn production bonuses will receive
5 two (2) points for each Pay Period worked during the PAGA
6 Period;

7 2. Aggrieved Employees who worked a clerical and/or office
8 job will receive one (1) point for each Pay Period worked during
9 the PAGA Period;

10 3. Each Eligible Pay Period shall receive a point allocation pursuant to
11 the below (but not both), and shall not be double counted.

12 4. To calculate each Aggrieved Employees' proportionate
13 share:

14 a) Add all points for all Aggrieved Employees together to
15 obtain the "Denominator";

16 b) Divide the number of points for each Aggrieved Employee by
17 the Denominator to obtain each Aggrieved Employees' "Portion of
18 the PAGA Fund";

19 c) Multiply each Participating Aggrieved Employee's Portion of
20 the PAGA Fund by the LWDA PAGA Payment to
21 determine each Aggrieved Employee's Net PAGA
22 Amount.

23 d) For each Aggrieved Employee, their Net
24 PAGA Amount will be the amount of their PAGA

25 Settlement Check.3.2.5.2. If the Court approves PAGA Penalties of less than the amount
26 requested, the Administrator will allocate the remainder to the Net Settlement
27 Amount. The Administrator will report the Individual PAGA Payments on IRS
28 1099 Forms.

1 3.2.5.3 Nothing above excludes the Administrator from calculating each Individual PAGA
2 Payment in an identical manner for each Non-Participating Class Member who is also an
3 Aggrieved Employee.

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

5 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its
6 records as of August 25, 2022, Defendants estimate there are 323 Class Members who
7 collectively worked a total of approximately 20,569 Workweeks, and 277 Aggrieved Employees
8 who worked a total of 4,339 PAGA Pay Periods

9 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary
10 Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the
11 Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy
12 rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for
13 purposes of this Settlement and for no other purpose, and restrict access to the Class Data to
14 Administrator employees who need access to the Class Data to effect and perform under this
15 Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it
16 discovers that the Class Data omitted class member identifying information and to provide
17 corrected or updated Class Data as soon as reasonably feasible. Without any extension of the
18 deadline by which Defendants must send the Class Data to the Administrator, the Parties and
19 their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve
20 any issues related to missing or omitted Class Data.

21 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross
22 Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of
23 payroll taxes by transmitting the funds to the Administrator no later than fourteen (14) days after
24 the Effective Date.

25 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after
26 Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all
27 Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
28 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel

1 Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of
2 the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class
3 Representative Service Payment shall not precede disbursement of Individual Class Payments
4 and Individual PAGA Payments.

5 4.4.1. The Administrator will issue checks for the Individual Class Payments
6 and/or Individual PAGA Payments and send them to the Class Members via First
7 Class U.S. Mail, postage prepaid. The face of each check shall prominently state
8 the date (not less than 180 days after the date of mailing) when the check will be
9 voided. The Administrator will cancel all checks not cashed by the void date. The
10 Administrator will send checks for Individual Settlement Payments to all
11 Participating Class Members (including those for whom Class Notice was
12 returned undelivered). The Administrator will send checks for Individual PAGA
13 Payments to all Aggrieved Employees including Non-Participating Class
14 Members who qualify as Aggrieved Employees (including those for whom Class
15 Notice was returned undelivered). The Administrator may send Participating
16 Class Members a single check combining the Individual Class Payment and the
17 Individual PAGA Payment. Before mailing any checks, the Settlement
18 Administrator must update the recipients' mailing addresses using the National
19 Change of Address Database.

20 4.4.2. The Administrator must conduct a Class Member Address Search for all
21 other Class Members whose checks are returned undelivered without USPS
22 forwarding address. Within seven (7) days of receiving a returned check the
23 Administrator must re-mail checks to the USPS forwarding address provided or to
24 an address ascertained through the Class Member Address Search. The
25 Administrator need not take further steps to deliver checks to Class Members
26 whose re-mailed checks are returned as undelivered. The Administrator shall
27 promptly send a replacement check to any Class Member whose original check
28 was lost or misplaced, requested by the Class Member prior to the void date.

1 4.4.3. For any Class Member whose Individual Class Payment check or Individual
2 PAGA Payment check is uncashed and cancelled after the void date, the
3 Administrator shall transmit the funds represented by such checks to the
4 California Controller's Unclaimed Property Fund in the name of the Class
5 Member thereby leaving no "unpaid residue" subject to the requirements of
6 California Code of Civil Procedure Section 384, subd. (b). The Parties, Class
7 Counsel and Defense Counsel represent that they have no interest or relationship,
8 financial or otherwise, with the California Controller's Unclaimed Property Fund.
9 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments
10 shall not obligate Defendants to confer any additional benefits or make any
11 additional payments to Class Members (such as 401(k) contributions or bonuses)
12 beyond those specified in this Agreement.

13 **6. RELEASES OF CLAIMS.**

14 Effective on the date when Defendants fully fund the entire Gross Settlement Amount
15 and funds all employer payroll taxes owed on the Wage Portion of the Individual Class
16 Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released
17 Parties as follows:

18 6.1 Plaintiff's Release. Plaintiff and his former and present spouses, family members,
19 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
20 and discharge Released Parties from all claims, transactions, or occurrences that occurred during
21 the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have
22 been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims
23 that were, or reasonably could have been, alleged based on facts contained in the Operative
24 Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 6.2,
25 below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to
26 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
27 benefits, social security benefits, workers' compensation benefits that arose at any time,
28 or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff

1 may discover facts or law different from, or in addition to, the facts or law that Plaintiff
2 now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be
3 and remain effective in all respects, notwithstanding such different or additional facts or
4 Plaintiff's discovery of them.

5 6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section
6 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and
7 relinquishes the provisions, rights, and benefits, if any, of section 1542 of the
8 California Civil Code, which reads:

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

13 6.2 Release by Participating Class Members Who Are Not Aggrieved Employees:

14 All Participating Class Members, on behalf of themselves and their respective former and
15 present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release
16 Released Parties from (i) all claims that were alleged, or reasonably could have been alleged,
17 based on the Class Period facts stated in the Operative Complaint and ascertained in the course
18 of the Action, in any and/or all of the complaints in the Action and/or any of Plaintiff's letters to
19 the LWDA (including any subsequently amended complaints or letters); and/or any and all
20 claims, known or unknown, that could have been asserted based on any or all the factual
21 allegations in all of the complaints in the Action and/or any of Plaintiff's letters to the LWDA
22 (including any subsequently amended complaints or letters). This includes but is not limited to
23 claims for or related to: pay for all hours worked/compensation due for services; calculation of
24 the regular rate of pay, including bonus or incentive pay, and other incentive payments when
25 calculating the overtime rate; meal periods; rest periods; meal and/or rest period premiums and
26 sick pay, including the calculation of the meal and/or rest period premium pay and sick pay;
27 wage statements; payment of wages at termination; maintain accurate and complete records;
28 unfair competition related to any or all of the foregoing; any unpaid wages or compensation
 related to any or all of the foregoing; restitution related to any or all of the foregoing; and any

