

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Fabian Martinez, Paul Adams, Michael Rush, and Richard L. Young (“Plaintiffs”) and defendant Johns Manville (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Actions” means the lawsuit alleging wage and hour violations against Defendant captioned *Martinez v. Johns Manville*, Case No. 23CV03097, initiated on March 15, 2023 and, following remand, now again pending in Superior Court of the State of California, County of Glenn (the “Class Action”) and the lawsuit alleging wage and hour violations against Defendant captioned *Martinez v. Johns Manville*, Case No. 23NWCV02364, initiated on July 25, 2023 and pending in the Superior Court of the State of California, County of Los Angeles (the “PAGA Action”).
- 1.2. “Administrator” means Apex Class Action, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” means all individuals who were employed by Defendant in California and classified as non-exempt employees at any time during the PAGA Period.
- 1.5. “Class” or “Settlement Class” means all individuals who were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period.
- 1.6. “Class Counsel” means Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.7. “Class Counsel Fees Payment” means the amount to be paid to Class Counsel for fees, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Actions, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and “Class Counsel Litigation Expenses Payment” means the amount to be paid to Class Counsel for all related litigation expenses billed in connection with the Action, as approved by the Court.

- 1.8. “Class Data” means the data consisting of each Class Member’s name, last-known mailing address, Social Security number, and number of Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses, including specifically use of the National Change of Address Database .
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in the form, without material variation other than formatting changes to facilitate printing by the Administrator, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period of time from August 20, 2020 to (i) Preliminary Approval of the Settlement, or (ii) 90 days from the final execution of this Agreement, whichever is earlier.
- 1.13. “Class Representatives” means the named Plaintiffs in the Operative Complaint in the Class Action, who shall be Fabian Martinez, Paul Adams, Michael Rush, and Richard L. Young and who shall be seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the service payment made to each of the Plaintiffs as Class Representatives in order to compensate them for initiating the Actions, performing work in support of the Actions, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiffs.
- 1.15. “Court” means the Superior Court of California, County of Glenn.
- 1.16. “Defendant” means Johns Manville, a Delaware corporation.
- 1.17. “Defense Counsel” means Munger, Tolles & Olson LLP.
- 1.18. “Effective Date” means the date by when all three of the following have occurred: (a) the court in the PAGA Action has dismissed the Action without Prejudice, (b) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; (c) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the deadline for filing a notice of appeal from the Judgment has passed with no appeal filed; or (b) if a timely appeal from the Judgment is filed, the

day after the appellate court affirms the Judgment and issues a remittitur.

- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.21. “Gross Settlement Amount” means Seven Hundred and Fifty Thousand United States Dollars (\$750,000) which is the total maximum gross amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes the employer’s share of payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.22. “Individual Class Payment” means a Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.23. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.24. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.25. “LWDA” means the California Labor and Workforce Development Agency.
- 1.26. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.27. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.

- 1.28. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.29. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant as a non-exempt employee in California for at least one day during the PAGA Period.
- 1.30. “PAGA Period” means the period of time from February 10, 2022, to (i) Preliminary Approval of the Settlement, or (ii) 90 days from the final execution of this Agreement, whichever is earlier.
- 1.31. “PAGA” means the California Labor Code Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.32. “PAGA Notice” means Plaintiff Martinez’s February 10, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and the 75% to LWDA (\$15,000) in settlement of PAGA claims.
- 1.34. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.35. “Plaintiffs” means Fabian Martinez, Paul Adams, Michael Rush and Richard L. Young, the named plaintiffs in the Actions.
- 1.36. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.37. “Released Class Claims” means all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, known or unknown, for any type of relief against Defendant, including all claims for (i) meal and rest break violations or premium payments in lieu thereof; (ii) failure to pay wages of any kind, including but not limited to regular or premium wages and/or failure to apply the proper regular rate; (iii) failure to pay wages timely during employment and upon termination; (iv) failure to pay sick time; (v) failure to reimburse employees for required expenses; (vi) failure to furnish accurate wage statements; (vii) unfair business practices relating to or arising out of any of the foregoing; and (viii) to the extent not covered above, any and all claims reasonably based on the facts alleged in the Operative Complaint, which occurred during the Class Period. Except as expressly set forth in this Agreement, Participating 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.

1.38. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or could have been alleged, based on the facts alleged in the Operative Complaint and/or the PAGA Notice which occurred during the PAGA Period. The Released PAGA Claims do not include claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

1.39. "Released Parties" means: Defendant and each of the following, each a "Releasee" and collectively, the "Releasees": parents and affiliates, subsidiaries, predecessors, successors, divisions, joint ventures, attorneys and assigns, and each of their former and present owners, directors, officers, employees, managers, partners, members, principals, agents, insurers, co-insurers, re-insurers, investors, shareholders, employee benefit plans, employee benefit plan trustees, fiduciaries, and administrators, and personal or legal representatives.

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

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

1.42. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.43. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

2. RECITALS

2.1. On March 15, 2023, plaintiff Fabian Martinez filed a complaint against Defendant in the Superior Court of the State of California, County of Glenn ("Class Action"). Plaintiff Martinez's complaint asserted claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;

- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802.
- (g) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226; and,
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and,
- (i) Failure to pay sick wages in violation of California Labor Code §§ 201-204, 233, 246.

2.2. On July 25, 2023, plaintiff Fabian Martinez filed a complaint against Defendant in the Superior Court of the State of California, County of Los Angeles (“PAGA Action”). Plaintiff Martinez asserted a single cause of action for violation of the Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. (“PAGA”).