1 penalties, including statutory or civil penalties, related to any or all of the foregoing. This release
2 includes any and all claims pursuant to: California Labor Code sections §§ 200, et seq. (inclusive
3 of section 201-203), 210, 218, 226, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197,
4 1198, and 2698, et seq.; the California Business & Professions Code § 17200; and the relevant
5 California Industrial Welfare Commission Wage Orders. The release shall run through the date
6 the Superior Court of the State of California, County of Santa Barbara grants preliminary
7 approval of the settlement or November 1, 2022, whichever occurs first. Except as set forth in
8 Section 6.3 of this Agreement, Participating Class Members do not release any other claims,
9 including claims for vested benefits, wrongful termination, violation of the Fair Employment and
10 Housing Act, unemployment insurance, disability, social security, workers' compensation, or
11 claims based on facts occurring outside the Class Period.

12 6.3 Release by Non-Participating Class Members Who Are Aggrieved Employees:

13 Each PAGA Representative Action Member, irrespective of whether he or she opts out of
14 the settlement as a Non-Participating Class Member, shall be deemed to release the Released
15 Parties from any and all claims, known or unknown, for civil penalties under California Labor
16 Code section 2698 *et seq.* (PAGA) that: were asserted in any and/or all of the complaints in the
17 Action and/or any of Plaintiff's letters to the LWDA (including any subsequently amended
18 complaints or letters); and/or any and all claims, known or unknown, that could have been
19 asserted based on any or all the factual allegations in any and/or all of the complaints in the
20 Action and/or any of Plaintiff's letters to the LWDA (including any subsequently amended
21 complaints or letters). This release includes, but is not limited to, claims for PAGA civil
22 penalties premised on: California Labor Code sections §§ 200, et seq. (inclusive of section 201-
23 203), 210, 218, 226, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198, and
24 2698, et seq.; failure to pay overtime; failure to pay for all hours worked/compensation due for
25 services; calculation of the regular rate of pay, including failure to include all remuneration into
26 the regular rate for overtime, meal and rest period premiums and sick pay, and other incentive
27 payments when calculating the overtime rate; failure to provide meal periods; failure to authorize
28 and permit rest periods; failure to pay meal or rest period premiums, including the calculation of

1 the meal and/or rest period premium pay; failure to provide accurate itemized wage statements;
2 and failure to timely pay wages at termination; The release shall run through the date the
3 Superior Court of the State of California, County of Santa Barbara grants preliminary approval
4 of the settlement or November 1, 2022, whichever occurs first.

5
6 **7. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare
7 and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies
8 with the Court’s current checklist for Preliminary Approvals.

9 7.1 Defendant’s Declaration in Support of Preliminary Approval. Within 15 days of the
10 full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
11 Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or
12 potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and
13 Defendant shall aver that they are not aware of any other pending matter or action asserting
14 claims that will be extinguished or adversely affected by the Settlement.

15 7.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
16 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice,
17 and memorandum in support, of the Motion for Preliminary Approval that includes an analysis
18 of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under
19 Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary
20 Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed
21 declaration from the Administrator attaching its “not to exceed” bid for administering the
22 Settlement and attesting to its willingness to serve; competency; operative procedures for
23 protecting the security of Class Data; amounts of insurance coverage for any data breach,
24 defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts
25 of interest with Class Members; and the nature and extent of any financial relationship with
26 Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming
27 willingness and competency to serve and disclosing all facts relevant to any actual or potential
28 conflicts of interest with Class Members, the Administrator [; (v) a signed declaration from

1 each Class Counsel firm attesting to its competency to represent the Class Members; its timely
2 transmission to the LWDA of all necessary PAGA documents (initial notice of violations
3 (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd.
4 (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (vi) a redlined version of the
5 parties' Agreement showing all modifications made to the Model Agreement ready for filing
6 with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with
7 Class Members, the Administrator In their Declarations, Plaintiff and Class Counsel
8 Declaration shall aver that they are not aware of any other pending matter or action asserting
9 claims that will be extinguished or adversely affected by the Settlement. Plaintiff shall submit
10 this Settlement Agreement in support of Plaintiff's unopposed motion for Preliminary
11 Approval of the Settlement. Plaintiff shall not file the unopposed motion for Preliminary
12 Approval or any other documents until Plaintiff provides the approval motion to Defendants'
13 Counsel for review and comment. The Parties agree that Plaintiff is not obligated to adopt any
14 or all of Defendants' proposed revisions to the approval motion but the parties will work in
15 good faith to resolve any issues prior to filing.
16

17 18 7.3 Responsibilities of Counsel.

19 7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for
20 expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30)
21 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion
22 for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for
23 Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
24 Approval to the Administrator.

25 7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
26 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
27 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
28 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
Preliminary Approval or conditions Preliminary Approval on any material change to this

1 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
2 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and
3 otherwise satisfy the Court’s concerns.

4 **8. SETTLEMENT ADMINISTRATION.**

5 8.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to
6 serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
7 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
8 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
9 represent that they have no interest or relationship, financial or otherwise, with the Administrator
10 other than a professional relationship arising out of prior experiences administering settlements.

11 8.2 Employer Identification Number. The Administrator shall have and use its own
12 Employer Identification Number for purposes of calculating payroll tax withholdings and
13 providing reports state and federal tax authorities.

14 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that
15 meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation
16 section 468B-1.

17 8.4 Notice to Class Members.

18 8.4.1 No later than three (3) business days after receipt of the Class Data, the
19 Administrator shall notify Class Counsel that the list has been received and state
20 the number of Class Members, PAGA Members, Workweeks, and Pay Periods in
21 the Class Data.

22 8.4.2 Using best efforts to perform as soon as possible, and in no event later than
23 fourteen (14) days after receiving the Class Data, the Administrator will send to
24 all Class Members identified in the Class Data, via first-class United States Postal
25 Service (“USPS”) mail, the Class Notice with Spanish translation, if applicable
26 substantially in the form attached to this Agreement as **Exhibit 1**. The
27 first page of the Class Notice shall prominently estimate the dollar amounts of any
28 Individual Class Payment and/or Individual PAGA Payment payable to the Class

1 Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
2 used to calculate these amounts. Before mailing Class Notices, the Administrator
3 shall update Class Member addresses using the National Change of Address
4 database.

5 8.4.3 Not later than three (3) business days after the Administrator's receipt of
6 any Class Notice returned by the USPS as undelivered, the Administrator shall re-
7 mail the Class Notice using any forwarding address provided by the USPS. If the
8 USPS does not provide a forwarding address, the Administrator shall conduct a
9 Class Member Address Search, and re-mail the Class Notice to the most current
10 address obtained. The Administrator has no obligation to make further attempts
11 to locate or send Class Notice to Class Members whose Class Notice is returned
12 by the USPS a second time.