2.3. As part of this Agreement, on August 14, 2024, the Parties filed a stipulation seeking leave for Plaintiff to file a First Amended Complaint in the Class Action that adds the claims alleged in the PAGA Action and that adds plaintiffs Paul Adams, Michael Rush and Richard L. Young. After the Amended Class Action Complaint is on file, the Parties agreed to stipulate to dismiss the PAGA Action in its entirety without prejudice. No Payment will be made until an order dismissing the PAGA Action has been entered.

2.4. The First Amended Complaint in the Class Action is the operative complaint in the Actions (the “Operative Complaint”).

2.5. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.6. On May 17, 2024, the Parties participated in an all-day mediation presided over by David A. Rotman, a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Actions based upon a mediator’s proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

2.7. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996)

48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.8. This Agreement represents a compromise and settlement of highly disputed claims. In particular, Defendant and Releasees deny all of the claims and contentions alleged by Plaintiff. Nonetheless, Defendant and Releasees have concluded that further conduct of the Actions would be protracted and expensive, and that it is desirable that the Actions be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement. Defendant and Releasees have also taken into account the uncertainty and risks inherent in any litigation, and particularly class and/or representative litigation. Defendant and Releasees have therefore determined that it is desirable and beneficial that the Actions be settled now in the manner and upon the terms and conditions set forth in this Agreement. Nothing in this Agreement is intended or will be construed as an admission by Defendant or Releasees that the claims in the Actions of Plaintiffs or the Class have merit or that Defendant or Releasees bears any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest whether the action can properly proceed on a call or representative basis, and Defendant and Releasees will not be deemed to have waived or limited any defense to class, collective, or representative action treatment. Defendant and Releasees also reserve all available defenses to the claims in the Action. Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the Lawsuits, is intended by the Parties to, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding as, evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Neither this Agreement nor any resulting court order(s) approving the Settlement shall have any collateral estoppel or other preclusive effect against Defendant or Releasees, and it shall not in any way establish any liability against Defendant or Releasees. Plaintiffs and their counsel agree that there shall be no such effect and that they shall not contend otherwise. Notwithstanding the foregoing, (i) this Agreement may be used in any proceeding in the court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any court orders or judgments entered in connection therewith, and (ii) Defendants or Releasees may introduce the Settlement as a defense in the event of other or further litigation that seeks to assert any of the claims released by this Agreement.

2.9. This Agreement is made for the sole purpose of attempting to consummate the Settlement. The Parties enter into this Agreement on the conditional basis that the Court enters the Judgment contemplated by this Agreement. In the event that the Judgment does not become Final for any reason, this Agreement shall be deemed null and void ab initio, it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation, terms, and entry of the Agreement shall remain subject to the provisions of California Evidence Code sections 1119 and 1152, except that

the documents filed in support of the motion for preliminary approval and/or final approval shall remain part of the public record. Further, in the event that the Judgment does not become Final for any reason, Defendant reserves its right to once again remove the Class Action to Federal Court. Plaintiffs and Plaintiff's counsel agree not to oppose remotely or to contest federal jurisdiction on that grounds that removal was untimely.

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

3. MONETARY TERMS

3.1. Gross Settlement Amount. Subject to the terms of this Agreement, and except as otherwise provided by Paragraph 9 below, Defendant agrees to pay the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement, and specifically, prior to the occurrence of the Effective Date. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.

(a) To Plaintiffs: Class Representative Service Payments (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member) to the Class Representatives of not more than \$10,000 to Plaintiff Martinez and not more than \$5,000 each to Plaintiffs Young, Adam, and Rush. Defendant will not oppose Plaintiffs' request for a Class Representative Service Payments that do not exceed these amounts. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payments less than the amounts requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will report the Class Representative Service Payments using IRS Form 1099 as required by law. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

(b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$250,000, and a Class Counsel Litigation Expenses Payment of not more than \$40,000. Defendant will

not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms as required by law. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

- (c) To the Administrator: An Administration Expenses Payment not to exceed \$13,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$13,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000 to be paid from the Gross Settlement Amount, with 75% (\$15,000) allocated to the LWDA PAGA Payment and 25% (\$5,000) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
 - ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
 - i. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form as required by law. 80% of each Participating

Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms as required by law. Each Participating Class Member agrees to hold harmless the Released Parties, Class Counsel, and Defendant's Counsel for any tax liability, including penalties and interest, arising out of or relating to the Participating Class Member's failure to pay taxes on any amounts paid pursuant to this Settlement.

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

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records, Defendant has represented that the Class consists of 632 Class Members who collectively worked a total of 75,000 Workweeks, and 457 Aggrieved Employees who worked a total of 41,253 PAGA Pay Periods.
- 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet or other reasonably accessible form. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data. By preliminarily approving the Settlement, the Court will have authorized Defendant to provide the Class Data, including Social Security Numbers, to the Administrator.
- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the “void date”, which is 180 days after the date of mailing, when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients’ mailing addresses using the National Change of Address Database. If a Participating Class Member’s or Aggrieved Employee’s check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 5.5. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement to Plaintiffs or Participating Class Members, and Plaintiffs and Participating

Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement for additional benefits or additional payments.

6. **RELEASE OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will, per the terms of the Settlement and operation of the Judgment, release claims against all Released Parties as follows:

6.1. Plaintiffs' Individual Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences between them that occurred or arose anytime from the beginning of time to the date Plaintiff executes this Agreement ("Plaintiffs' Released Claims"). This release of Plaintiffs' Individual Released Claims releases the Released Parties from any claim that Plaintiffs could maintain in any action against any Released Party. This release is broader than the release applicable to Settlement Class Members, and covers all claims of any nature that can legally be released, and includes, but is not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA Notice ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. For avoidance of doubt, Plaintiffs are subject to the Class and PAGA Releases for the duration of the Class Period and PAGA Period respectively. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. The Parties declare and represent that they intend this Agreement to be complete and not subject to any claim of mistake, and that the releases herein express full and complete releases, and that they intend that the releases herein shall be final and complete.

- (a) Plaintiffs' Waiver of Rights Under Civil Code Section 1542. As partial consideration for the Class Representative Service Payments, Plaintiffs' Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiffs discover facts and/or claims in addition to or different from those that they now know or believe to be true with respect to the subject matter of Plaintiffs' Released Claims, those claims will remain released and forever barred. For purposes of Plaintiffs' Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release,

and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, assigns, and the State of California, the Released Parties from the Released PAGA Claims.

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

7.1. Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement

7.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for

the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

- 7.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person 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 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION

- 8.1. Selection of Administrator. The Parties have jointly selected Apex Class Action to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or the Class Member’s representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the

Class Member's name, and address. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement,

and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted, and the objection will be void.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The website established and maintained by the administrator shall be removed from the internet within 14 days of the Effective Date. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for

Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- (d) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (e) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE. Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. If the actual number of Workweeks during the Class Period exceeds the estimate stated herein in paragraph 4.1 by more than 10%, then Defendant will have the option of increasing the Gross Settlement Amount proportionally or limiting the end of the Class Period to maintain the workweek total so that it does not exceed 110% of the estimate stated herein in paragraph 4.1.

10. DEFENDANT’S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than

7 days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.

11. MOTION FOR FINAL APPROVAL. Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

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

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

13. ADDITIONAL PROVISIONS

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

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

Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

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

13.4. No Additional Clients. Class counsel further represents that it does not currently represent, or currently have plans to represent any clients with a claim against Defendant or any Released Party.

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

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

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

13.8. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

13.9. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

- 13.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant.
- 13.16. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.17. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.18. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Malcolm A. Heinicke
Munger, Tolles & Olson LLP
560 Mission Street, Twenty-Seventh Floor
San Francisco, CA 94105
Tel.: (415) 512-4000
Fax: (415) 512-4077
E-Mail: Malcolm.heinicke@mto.com


Katherine M. Forster
Erica C. Toooh
Munger, Tolles & Olson LLP
250 South Grand Ave, Fiftieth Floor
Los Angeles, CA 90071
Tel.: (213) 683-9100
Fax: (213) 687-3702
E-Mail: Katherine.forster@mto.com
Erica.tooch@mto.com

- 13.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 13.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the mediation on May 17, 2024 until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.
- 13.21. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 10/02/2024 
Fabian Martinez (Oct 2, 2024 10:51 PDT)
Plaintiff Fabian Martinez


Dated: 10/01/2024 
Paul Adams (Oct 1, 2024 10:27 PDT)
Plaintiff Paul Adams

Dated: 10/04/2024 
Michael Rush (Oct 4, 2024 08:29 PDT)
Plaintiff Michael Rush

Dated: 10/02/2024 *Richard L Young*
Richard L Young (Oct 2, 2024 06:21 PDT)
Plaintiff Richard L. Young

Dated: _____

[name]
For Defendant Johns Manville

Dated: 10/10/24 
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: _____

Malcolm A. Heinicke
Munger, Tolles & Olson LLP
Attorney for Defendant

14. EXECUTION BY PARTIES AND COUNSEL

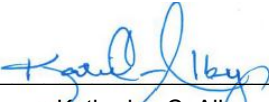
The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Fabian Martinez

Dated: _____
Plaintiff Paul Adams

Dated: _____
Plaintiff Michael Rush

Dated: _____
Plaintiff Richard L. Young

Dated: 10-2-2024

Katherine C. Albery [name]
For Defendant Johns Manville

Dated: _____
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

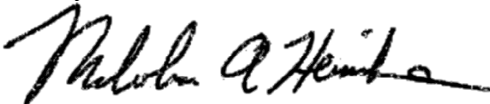
Dated: 10-2-2024

Malcolm A. Heinicke
Munger, Tolles & Olson LLP
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

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

***Martinez v. Johns Manville, Superior Court of the State of California,
County of Glenn, Case No. 23CV03097***

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

YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE READ THIS NOTICE CAREFULLY. Plaintiffs Fabian Martinez, Paul Adams, Michael Rush, and Richard L. Young (“Plaintiffs”) have filed a proposed class and representative action lawsuit (“Action”) against Defendant Johns Manville, a corporation (“Johns Manville” or “Defendant”) for asserting wage and hour claims. The Action seeks payment of (1) wages and other relief on behalf of all individuals who were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period (August 20, 2020, to _____) (the “Class Members”), and (2) penalties under the California Private Attorney General Act (“PAGA”) on behalf of all individuals who were employed by Defendant in California and classified as non-exempt employees at any time during the PAGA Period (February 10, 2022, to _____) (the “Aggrieved Employees”). **According to the company’s records, you, the recipient of this Notice are eligible to receive money under this settlement as set forth below, and if you take no action, you will receive such payment per the terms below. In other words, your various options are set forth below, but you need not take any action to be subject to this settlement and receive payment,**

Johns Manville has denied the violations and any associated liability in this matter. It contends that it has always paid, and continues to pay, its California employees fairly and properly. Nevertheless, the company has chosen to enter this settlement to avoid the expense and disruption associated with litigation and instead make the payments set forth in this Notice. The court has not made any finding that the claims asserted have merit or that Johns Manville did anything improper. This settlement was reached voluntarily by Plaintiffs and Johns Manville.

The proposed Settlement has two main parts: (1) a Class Settlement under which Defendant has agreed to fund Individual Class Payments to Class Members (“Individual Class Payments”), and (2) a PAGA Settlement under which Defendant has agreed to fund recovery for civil penalties under PAGA, including awards to individual Aggrieved Employees (“Individual PAGA Payments”) as well as the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your gross Individual Class Payment is estimated to be <<\$ _____>> (less withholdings), 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 \$0.00 is stated, then according to Defendant’s records you are not eligible for that payment because you did not work during the covered period commencing February 10, 2022.)