13 8.4.4 The deadlines for Class Members' written objections, Challenges to
14 Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an
15 additional fourteen (14) days beyond the forty-five (45) days otherwise provided
16 in the Class Notice for all Class Members whose notice is re-mailed. The
17 Administrator will inform the Class Member of the extended deadline with the re-
18 mailed Class Notice.

19 8.4.5 If the Administrator, Defendants or Class Counsel is contacted by or
20 otherwise discovers any persons who believe they should have been included in
21 the Class Data and should have received Class Notice, the Parties will
22 expeditiously meet and confer in person or by telephone, and in good faith, in an
23 effort to agree on whether to include them as Class Members. If the Parties agree,
24 such persons will be Class Members entitled to the same rights as other Class
25 Members, and the Administrator will send, via email or overnight delivery, a
26 Class Notice requiring them to exercise options under this Agreement not later
27 than fourteen (14) days after receipt of Class Notice, or the deadline dates in the
28 Class Notice, which ever are later.

1 8.5 Requests for Exclusion (Opt-Outs).

2 8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class
3 Settlement must send the Administrator, by mail, a signed written
4 Request for Exclusion not later than forty-five (45) days after the Administrator
5 mails the Class Notice. A Request for Exclusion is a letter from a Class Member
6 or his/her representative that reasonably communicates the Class Member's
7 election to be excluded from the Settlement and includes the Class Member's
8 name, address and email address or telephone number. To be valid, a Request for
9 Exclusion must be timely postmarked by the Response Deadline.

10 8.5.2 The Administrator may not reject a Request for Exclusion as invalid because
11 it fails to contain all the information specified in the Class Notice. The
12 Administrator shall accept any Request for Exclusion as valid if the Administrator
13 can reasonably ascertain the identity of the person as a Class Member and the
14 Class Member's desire to be excluded. The Administrator's determination shall
15 be final and not appealable or otherwise susceptible to challenge. If the
16 Administrator has reason to question the authenticity of a Request for Exclusion,
17 the Administrator may demand additional proof of the Class Member's identity.
18 The Administrator's determination of authenticity shall be final and not
19 appealable or otherwise susceptible to challenge.

20 8.5.3 Every Class Member who does not submit a timely and valid Request for
21 Exclusion is deemed to be a Participating Class Member under this Agreement,
22 entitled to all benefits and bound by all terms and conditions of the Settlement,
23 including the Participating Class Members' Releases under Paragraphs 6.2 and
24 6.3 of this Agreement, regardless whether the Participating Class Member
25 actually receives the Class Notice or objects to the Settlement.

26 8.5.4 Every Class Member who submits a valid and timely Request for Exclusion
27 is a Non-Participating Class Member and shall not receive an Individual Class
28 Payment or have the right to object to the class action components of the

1 Settlement. Because future PAGA claims are subject to claim preclusion upon
2 entry of the Judgment, Non-Participating Class Members who are Aggrieved
3 Employees are deemed to release the claims identified in Paragraph 6.4 of this
4 Agreement and are eligible for an Individual PAGA Payment.

5 8.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five
6 (45) days after the Administrator mails the Class Notice to challenge the number of Class
7 Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice.
8 The Class Member may challenge the allocation by communicating with the Administrator via
9 fax, email or mail. The Administrator must encourage the challenging Class Member to submit
10 supporting documentation. In the absence of any contrary documentation, the Administrator is
11 entitled to presume that the Workweeks contained in the Class Notice are correct so long as they
12 are consistent with the Class Data. The Administrator's determination of each Class Member's
13 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
14 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to
15 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the
16 Administrator's determination the challenges.

17 8.7 Objections to Settlement.

18 8.7.1 Only Participating Class Members may object to the class action
19 components of the Settlement and/or this Agreement, including contesting the
20 fairness of the Settlement, and/or amounts requested for the Class Counsel Fees
21 Payment, Class Counsel Litigation Expenses Payment and/or Class
22 Representative Service Payment.

23 8.7.2 Participating Class Members may send written objections to the
24 Administrator by mail. In the alternative, Participating Class
25 Members may appear in Court (or hire an attorney to appear in
26 Court) to present verbal objections at the Final
27 Approval Hearing. A Participating Class Member who elects
28 to send a written objection to the Administrator must do so not later than

1 forty-five (45) days after the Administrator’s mailing of the Class Notice.

2 8.7.3 Non-Participating Class Members have no right to object to any of the
3 class action components of the Settlement.

4 8.8 Administrator Duties. The Administrator has a duty to perform or observe all
5 tasks to be performed or observed by the Administrator contained in this Agreement or
6 otherwise.

7 8.8.1 Toll-Free Number

8 The Administrator will also maintain a toll-free telephone number to receive
9 Class Member calls.

10 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
11 will promptly review on a rolling basis Requests for Exclusion to ascertain their
12 validity. Not later than five (5) days after the expiration of the deadline for
13 submitting Requests for Exclusion, the Administrator shall email a list to Class
14 Counsel and Defense Counsel containing (a) the names and other identifying
15 information of Class Members who have timely submitted valid Requests for
16 Exclusion (“Exclusion List”); (b) the names and other identifying information of
17 Class Members who have submitted invalid Requests for Exclusion; (c) copies of
18 all Requests for Exclusion from Settlement submitted (whether valid or invalid).

19 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide
20 written reports to Class Counsel and Defense Counsel that, among other things,
21 tally the number of: Class Notices mailed or re-mailed, Class Notices returned
22 undelivered, Requests for Exclusion (whether valid or invalid) received,
23 objections received, challenges to Workweeks and/or Pay Periods received and/or
24 resolved, and checks mailed for Individual Class Payments and Individual PAGA
25 Payments (“Weekly Report”). The Weekly Reports must include provide the
26 Administrator’s assessment of the validity of Requests for Exclusion and attach
27 copies of all Requests for Exclusion and objections received.

28 8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the

1 authority to address and make final decisions consistent with the terms of this
2 Agreement on all Class Member challenges over the calculation of Workweeks
3 and/or Pay Periods. The Administrator's decision shall be final and not
4 appealable or otherwise susceptible to challenge.

5 8.8.5 Administrator's Declaration. Not later than ten (10) days before the date by
6 which Plaintiff is required to file the Motion for Final Approval of the Settlement,
7 the Administrator will provide to Class Counsel and Defense Counsel, a signed
8 declaration suitable for filing in Court attesting to its due diligence and
9 compliance with all of its obligations under this Agreement, including, but not
10 limited to, its mailing of Class Notice, the Class Notices returned as undelivered,
11 the re-mailing of Class Notices, attempts to locate Class Members, the total
12 number of Requests for Exclusion from Settlement it received (both valid or
13 invalid), the number of written objections and attach the Exclusion List. The
14 Administrator will supplement its declaration as needed or requested by the
15 Parties and/or the Court. Class Counsel is responsible for filing the
16 Administrator's declaration(s) in Court.

17 8.8.6 Final Report by Settlement Administrator. Within ten (10) days after the
18 Administrator disburses all funds in the Gross Settlement Amount, the
19 Administrator will provide Class Counsel and Defense Counsel with a final report
20 detailing its disbursements by employee identification number only of all
21 payments made under this Agreement. At least 15 days before any deadline set
22 by the Court, the Administrator will prepare, and submit to Class Counsel and
23 Defense Counsel, a signed declaration suitable for filing in Court attesting to its
24 disbursement of all payments required under this Agreement. Class Counsel is
25 responsible for filing the Administrator's declaration in Court.

26 **9. CLASS SIZE ESTIMATES**

27 Based on its records, Defendants estimate that, as of August 25, 2022, (1) there are 323
28 Class Members and 20,569 Total Workweeks during the Class period and (2) there are 277

1 Aggrieved Employees who worked a total of 4,339 PAGA Pay Periods during the PAGA Period
2 current as of August 25, 2022.

3 **10. DEFENDANT’S RIGHT TO WITHDRAW.**

4 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds
5 10% of the total of all Class Members, Defendants may, but is not obligated, elect to withdraw
6 from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void
7 ab initio, have no force or effect whatsoever, and that neither Party will have any further
8 obligation to perform under this Agreement; provided, however, Defendants will remain
9 responsible for paying all Settlement Administration Expenses incurred to that point. Defendants
10 must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days
11 after the Administrator sends the final Exclusion List to Defense Counsel; late elections will
12 have no effect.

13 **11. MOTION FOR FINAL APPROVAL.**

14 Not later than sixteen (16) court days before the calendared Final Approval Hearing,
15 Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request
16 for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final
17 Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff
18 shall provide drafts of these documents to Defense Counsel prior to filing the Motion for Final
19 Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or
20 by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final
21 Approval.

22 11.1 Response to Objections. Each Party retains the right to respond to any objection
23 raised by a Participating Class Member, including the right to file responsive documents in Court
24 no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
25 accepted by the Court.

26 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
27 Approval on any material change to the Settlement (including, but not limited to, the scope of
28 release to be granted by Class Members), the Parties will expeditiously work together in good

1 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
2 Approval. The Court's decision to award less than the amounts requested for the Class
3 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
4 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
5 modification to the Agreement within the meaning of this paragraph.

6 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,
7 the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes
8 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration
9 matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
11 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
12 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties,
13 their respective counsel, and all Participating Class Members who did not object to the
14 Settlement as provided in this Agreement, waive all rights to appeal from the Judgment,
15 including all rights to post-judgment and appellate proceedings, the right to file motions to
16 vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal
17 does not include any waiver of the right to oppose such motions, writs or appeals. If an objector
18 appeals the Judgment, the Parties' obligations to perform under this Agreement will be
19 suspended until such time as the appeal is finally resolved and the Judgment becomes final,
20 except as to matters that do not affect the amount of the Net Settlement Amount.

21 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
22 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
23 modification of this Agreement (including, but not limited to, the scope of release to be granted
24 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
25 expeditiously work together in good faith to address the appellate court's concerns and to obtain
26 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
27 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
28 the Court's award of the Class Representative Service Payment or any payments to Class

1 Counsel shall not constitute a material modification of the Judgment within the meaning of this
2 paragraph, as long as the Gross Settlement Amount remains unchanged.

3 **12. ESCALATOR CLAUSE**

4 12.1 Defendant understands and believes there were no more than 20,569 workweeks
5 through August 25, 2022. If it is determined that the actual number of workweeks through
6 August 25, 2022 exceeds 20,569 by more than ten percent (10%) (i.e., exceeds 2,056), then,
7 Defendant shall have the option, in its sole discretion, of either: (a) closing the release period on
8 the date the Class Members reach the ten percent (10%) threshold, or (b) increasing the GSA by
9 the percentage difference beyond the ten percent (10%) between the certified amount of 20,569
10 and the actual number of workweeks.

11 **13. ADDITIONAL PROVISIONS.**

12 13.1 No Admission of Liability, Class Certification or Representative Manageability for
13 Other Purposes. This Agreement represents a compromise and settlement of highly disputed
14 claims. Nothing in this Agreement is intended or should be construed as an admission by
15 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants
16 have has any liability for any claims asserted; nor should it be intended or construed as an
17 admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that
18 class certification and representative treatment is for purposes of this Settlement only. If, for any
19 reason the Court does grant Preliminary Approval, Final Approval or enter Judgment,
20 Defendants reserve the right to contest certification of any class for any reasons, and Defendants
21 reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move
22 for class certification on any grounds available and to contest Defendants' defenses. The
23 Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on,
24 and will not be admissible in connection with, any litigation (except for proceedings to enforce
25 or effectuate the Settlement and this Agreement).

26 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants
27 and Defense Counsel separately agree that, until the Motion for Preliminary Approval of
28 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or

1 cause or permit another person to disclose, disseminate or publicize, any of the terms of the
2 Agreement directly or indirectly, specifically or generally, to any person, corporation,
3 association, government agency, or other entity except: (1) to the Parties' attorneys, accountants,
4 or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a
5 related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4)
6 in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a
7 state or federal government agency. Each Party agrees to immediately notify each other Party of
8 any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class
9 Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate
10 any conversation or other communication, before the filing of the Motion for Preliminary
11 Approval, any with third party regarding this Agreement or the matters giving rise to this
12 Agreement except to respond only that "the matter was resolved," or words to that effect. This
13 paragraph does not restrict Class Counsel's communications with Class Members in accordance
14 with Class Counsel's ethical obligations owed to Class Members.

15 13.3 No Solicitation. The Parties separately agree that they and their respective counsel
16 and employees will not solicit any Class Member to opt out of or object to the Settlement, or
17 appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
18 Counsel's ability to communicate with Class Members in accordance with Class Counsel's
19 ethical obligations owed to Class Members.

20 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this
21 Agreement together with its attached exhibits shall constitute the entire agreement between the
22 Parties relating to the Settlement, superseding any and all oral representations, warranties,
23 covenants, or inducements made to or by any Party.

24 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
25 and represent that they are authorized by Plaintiff and Defendants, respectively, to take all
26 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
27 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
28 terms of this Agreement including any amendments to this Agreement.

1 13.6 Cooperation. The Parties and their counsel will cooperate with each other and use
2 their best efforts, in good faith, to implement the Settlement by, among other things, modifying
3 the Settlement Agreement, submitting supplemental evidence and supplementing points and
4 authorities if requested by the Court. In the event the Parties are unable to agree upon the form or
5 content of any document necessary to implement the Settlement, or on any modification of the
6 Agreement that may become necessary to implement the Settlement, the Parties will seek the
7 assistance of a mediator and/or the Court for resolution.