The above estimates are based on Defendant’s records showing that **you worked** << _____ >> **workweeks** during the Class Period and **you worked** << _____ >> **pay periods** during the PAGA Period. If you believe that you worked more workweeks and/or pay periods during either period, you can submit a challenge by the deadline date. See Section 5 of this Notice below.

The Court has preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make the agreed payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment, and/or Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims against Defendant as described below in Section 4 below. You will have the right to object to any part of the proposed Settlement if you do not exclude yourself from the Class Settlement.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion to the Administrator or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment, however, you will preserve your right to personally pursue Class Period wage claims against Defendant. If you are an Aggrieved Employee, you will still receive an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don’t Have to Do Anything to Participate in the Settlement	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 Defendant that are covered by this Settlement (“Released Claims”).
You Can Opt-out of the Class Settlement but not the PAGA	If you don’t want to participate in the Class Settlement portion of the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once

<p>Settlement</p> <p>The Opt-out Deadline is _____.</p>	<p>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 7 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. If you are also an Aggrieved Employee and exclude yourself, you will still be paid your Individual PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.</p>
<p>Participating Class Members Can Object to the Class Settlement</p> <p>Written Objections Must be Submitted by the Response Deadline _____</p>	<p>All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the Class Settlement portion 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 Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable.</p> <p>See Section 8 of this Notice.</p>
<p>You Can Participate in the _____ Final Approval Hearing</p>	<p>The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Glenn County Superior Court, located at 526 West Sycamore St., Willows, California 95988, in Department 2 before Judge Alicia Ekland. This hearing may change as explained below in Section 9.</p> <p>You don’t have to attend to receive payment or opt out, 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 through Courtcall, or by using the Court’s Zoom appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice</p>

1. What is the action about?

Plaintiffs are former employees of Defendant. The Action alleges that Defendant violated California labor laws by failing to pay minimum wages, failing to pay overtime wages, failing to provide required meal periods and unpaid premiums, failing to provide required rest periods and unpaid premiums, failing to provide accurate itemized wage statements, failing to provide required expense reimbursement, failing to provide wages when due, failing to pay sick pay, and engaging in unfair competition. Plaintiffs also seek civil penalties under the Private Attorneys

General Act (“PAGA”).

Defendant strongly denies violating any laws or failing to pay wages and contends it complied with all applicable laws.

On August 28, 2024, the Plaintiffs filed First Amended Complaint in the Class Action that added the claims alleged in the PAGA Action and that added plaintiffs Paul Adams, Michael Rush and Richard L. Young. The First Amended Complaint in the Class Action is the “Operative Complaint”.

2. What does it mean that the action has settled?

So far, the Court has made no determination whether Plaintiffs’ claims have any validity: there has been no court finding that Defendant did anything wrong. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to 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 written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merits of any claims. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant presented grounded defenses to the claim but has nevertheless agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay \$750,000 as the Gross Settlement Amount. (the “Gross Settlement Amount”). The Gross Settlement Amount includes all payments of Individual Class Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, the Administration Expenses Payment, and the PAGA Penalties for civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Defendant will fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant’s share of payroll taxes, by transmitting the funds to the Administrator no later than thirty (30) business days after the Effective Date. The “Effective Date” means the date the Judgment is no longer subject to appeal. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments to Participating Class Members. While the timing of this is subject to change, the parties generally expect the payments to be mailed in the [correct season] of 2025.

Court Approved Deductions from Gross Settlement Amount. The proposed payments, subject to Court approval, will be deducted from the Gross Settlement Amount before payments of

Individual Class Payments are made to Class Members who do not request exclusion (“Participating Class Members”). At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$13,000, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- Attorneys’ Fees and Costs. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement Amount, which presently equals \$250,000, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$40,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.
- Class Representative Service Payments. Class Representative Service Payments in an amount not more than \$10,000 to Plaintiff Martinez and not more than \$5,000 each to Plaintiffs Young, Adam, and Rush as their service awards, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook. Plaintiffs will also execute general releases broader than the releases applicable to class member such as you.
- PAGA Penalties. A payment of \$20,000 relating to Plaintiffs’ claim under PAGA, \$15,000 of which will be paid to the State of California’s Labor and Workforce Development Agency (“LWDA”). The remaining \$5,000 will be distributed to the Aggrieved Employees as Individual PAGA Payments based on their PAGA pay periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

Calculation of Payments to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement Amount”) by making Individual Class Payments to the Participating Class Members based on their Class Period workweeks.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Class Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty Percent (20%) of each Participating Class Member’s Individual Class Payment is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings and shall be reported on IRS Form W-2. Eighty Percent (80%) of each Participating Class Member’s Individual Class Payment is in settlement of claims for non-wages, expense reimbursement, interest and penalties allegedly due to employees

(collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members.

Although Plaintiffs and Defendant have agreed to these allocations, neither side is giving you any advice on whether your payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

Conditions of Settlement. This Settlement and your receipt of the Individual Class Payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

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

Need to Promptly Cash Payment Check. The front of every check issued will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the funds represented by such checks to the California Controller's Unclaimed Property Fund in your name.