8 13.7 No Prior Assignments. The Parties separately represent and warrant that they have
9 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
10 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
11 action, or right released and discharged by the Party in this Settlement.

12 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel
13 are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
14 relied upon as such within the meaning of United States Treasury Department Circular 230 (31
15 CFR Part 10, as amended) or otherwise.

16 13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended,
17 modified, changed, or waived only by an express written instrument signed by all Parties or their
18 representatives, and approved by the Court.

19 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and
20 inure to the benefit of, the successors of each of the Parties.

21 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will
22 be governed by and interpreted according to the internal laws of the state of California, without
23 regard to conflict of law principles.

24 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and
25 preparation of this Agreement. This Agreement will not be construed against any Party on the
26 basis that the Party was the drafter or participated in the drafting.

27 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
28 entered during Action and in this Agreement relating to the confidentiality of

1 information shall survive the execution of this Agreement.

2 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to
3 Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class
4 Counsel by Defendants in connection with the mediation, other settlement negotiations, or in
5 connection with the Settlement, may be used only with respect to this Settlement, and no other
6 purpose, and may not be used in any way that violates any existing contractual agreement,
7 statute, or rule of court. Not later than 90 days after the date when the Court discharges the
8 Administrator’s obligation to provide a Declaration confirming the final pay out of all Settlement
9 funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from
10 Defendants unless, prior to the Court’s discharge of the Administrator’s obligation, Defendants
11 makes a written request to Class Counsel for the return, rather than the destructions, of Class
12 Data, at Defendant’s cost

13 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement
14 is inserted for convenience of reference only and does not constitute a part of this Agreement.

15 13.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement
16 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
17 weekend or federal legal holiday, such date or deadline shall be on the first business day
18 thereafter.

19 13.17 Notice. All notices, demands or other communications between the Parties in
20 connection with this Agreement will be in writing and deemed to have been duly given as of the
21 third business day after mailing by United States mail, or the day sent by email or messenger,
22 addressed as follows:

23 **To Plaintiff:**

24 Janelle Carney, Esq.
25 JANELLE CARNEY – ATTORNEY AT LAW, APC
26 14758 Pipeline Ave., Suite E
27 Chino Hills, CA 91709
28 Tel. (909) 521-9609
Email: Janelle@JanelleCarneyLaw.com

Manny Starr, Esq.
Daniel Ginzburg, Esq.

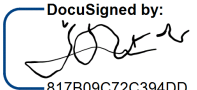
1 Adam Rose, Esq.
2 FRONTIER LAW CENTER
3 23901 Calabasas Road, #2074
4 Calabasas, CA 91302
5 Telephone: (818) 914-3433
6 Email: Manny@frontierlawcenter.com; Adam@frontierlawcenter.com;
7 dan@frontierlawcenter.com

8 **To Defendants:**


9 Nicole Kamm, Esq.
10 E-Mail: nkamm@fisherphillips.com
11 Areen Babajanian, Esq.
12 E-Mail: ababajanian@fisherphillips.com
13 FISHER & PHILLIPS LLP
14 444 South Flower Street, Suite 1500
15 Los Angeles, California 90071
16 Telephone: (213) 330-4500

17 13.16 Execution in Counterparts. This Agreement may be executed in one or more
18 counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this
19 Agreement shall be accepted as an original. All executed counterparts and each of them will be
20 deemed to be one and the same instrument if counsel for the Parties will exchange between
21 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
22 prove the existence and contents of this Agreement.

23 13.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement
24 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
25 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
26 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
27 process.

| | |
|---|--|
| <p>24 9/16/2022</p> <p>25 Dated: _____</p> <p>26 </p> <p>27 _____</p> <p>28 Plaintiff, Rory Massey</p> | <p>Dated: _____</p> <p>_____</p> <p>[Name and Title] for Defendants, Mann+Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US, Inc.</p> |
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| <p>Dated: <u>September 16, 2022</u></p> <p></p> <p>_____ Janelle Carney, Counsel for Plaintiff</p> | <p>Dated: _____</p> <p>_____ Counsel for Defendants, Mann+Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US, Inc.</p> |
|---|--|

1 Adam Rose, Esq.
2 FRONTIER LAW CENTER
3 23901 Calabasas Road, #2074
4 Calabasas, CA 91302
5 Telephone: (818) 914-3433
6 Email: Manny@frontierlawcenter.com; Adam@frontierlawcenter.com;
7 dan@frontierlawcenter.com

8 **To Defendants:**

9 Nicole Kamm, Esq.
10 E-Mail: nkamm@fisherphillips.com
11 Areen Babajanian, Esq.
12 E-Mail: ababajanian@fisherphillips.com
13 FISHER & PHILLIPS LLP
14 444 South Flower Street, Suite 1500
15 Los Angeles, California 90071
16 Telephone: (213) 330-4500


17 13.16 Execution in Counterparts. This Agreement may be executed in one or more
18 counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this
19 Agreement shall be accepted as an original. All executed counterparts and each of them will be
20 deemed to be one and the same instrument if counsel for the Parties will exchange between
21 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
22 prove the existence and contents of this Agreement.

23 13.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement
24 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
25 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
26 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
27 process.

28 Dated: _____

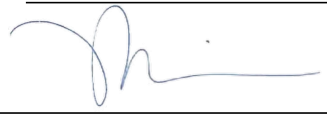
Plaintiff, Rory Massey

Dated: 23 September 2022 _____



Joel Rintoul, Controller
for Defendants, Mann+Hummel Water and
Fluid Solutions, Inc. and Microdyn-Nadir US,

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| | Inc. |
| Dated: | Dated: <u>September 23, 2022</u>  _____ |
| Counsel for Plaintiff | Counsel for Defendants, Mann+Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US, Inc. |
| | |

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9 Attorney for Plaintiff and all others similarly situated and the general public

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA BARBARA**

13 RORY MASSEY, on behalf of himself and all
14 others similarly situated and the general public,
15
16 Plaintiffs,

17 v.

18 MANN+HUMMEL WATER AND FLUID
SOLUTIONS, INC., a Delaware corporation;
19 MICRODYN-NADIR US, INC., a business form
20 unknown; and DOES 1 to 100, inclusive,
21
22 Defendants

) Case No.: 21CV02965
) Hon. Colleen K. Sterne
) Dept. 5
) CLASS ACTION

) **NOTICE OF CLASS ACTION**
) **SETTLEMENT AND**
) **HEARING DATE FOR FINAL COURT**
) **APPROVAL**

) Action filed: July 27, 2021
) Trial Date: Not Set

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**NOTICE OF CLASS ACTION SETTLEMENT AND
HEARING DATE FOR FINAL COURT APPROVAL**

1 **NOTICE OF CLASS ACTION SETTLEMENT AND**
2 **HEARING DATE FOR FINAL COURT APPROVAL**

3 *Massey v. Mann + Hummel Water and Fluid Solutions, Inc., et al.*

4 Santa Barbara Superior Court Case No. 21CV02965

5 ***The Superior Court for the State of California authorized this Notice. Read it***
6 ***carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not***
7 ***being sued.***

8 **You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Defendants, Mann + Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US, Inc. (hereinafter collectively referred to as “Defendants” or “M+H”) for alleged wage and hour violations. The Action was filed by Rory Massey, a former employee of Defendants.

12 Plaintiff seeks payment of (1) unpaid wages for a class of all current and former non-exempt hourly employees (“Class Members”) who worked for Defendants during the Class Period (July 27, 2017 until the date of preliminary approval or November 1, 2022, whichever occurs first); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former non-exempt hourly employees who worked for Defendants during the PAGA Period (July 7, 2020 until the date of preliminary approval or November 1, 2022, whichever occurs first) (“Aggrieved Employees”).

20 The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

25 Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual

1 PAGA Payment, then according to Defendants’ records you are not eligible for an Individual
2 PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

3 The above estimates are based on Defendants’ records showing that **you worked _____**
4 **workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA
5 Period. If you believe that you worked more workweeks during either period, you can submit a
6 challenge by the deadline date. See Section 4 of this Notice.

7 The Court has already preliminarily approved the proposed Settlement and approved this
8 Notice. The Court has not yet decided whether to grant final approval. Your legal rights are
9 affected whether you act or do not act. Read this Notice carefully. You will be deemed to have
10 carefully read and understood it. At the Final Approval Hearing, the Court will decide whether
11 to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and
12 Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment
13 that requires Defendants to make payments under the Settlement and requires Class Members
14 and Aggrieved Employees to give up their rights to assert certain claims against Defendants.
15 If you worked for Defendants during the Class Period and/or the PAGA Period, you have two
16 basic options under the Settlement:

17 (1) **Do Nothing.** You don’t have to do anything to participate in the proposed
18 Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment.
19 As a Participating Class Member, though, you will give up your right to assert Class
20 Period wage claims and PAGA Period penalty claims against Defendants.

21 (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class
22 Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the
23 Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual
24 Class Payment. You will, however, preserve your right to personally pursue Class Period wage
25 claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an
26 Individual PAGA Payment. ***You cannot opt-out of the PAGA portion of the proposed***
27 ***Settlement.***

28 **Defendants will not retaliate against you for any actions you take with respect to the**

1 **proposed Settlement.**

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3 **SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

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| <p>4 You Don't Have to Do 5 Anything to Participate in the 6 Settlement</p> | <p>If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).</p> |
| <p>8 You Can Opt-out of the Class 9 Settlement but not the PAGA 10 Settlement</p> <p>11 The Opt-out Deadline is 12 _____ 13 (45 days)</p> | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |
| <p>17 Participating Class Members 18 Can Object to the Class 19 Settlement but not the PAGA 20 Settlement</p> <p>21 Written Objections Must be 22 Submitted by _____ 23 (45 days)</p> | <p>All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.</p> |
| <p>26 You can Participate in the 27 _____ Final Approval 28 Hearing</p> | <p>The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance</p> |

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| | platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice. |
| <p>You Can Challenge the Calculation of Your Workweeks/Pay Periods</p> <p>Written Challenges Must be Submitted by _____</p> | <p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.</p> |

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failing to pay all wages, specifically failing to pay proper premium overtime and failing to calculate the regular rate when paying non-discretionary bonuses; and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Janelle Carney of Janelle Carney – Attorney at Law, APC and Manny Starr, Adam Rose, and Dan Ginzburg of Frontier Law Center (“Class Counsel.”)

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement,

1 Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's
2 Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims.
3 By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

4 Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because
5 they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount
6 considering the strength of the claims and the risks and uncertainties of continued litigation; and
7 (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court
8 preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this
9 Notice, and scheduled a hearing to determine Final Approval.

10 **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

11 1. Defendants Will Pay \$800,000.00 as the Gross Settlement Amount (Gross
12 Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled
13 by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay
14 the Individual Class Payments, Individual PAGA Payments, Class Representative Service
15 Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and
16 penalties to be paid to the California Labor and Workforce Development Agency ("LWDA").
17 Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more
18 than fourteen (14) days after the Judgment entered by the Court become final. The Judgment will
19 be final on the date the Court enters Judgment, or a later date if Participating Class Members
20 object to the proposed Settlement or the Judgment is appealed.

21 2. Court Approved Deductions from Gross Settlement. At the Final Approval
22 Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions
23 from the Gross Settlement, the amounts of which will be decided by the Court at the
24 Final Approval Hearing:

- 25 A. Up to \$ 266,666.66 (33.33% of the Gross Settlement] to Class
26 Counsel for attorneys' fees and up to \$15,000.00 for their litigation
27 expenses. To date, Class Counsel have worked and incurred expenses on
28 the Action without payment.

- 1 B. Up to \$7,500.00 as a Class Representative Award for filing the
2 Action, working with Class Counsel and representing the Class. A Class
3 Representative Award will be the only monies Plaintiff will receive other
4 than Plaintiff's Individual Class Payment and any Individual PAGA
5 Payment.
- 6 C. Up to \$8,500.00 to the Administrator for services administering
7 the Settlement.
- 8 D. Up to \$25,000.00 for PAGA Penalties, allocated 75% (\$18,750.00) to the
9 LWDA PAGA Payment and 25% (\$6,250.00) in Individual PAGA
10 Payments to the Aggrieved Employees based on their PAGA Period Pay
11 Periods. Participating Class Members have the right to object to any of
12 these deductions. The Court will consider all objections.

13 3. Net Settlement Distributed to Class Members. After making the above deductions
14 in amounts approved by the Court, the Administrator will distribute the rest of the Gross
15 Settlement (the "Net Settlement") by making Individual Class Payments to Participating
16 Class Members based on their Class Period Workweeks.

17 4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking
18 the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages
19 ("Wage Portion") and 80% to [e.g., interest, etc.] ("Non-Wage Portion."). The Wage Portion is
20 subject to withholdings and will be reported on IRS W-2 Forms.

21 Defendants will separately pay employer payroll taxes it owes on the Wage
22 Portion outside the gross settlement fund. The Individual PAGA Payments are counted as
23 penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA
24 Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms. It
25 will be your responsibility to pay any tax owing on these amounts.

26 Although Plaintiff and Defendants have agreed to these allocations, neither side is giving
27 you any advice on whether your Payments are taxable or how much you might owe in taxes.
28 You are responsible for paying all taxes (including penalties and interest on back taxes)

1 on any Payments received from the proposed Settlement. You should consult a tax
2 advisor if you have any questions about the tax consequences of the proposed Settlement.