Administrator. The Court has appointed a neutral company, Apex Class Action LLC (the “Administrator”), to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full funding of the Gross Settlement Amount and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims. The “Released Class Claims” are all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, known or unknown, for any type of relief against Defendant, including all claims for (i) meal and rest break violations or premium payments in lieu thereof; (ii) failure to pay wages of any kind, including but not limited to regular or premium wages and/or failure to apply the proper regular rate; (iii) failure to pay wages timely during employment and upon termination; (iv) failure to pay sick time; (v) failure to reimburse employees for required expenses; (vi) failure to furnish accurate wage statements; (vii) unfair business practices relating to or arising out of any of the foregoing; and (viii) to the extent not covered above, any and all claims reasonably based on the facts alleged in the Operative Complaint, which occurred during the Class Period. Except as expressly set forth in the

Agreement, Participating 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.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant and any other Released Party about the Released Class Claims resolved by this Settlement. It also means that all of the Court's orders in the Action will apply to you and legally bind you.

Released PAGA Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, assigns, and the State of California, the Released Parties from the Released PAGA Claims. The "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or could have been alleged, based on the facts alleged in the Operative Complaint and/or the PAGA Notice which occurred during the PAGA Period. The Released PAGA Claims do not include claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

The Released Parties are: Defendant and each of the following, each a "Releasee" and collectively, the "Releasees": Defendant's parents and affiliates, subsidiaries, predecessors, successors, divisions, joint ventures, attorneys and assigns, and each of their former and present owners, directors, officers, employees, managers, partners, members, principals, agents, insurers, co-insurers, re-insurers, investors, shareholders, employee benefit plans, employee benefit plan trustees, fiduciaries, and administrators, and personal or legal representatives.

5. How much will my payment be?

Your estimated payment is set forth above on page 1, in a gross amount, prior to required withholding.

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000 by the total number of PAGA Period pay periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period pay periods worked by each individual Aggrieved Employee

Workweek/ Pay Period Challenges. The number of Class Period workweeks you actively and actually worked during the Class Period and the number of PAGA pay periods you actively and

actually worked during the PAGA Period, as recorded in Defendant's records, are stated on the first page of this Notice. If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the address provided in this Class Notice no later than _____ [forty-five (45) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator.

To be clear, you do not need to submit anything or validate your weeks worked to receive the payment listed above.

If you do choose to submit a challenge, you will need to support your challenge by sending copies of supporting documentation, such as pay stubs or other records confirming your claimed active working period. Please note that the settlement does NOT cover all weeks and time ever worked – it is limited to the discrete time period listed above. The Administrator will accept Defendant's calculation of Workweeks based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel.

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment will be mailed automatically to the same address as this Class Notice.

Your check will be sent to the same address as this Class Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 8 of this Class Notice has the Administrator's contact information.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendant for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain subject to the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

If you do not opt out by the deadline set forth below, you will remain a part of the class settlement, and you will receive payment and be subject to the settlement.

To opt out, you must submit to the Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt-out should state in substance that you wish

to be excluded from the class settlement in the *Martinez v. Johns Manville* lawsuit. The request to opt-out should state the Class Member's full name, address and email address or telephone number. Please include the name and number of the case, which is *Martinez v. Johns Manville*, Case No. 23CV03097. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class. Section 8 of the Notice has the Administrator's contact information.

T Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiffs will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and the amount Plaintiffs are requesting as Class Representative Service Payments. You cannot opt out and also object, and if you take no action, you will receive payment and be subject to the settlement.

A Participating Class Member who chooses to object and thus contest any aspect of the Agreement, the Motion for Final Approval and for Fees, Litigation Expenses and Service Awards may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high. If objections are received and litigated, this could delay approval of the settlement and the associated payments, assuming the settlement is eventually approved.

The Response Deadline for sending written objections to the Administrator is _____ [forty-five (45) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Martinez v. Johns Manville*, Case No. 23CV03097, and include your name, current address, email or telephone number, and approximate dates of employment for Defendant and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: Apex Class Action

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Settlement Website: _____

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. You also have the option to appear at the hearing by telephone using Courtcall or by video

through Zoom. Instructions on how to do so are available on the Court's website at <https://www.glenn.courts.ca.gov/general-information/remote-appearances>. Check the Court's website for the most current information. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The addresses for Parties' counsel are as follows:

CLASS COUNSEL:

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik DeBlouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: kyle@bamlawca.com

COUNSEL FOR DEFENDANT:

Malcolm A. Heinicke
Katherine M. Forster
Erica C. Tooeh
Munger, Tolles & Olson LLP
250 South Grand Ave, Fiftieth Floor
Los Angeles, CA 90071

9. Can I Attend the Final Approval Hearing?

You need not attend the final approval hearing to receive payment.

Again, you can, but don't have to, attend the Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department 2 of the Superior Court of California, County of Glenn, 526 West Sycamore St., Willows, California 95988, before Judge Alicia Ekland. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiffs. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing by telephone through Courtcall to be contacted in advance at (888-882-6878) or using the Zoom procedure at <https://www.glenn.courts.ca.gov/general-information/remote-appearances>. You may also appear in person. Check the Court's website for the most current information on appearing in Court.

It's possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Martinez v. Johns Manville*. In addition, hearing dates are posted on the Internet via the Case Index webpage for the Glenn County Superior Court (<https://portal-caglenn.tylertech.cloud/Portal>) and entering the Case No. 23CV03097.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Martinez v. Johns Manville* Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. The easiest way to obtain and read the Agreement or any other Settlement document is to go to the Administrator's website at _____. If you wish to view the Court files in person, you go to the Clerk's Office at 526 West Sycamore St., Willows, CA 95988.

PLEASE DO NOT CALL THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. The funds may be claimed at https://www.sco.ca.gov/upd_msg.html.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF GLENN

FABIAN MARTINEZ, PAUL ADAMS,
MICHAEL RUSH, and RICHARD L.
YOUNG, individually on behalf of themselves
and on behalf of all persons similarly situated,

Plaintiffs,

vs.