3 5. Need to Promptly Cash Payment Checks. The front of every check issued for
4 Individual Class Payments and Individual PAGA Payments will show the date when the check
5 expires (the void date). If you don't cash it by the void date, your check will be automatically
6 cancelled, and the monies will be deposited with the California Controller's Unclaimed Property
7 Fund in your name. If the monies represented by your check is sent to the Controller's
8 Unclaimed Property,
9 you should consult the rules of the Fund for instructions on how to retrieve your money.

10 6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
11 as a Participating Class Member, participating fully in the Class Settlement, unless you notify
12 the Administrator in writing, not later than _____, that you wish to opt-out. The
13 easiest way to notify the Administrator is to send a written and signed Request for Exclusion by
14 the _____ Response Deadline. The Request for Exclusion should be a letter from a
15 Class Member or his/her representative setting forth a Class Member's name, present address,
16 telephone number, and a simple statement electing to be excluded from the Settlement. Excluded
17 Class Members (i.e., Non-Participating Class Members) will not receive Individual Class
18 Payments, but will preserve their rights to personally pursue wage and hour claims against
19 Defendants.

20 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
21 themselves from the Class Settlement (Non-Participating Class Members) remain eligible
22 for Individual PAGA Payments and are required to give up their right to assert PAGA
23 claims against Defendants based on the PAGA Period facts alleged in the Action.

24 7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
25 possible the Court will decline to grant Final Approval of the Settlement or decline to enter a
26 Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff
27 and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not
28 pay any money and Class Members will not release any claims against Defendants.

1 8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc.
2 (the “Administrator”) to send this Notice, calculate and make payments, and process Class
3 Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges
4 over Workweeks, mail and remail settlement checks and tax forms, and perform other tasks
5 necessary to administer the Settlement. The Administrator’s contact information is contained in
6 Section 9 of this Notice.

7 9. Participating Class Members’ Release. After the Judgment is final and Defendants
8 have fully funded the Gross Settlement and separately paid all employer payroll taxes,
9 Participating Class Members will be legally barred from asserting any of the claims
10 released under the Settlement. This means that unless you opted out by validly excluding
11 yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any
12 other lawsuit against Mann + Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US,
13 Inc., or related entities for wages based on the Class Period facts and PAGA penalties based on
14 PAGA Period facts, as alleged in the Action and resolved by this Settlement.

15 The Participating Class Members will be bound by the following release:

16 All Participating Class Members, on behalf of themselves and their respective
17 former and present representatives, agents, attorneys, heirs, administrators,
18 successors, and assigns, release Released Parties from (i) all claims that were
19 alleged, or reasonably could have been alleged, based on the Class Period facts
20 stated in the Operative Complaint and ascertained in the course of the Action, in
21 any and/or all of the complaints in the Action and/or any of Plaintiff’s letters to
22 the LWDA (including any subsequently amended complaints or letters); and/or
23 any and all claims, known or unknown, that could have been asserted based on
24 any or all the factual allegations in all of the complaints in the Action and/or any
25 of Plaintiff’s letters to the LWDA (including any subsequently amended
26 complaints or letters). This includes but is not limited to claims for or related to:
27 pay for all hours worked/compensation due for services; calculation of the regular
28 rate of pay, including bonus or incentive pay, and other incentive payments when
calculating the overtime rate; meal periods; rest periods; meal and/or rest period
premiums and sick pay, including the calculation of the meal and/or rest period
premium pay and sick pay; wage statements; payment of wages at termination;
maintain accurate and complete records; unfair competition related to any or all of
the foregoing; any unpaid wages or compensation related to any or all of the
foregoing; restitution related to any or all of the foregoing; and any penalties,
including statutory or civil penalties, related to any or all of the foregoing. This
release includes any and all claims pursuant to: California Labor Code sections §§
200, *et seq.*, 226, 226.7, 246, 510, 512, 1194, 1194.2, 1197, 1198, and 2698, et

1 seq.; the California Business & Professions Code § 17200; and the California
2 Industrial Welfare Commission Wage Orders 16-01. The release shall run through
3 the date the Superior Court of the State of California, County of Santa Barbara
4 grants preliminary approval of the settlement or November 1, 2022, whichever
5 occurs first. Except as set forth in Section 6.3 of this Agreement, Participating
6 Class Members do not release any other claims, including claims for vested
benefits, wrongful termination, violation of the Fair Employment and Housing
Act, unemployment insurance, disability, social security, workers' compensation,
or claims based on facts occurring outside the Class Period.

7 10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and
8 Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes),
9 all Aggrieved Employees will be barred from asserting PAGA claims against Defendants,
10 whether or not they exclude themselves from the Settlement. This means that all Aggrieved
11 Employees, including those who are Participating Class Members and those who opt-out
12 of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA
13 claim against Mann + Hummel Water and Fluid Solutions, Inc. and Microdyn-Nadir US, Inc., or
14 their related entities based on the PAGA Period facts alleged in the Action and resolved by this
15 Settlement.

16 The Aggrieved Employees' Releases for Participating and Non-Participating Class
17 Members are as follows:

18 Each PAGA Representative Action Member, irrespective of whether he or she
19 opts out of the settlement, shall be deemed to release the Released Parties from
20 any and all claims, known or unknown, for civil penalties under California Labor
21 Code section 2698 et seq. (PAGA) that: were asserted in any and/or all of the
22 complaints in the Action and/or any of Plaintiff's letters to the LWDA (including
23 any subsequently amended complaints or letters); and/or any and all claims,
24 known or unknown, that could have been asserted based on any or all the factual
25 allegations in any and/or all of the complaints in the Action and/or any of
26 Plaintiff's letters to the LWDA (including any subsequently amended complaints
27 or letters). This release includes, but is not limited to, claims for PAGA civil
28 penalties premised on: California Labor Code sections 201, 202, 203, 210, 226,
226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, and 1198; failure to pay
overtime; failure to pay for all hours worked/compensation due for services;
calculation of the regular rate of pay, including failure to include all remuneration
into the regular rate for overtime, meal and rest period premiums and sick pay,
and other incentive payments when calculating the overtime rate; failure to
provide meal periods; failure to authorize and permit rest periods; failure to pay
meal or rest period premiums, including the calculation of the meal and/or rest

1 period premium pay; failure to provide accurate itemized wage statements; and
2 failure to timely pay wages at termination; The release shall run through the date
3 the Superior Court of the State of California, County of Santa Barbara grants
4 preliminary approval of the settlement or November 1, 2022, whichever occurs
5 first.

6 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

7 A. To Each Participating Class Member: The main allegations in this case deal with
8 underpayments for overtime related to bonuses and/of shift differentials, which were only earned
9 by Production Employees but not Non-Production Employees. Therefore, the estimated
10 proportionate share of the Net Settlement Amount shall be determined by the
11 Settlement Administrator pursuant to the following formula:

- 12 i. Participating Class Members who worked as a Production
13 Employee and who were eligible to earn production bonuses will receive
14 two (2) points for each Eligible Workweek worked during the Class
15 Period;
- 16 ii. Participating Class Members who worked a clerical and/or office
17 job will receive one (1) point for each Eligible Workweek worked during
18 the Class Period;
- 19 iii. Each Eligible Workweek shall receive a point allocation pursuant to
20 the below (but not both), and shall not be double counted.
- 21 iv. To calculate each Participating Class Members' proportionate
22 share:
- 23 a) Add all points for all Participating Class Members together to
24 obtain the "Denominator";
 - 25 b) Divide the number of points for each Participating Class
26 Member by the Denominator to obtain each Participating Class
27 Members' "Portion of the Net Fund";
 - 28 c) Multiply each Participating Class Members' Portion of the
Net Settlement Amount by the Net Settlement Amount to
determine each Participating Class Members' Net Amount.

1 d) For each Participating Class Member, their Net Amount will
2 be the amount of their Settlement Check.

3 B. Workweek/Pay Period Challenges. The number of Class Workweeks you worked
4 during the Class Period and the number of PAGA Pay Periods you worked during the PAGA
5 Period, as recorded in Defendants' records, are stated in the first page of this Notice. You
6 have until _____ to challenge the number of Workweeks and/or Pay Periods
7 credited to you. You can submit your challenge by signing and sending a letter to the
8 Administrator via mail. (See Section 9 of this Notice for the Administrator's contact
9 information.)

10 You need to support your challenge by sending copies of pay stubs or other records. The
11 Administrator will accept Defendants' calculation of Workweeks and/or Pay Periods based on
12 Defendants' records as accurate unless you send copies of records containing contrary
13 information. You should send copies rather than originals because the documents will not be
14 returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based
15 on your submission and on input from Class Counsel (who will advocate on behalf of
16 Participating Class Members) and Defendants' Counsel. The Administrator's decision is final.
17 You can't appeal or otherwise challenge its final decision.

18 5. HOW WILL I GET PAID?

19 1. Participating Class Members. The Administrator will send, by U.S. mail, a single
20 check to every Participating Class Member (i.e., every Class Member who doesn't opt-out)
21 including those who also qualify as Aggrieved Employees. The single check will combine the
22 Individual Class Payment and the Individual PAGA Payment. Please make sure the
23 administrator has your correct address.

24 2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a
25 single Individual PAGA Payment check to every Aggrieved Employee who opts out of the
26 Class Settlement (i.e., every Non-Participating Class Member). Your check will be sent to the
27 same address as this Notice. If you change your address, be sure to notify the Administrator as
28 soon as possible. Section 9 of this Notice has the Administrator's contact information.

1 **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

2 Submit a written and signed letter with your name, present address, telephone number,
3 and a simple statement that you do not want to participate in the Settlement. The Administrator
4 will exclude you based on any writing communicating your request be excluded. Be sure to
5 personally sign your request, identify the Action as *Massey v. Mann + Hummel Water and Fluid*
6 *Solutions, Inc., et al.*, and include your identifying information (full name, address, telephone
7 number, approximate dates of employment, and social security number for verification
8 purposes). You must make the request yourself. If someone else makes the request for you, it
9 will not be valid. **The Administrator must be sent your request to be excluded by**
10 _____, **or it will be invalid.** Section 9 of the Notice has the Administrator’s contact
11 information.

12 **7. HOW DO I OBJECT TO THE SETTLEMENT?**

13 Only Participating Class Members have the right to object to the Settlement. Before
14 deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the
15 Court to approve. At least _____ days before the _____ Final Approval Hearing,
16 Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes,
17 among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for
18 Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is
19 requesting for attorneys’ fees and litigation expenses; and (ii) the amount Plaintiff is
20 requesting as a Class Representative Service Award. Upon reasonable request, Class
21 Counsel (whose contact information is in Section 9 of this Notice) will send you copies of
22 these documents at no cost to you. You can also view them on the Administrator’s Website
23 _____ or the Court’s website _____.

24 A Participating Class Member who disagrees with any aspect of the Agreement, the
25 Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may
26 wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested
27 by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written**
28 **objections to the Administrator is** _____. Be sure to tell the Administrator what

1 you object to, why you object, and any facts that support your objection. Make sure you
2 identify the Action *Massey v. Mann + Hummel Water and Fluid Solutions, Inc., et al.* and
3 include your name, current address, telephone number, and approximate dates of employment for
4 Defendants and sign the objection.

5 Section 9 of this Notice has the Administrator’s contact information.

6 Alternatively, a Participating Class Member can object (or personally retain a lawyer to
7 object at your own cost) by attending the Final Approval Hearing. You (or your attorney)
8 should be ready to tell the Court what you object to, why you object, and any facts that
9 support your objection. See Section 8 of this Notice (immediately below) for specifics
10 regarding the Final Approval Hearing.

11 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

12 You can, but don’t have to, attend the Final Approval Hearing on _____ at
13 _____ in Department 5 of the Santa Barbara Superior Court, located at 1100 Anacapa St.
14 Santa Barbara, CA 93101. At the Hearing, the judge will decide whether to grant Final Approval
15 of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff,
16 and the Administrator. The Court will invite comment from objectors, Class Counsel and
17 Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either
18 personally, or virtually. Check the Court’s website for the most current information.

19 It’s possible the Court will reschedule the Final Approval Hearing. You should check the
20 Administrator’s website _____ beforehand or contact Class
21 Counsel to verify the date and time of the Final Approval Hearing.

22 **9. HOW CAN I GET MORE INFORMATION?**

23 The Agreement sets forth everything Defendants and Plaintiff have promised to do under
24 the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other
25 Settlement documents is to go to _____’s website at _____.
26 You can also telephone or send an email to Class Counsel or the Administrator using the contact
27 information listed below, or consult the Superior Court website by going to
28 (<https://portal.sbcourts.org/CASBCIVILPORTAL>) and entering the Case Number for the

1 Action, Case No. 21CV02965. You can also make an appointment to personally review
2 court documents in the Clerk’s Office at the Santa Barbara Superior Court – Anacapa Branch
3 courthouse by calling _____.

4 **DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION**
5 **ABOUT THE SETTLEMENT.**

6 **Class Counsel:**

7 Janelle Carney, Esq.
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17 23901 Calabasas Road, #2074
18 Calabasas, CA 91302
19 Telephone: (818) 914-3433
20 Email: Manny@frontierlawcenter.com; Adam@frontierlawcenter.com;
21 Dan@frontierlawcenter.com

22 Settlement Administrator:
23 Name of Company:
24 Email Address:
25 Mailing Address:
26 Telephone:
27 Fax Number:

28 **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund https://www.sco.ca.gov/upd_inss.html, for instructions on how to retrieve the funds

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.