JOHNS MANVILLE, a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 23CV03097

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Alicia Ekland
Dept: 2

Date Filed: March 15, 2023
Trial Date: Not set

1 This matter came before the Honorable Alicia Ekland of the Superior Court of the State of
2 California, in and for the County Glenn, on _____[DATE], for hearing on the unopposed
3 motion by Plaintiffs Fabian Martinez, Paul Adams, Michael Rush, and Richard L. Young
4 (“Plaintiffs”) for preliminary approval of the Settlement with Defendant Johns Manville
5 (“Defendant”). The Court, having considered the briefs, argument of counsel and all matters
6 presented to the Court and good cause appearing, hereby GRANTS Plaintiffs’ Motion for
7 Preliminary Approval of Class Action Settlement.

8
9 **IT IS HEREBY ORDERED:**

10 1. The Court preliminarily approves the Class Action and PAGA Settlement
11 Agreement (“Agreement”) attached as Exhibit ___ to the Declaration of Kyle Nordrehaug in
12 Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. This is based
13 on the Court’s determination that the Settlement set forth in the Agreement is within the range of
14 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
15 Procedure and California Rules of Court, rule 3.769.

16 2. This Order incorporates by reference the definitions in the Agreement, and all
17 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

18 3. The Gross Settlement Amount that Defendant shall pay is Seven Hundred Fifty
19 Thousand United States Dollars (\$750,000). It appears to the Court on a preliminary basis that the
20 settlement amount and terms are fair, adequate and reasonable as to all potential Class Members
21 when balanced against the probable outcome of further litigation and the significant risks relating
22 to certification, liability and damages issues. It further appears that investigation and research
23 have been conducted such that counsel for the Parties are able to reasonably evaluate their
24 respective positions. It further appears to the Court that the Settlement will avoid substantial
25 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
26 further prosecution of the Action. It further appears that the Settlement has been reached as the
27 result of serious and non-collusive, arm’s-length negotiations.

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PRELIMINARY APPROVAL ORDER

1 4. The Court preliminarily finds that the Settlement appears to be within the range of
2 reasonableness of a settlement that could ultimately be given final approval by this Court. The
3 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
4 preliminarily finds that the monetary settlement awards made available to the Class is fair,
5 adequate, and reasonable when balanced against the probable outcome of further litigation and the
6 significant risks relating to certification, liability, and damages issues.

7 5. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
8 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$40,000, and
9 proposed Class Representative Service Payments to the Plaintiffs in an amount not to exceed
10 \$10,000 to Plaintiff Martinez and not more than \$5,000 each to Plaintiffs Young, Adam, and
11 Rush. The Court will not approve the amount of attorneys' fees and costs, nor the amount of any
12 service award, until the Final Approval Hearing. Plaintiffs will be required to present evidence
13 supporting these requests, including lodestar, prior to final approval.

14 6. The Court recognizes that Plaintiffs and Defendant stipulate and agree to
15 representative treatment and certification of a class for settlement purposes only. This stipulation
16 will not be deemed admissible in this or any other proceeding should this Settlement not become
17 final. For settlement purposes only, the Court conditionally certifies the Class which consists of
18 "all individuals who were employed by Defendant in California and classified as non-exempt
19 employees at any time during the Class Period." The "Class Period" is August 20, 2020, to

20 [REDACTED].

21 7. The Court concludes that, for settlement purposes only, the Class meets the
22 requirements for conditional certification under section 382 of the California Code of Civil
23 Procedure.

24 8. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
25 Court provisionally appoints Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel
26 for the Class.

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PRELIMINARY APPROVAL ORDER

1 9. The Agreement provides for a PAGA Penalties out of the Gross Settlement
2 Amount of \$20,000, which shall be allocated \$15,000 to the Labor & Workforce Development
3 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
4 Agreement pursuant to the PAGA and \$5,000 to the Aggrieved Employees. “Aggrieved
5 Employees” are all individuals who were employed by Defendant in California and classified as
6 non-exempt employees at any time during the PAGA Period (February 10, 2022, to
7 [REDACTED]). Pursuant to Labor Code section 2699, subdivision (1)(2), the LWDA will be
8 provided notice of the Agreement and these settlement terms. The Court finds the PAGA
9 Penalties to be reasonable.

10 10. The Court hereby approves, as to form and content, the Class Notice attached to the
11 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
12 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right
13 to be excluded from the Class by submitting a written opt-out request, and of each member’s right
14 and opportunity to object to the Settlement. The Court further finds that the distribution of the
15 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets
16 the requirements of due process, is the best notice practicable under the circumstances, and shall
17 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
18 the Class Notice in English by first class mail pursuant to the terms set forth in the Agreement. If a
19 Class Notice Packet is returned because of an incorrect address, the Administrator will promptly
20 search for a more current address for the Class Member and re-mail the Class Notice Packet to any
21 new address for the Class Member no later than seven (7) days after the receipt of the undelivered
22 Class Notice.

23 11. The Court hereby appoints Apex Class Action LLC as the Administrator. No later
24 than fifteen (15) days after this Order, Defendant will provide the Class Data to the Administrator
25 in accordance with the Agreement. The Administrator will perform address updates and
26 verifications as necessary prior to the first mailing. Using best efforts to mail it as soon as
27 possible, and in no event later than fourteen (14) days after receiving the Class Data, the
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PRELIMINARY APPROVAL ORDER

1 Administrator will mail the Class Notice Packet to all Class Members via first-class regular U.S.
2 Mail to their last known address.

3 12. The Court hereby preliminarily approves the proposed procedure for exclusion
4 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
5 from the Class as provided in the Class Notice by following the instructions for requesting
6 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
7 postmarked or received no later than forty-five (45) calendar days after the date of the mailing of
8 the Class Notice (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response
9 Deadline for requests for exclusion will be extended an additional fourteen (14) days. A Request
10 for Exclusion may also be faxed or emailed to the Administrator as indicated in the Class Notice.
11 Any such person who chooses to opt out of and be excluded from the Class will not be entitled to
12 any recovery under the Class Settlement and will not be bound by the Class Settlement or have
13 any right to object, appeal or comment thereon. Class Members who have not requested exclusion
14 shall be bound by all determinations of the Court, the Agreement and the Judgment. A request for
15 exclusion may only opt out that particular individual, and any attempt to effect an opt-out of a
16 group, class, or subclass of individuals is not permitted and will be deemed invalid.

17 13. Any Class Member who has not opted out may appear at the final approval hearing
18 and may object or express the Member’s views regarding the Settlement and may present evidence
19 and file briefs or other papers that may be proper and relevant to the issues to be heard and
20 determined by the Court as provided in the Class Notice. Class Members will have until the
21 Response Deadline to submit their written objections to the Administrator. Written objections
22 may also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class
23 Notice Packet is re-mailed, the Response Deadline for written objections will be extended an
24 additional fourteen (14) days. Alternatively, Class Members may appear at the Final Approval
25 Hearing to make an oral objection.

26 14. A final approval hearing shall be held before this Court on _____
27 _____ at _____ in Department 2 at the Glenn County Superior Court to hear the

28 PRELIMINARY APPROVAL ORDER

1 motion for final approval, and to determine all necessary matters concerning the Settlement,
2 including: whether the proposed settlement of the Action on the terms and conditions provided for
3 in the Agreement is fair, adequate and reasonable and should be finally approved by the Court;
4 whether the Final Approval Order and Judgment should be entered herein; whether the plan of
5 allocation contained in the Agreement should be approved as fair, adequate and reasonable to the
6 Class Members; and to finally approve attorneys' fees and costs, service awards, and the fees and
7 expenses of the Administrator. All papers in support of the motion for final approval and for
8 attorneys' fees, costs and service awards shall be filed with the Court and served on all counsel no
9 later than sixteen (16) court days before the hearing and this motion shall be heard at this final
10 approval hearing.

11 15. Neither the Settlement nor any exhibit, document, or instrument delivered
12 thereunder shall be construed as a concession or admission by Defendant in any way that the
13 claims asserted have any merit or that this Action was properly brought as a class or representative
14 action, and shall not be used as evidence of, or used against Defendant as, an admission or
15 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
16 omission by Defendant or with respect to the truth of any allegation asserted by any person.
17 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
18 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
19 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
20 deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to,
21 evidence of a presumption, concession, indication or admission by Defendant of any liability,
22 fault, wrongdoing, omission, concession or damage.

23 16. In the event the Settlement does not become effective in accordance with the terms
24 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
25 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
26 and the Parties shall revert to their respective positions as of before entering into the Agreement,
27 and expressly reserve their respective rights regarding the prosecution and defense of this Action,

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PRELIMINARY APPROVAL ORDER

1 including all available defenses and affirmative defenses, and arguments that any claim in the
2 Action could not be certified as a class action and/or managed as a representative action. In such
3 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
4 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
5 the Agreement with respect to the effect of the Agreement if it is not approved.

6 17. The Court reserves the right to adjourn or continue the date of the final approval
7 hearing and all dates provided for in the Agreement without further notice to Class Members and
8 retains jurisdiction to consider all further applications arising out of or connected with the
9 proposed Settlement.

10 **IT IS SO ORDERED.**

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12 Dated: _____

13 _____
14 HON. ALICIA EKLAND
15 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
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EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF GLENN

FABIAN MARTINEZ, PAUL ADAMS,
MICHAEL RUSH, and RICHARD L.
YOUNG, individually on behalf of themselves
and on behalf of all persons similarly situated,

Plaintiffs,

vs.

JOHNS MANVILLE, a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 23CV03097

CLASS ACTION

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: _____

Hearing Time:

Judge: Hon. Alicia Ekland

Dept: 2

Date Filed: March 15, 2023

Trial Date: Not set

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FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs Fabian Martinez, Paul Adams, Michael Rush, and
2 Richard L. Young (“Plaintiffs”) for an order finally approving the Class Action and PAGA
3 Settlement Agreement (“Agreement”) with Defendant Johns Manville (“Defendant”), attorneys’
4 fees and costs, service payments, and the expenses of the Administrator duly came on for hearing
5 on _____ before the Honorable Alicia Ekland.

6 **I.**
7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the Superior Court for the State of California, in and for the County of Glenn, and over all Parties
13 to this litigation, including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiff and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of Seven Hundred Fifty
16 Thousand United States Dollars (\$750,000) and the terms set forth in the Agreement are fair,
17 reasonable, and adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length
19 negotiations conducted after Class Counsel had adequately investigated the claims and became
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
21 Settlement, and the assistance of an experienced mediator in the settlement process, among other
22 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

23 **Preliminary Approval of the Settlement**

24 5. On _____, the Court granted preliminary approval of the Settlement. At
25 this same time, the Court approved conditional certification of the Class for settlement purposes
26 only.

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Notice to the Class

6. In compliance with the Preliminary Approval Order, the Court-approved Class Notice was mailed by first class mail to members of the Class at their last-known addresses on or about _____. Mailing of the Class Notice to their last-known addresses was the best notice practicable under the circumstances and was reasonably calculated to communicate actual notice of the litigation and the proposed settlement to the Class. The Class Notice given to the Class Members fully and accurately informed the Class Members of all material elements of the proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California, the United States Constitution, due process and other applicable law. The Class Notice fairly and adequately described the Settlement and provided Class Members adequate instructions and a variety of means to obtain additional information.

7. The Response Deadline for opting out or submitting written objections to the Settlement was _____, which for re-mailings was extended by fourteen (14) days. There was an adequate interval between notice and the deadline to permit Class Members to choose what to do and to act on their decision. A full and fair opportunity has been afforded to the Class Members to participate in this hearing, and all Class Members and other persons wishing to be heard have had a full and fair opportunity to be heard. Class Members also have had a full and fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the Court determines that all Class Members who did not timely and properly submit a request for exclusion are bound by the Settlement and this Final Approval Order and Judgment.

Fairness of the Settlement

8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.* 48 Cal.App.4th 1794, 1801 (1996).

a. The settlement was reached through arm's-length bargaining between the Parties during a mediation before David A. Rotman, a respected and experienced mediator of

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1 wage and hour class actions. There has been no collusion between the Parties in reaching the
2 Settlement.

3 b. Plaintiffs and Class Counsel’s investigation and discovery have been
4 sufficient to allow the Court and counsel to act intelligently.

5 c. Counsel for all Parties are experienced in similar employment class action
6 litigation. Class Counsel recommended approval of the Agreement.

7 d. [The percentage of objectors and requests for exclusion is small. ____
8 objections were received. _____ requests for exclusion were received.]

9 9. The consideration to be given to the Class Members under the terms of the
10 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
11 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
12 Members’ claims, given the uncertainties and significant risks of the litigation and the delays
13 which would ensue from continued prosecution of the action.

14 10. The Agreement is approved as fair, adequate and reasonable and in the best
15 interests of the Class Members.

16 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

17 11. An award of \$ _____ for attorneys’ fees, representing one-third of the
18 Gross Settlement Amount, and \$ _____ for litigation costs and expenses, is reasonable,
19 in light of the contingent nature of Class Counsel’s fee, the hours worked by Class Counsel, and
20 the results achieved by Class Counsel. The requested award has been supported by Class
21 Counsel’s lodestar and billing statement.

22 **Class Representative Service Payments**

23 12. The Agreement provides for Class Representative Service Payments of not more
24 than \$10,000 to Plaintiff Martinez and not more than \$5,000 each to Plaintiffs Young, Adam, and
25 Rush, subject to the Court’s approval. The Court finds that Class Representative Service
26 Payments in the amount of \$10,000 to Plaintiff Martinez and not more than \$5,000 each to
27 Plaintiffs Young, Adam, and Rush are reasonable in light of the risks and burdens undertaken by

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1 the Plaintiffs in this litigation and for their time and effort in bringing and prosecuting this matter
2 on behalf of the Class.

3 **Administration Expenses Payment**

4 13. The Administrator shall calculate and administer the payment to be made to the
5 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the
6 Class Representative Service Payments to the Plaintiffs, issue all required tax reporting forms,
7 calculate withholdings and perform the other remaining duties set forth in the Agreement. The
8 Administrator has documented \$ _____ in fees and expenses, and this amount is reasonable in
9 light of the work performed by the Administrator.

10 **PAGA Penalties**

11 14. The Agreement provides for a PAGA Penalties out of the Gross Settlement
12 Amount of \$20,000, which shall be allocated \$15,000 to the Labor & Workforce Development
13 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
14 Agreement pursuant to the PAGA and \$5,000 to be distributed to the Aggrieved Employees and
15 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties
16 (\$5,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during
17 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
18 Periods. "Aggrieved Employees" are all individuals who were employed by Defendant in
19 California and classified as non-exempt employees at any time during the PAGA Period. The
20 PAGA Period is February 10, 2022, to [REDACTED]. Pursuant to Labor Code section
21 2699, subdivision (1)(2), the LWDA was provided notice of the Agreement and these settlement
22 terms and has not indicated any objection thereto. The Court finds the PAGA Penalties to be
23 reasonable.

24 **II.**

25 **ORDERS**

26 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:
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1 15. The Class is certified for the purposes of settlement only. The Class is defined as
2 follows:

3 All individuals who were employed by Defendant in California and classified as
4 non-exempt employees at any time during the Class Period.

5 The Class Period is from August 20, 2020, to [REDACTED].

6 2. All persons who meet the foregoing definition are members of the Class, except for
7 those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT
8 REFERENCE TO IDENTIFY ANY OPT OUTS].

9 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
10 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund
11 the amounts necessary to fully pay Defendant’s share of payroll taxes in accordance with the
12 Agreement, by transmitting the funds to the Administrator no later than thirty (30) days after the
13 Effective Date.

14 4. Class Counsel are awarded attorneys’ fees in the amount of \$_____ and
15 costs in the amount of \$_____. Class Counsel shall not seek or obtain any other
16 compensation or reimbursement from Defendant, Plaintiffs, or members of the Class.

17 5. The payments of Class Representative Service Payments in the amount of \$
18 _____ to Plaintiff Martinez and \$_____ each to Plaintiffs Young, Adam,
19 and Rush are approved.

20 6. The payment of \$_____ to the Administrator for its fees and expenses is
21 approved.

22 7. The PAGA Penalties of \$20,000 is approved, and is to be distributed in accordance
23 with the Agreement.

24 8. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall
25 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
26 entry.

27 9. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this
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1 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
2 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment
3 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
4 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement
5 is, may be construed as, or may be used as an admission by or against Defendant of any fault,
6 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
7 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
8 evidence of, an admission or concession with regard to the denials or defenses by Defendant.
9 Nothing in this judgment shall be used against Defendant to establish *res judicata*, collateral
10 estoppel, release, or other theory of claim or issue preclusion to find liability or wrongdoing or the
11 validity of any claims against it. Notwithstanding these restrictions, Defendant may file in the
12 Action or in any other proceeding this Final Approval Order and Judgment, the Agreement, or any
13 other papers and records on file in the Action as evidence of the Settlement to support a defense of
14 *res judicata*, collateral estoppel, release, or other theory of claim or issue preclusion or similar
15 defense as to the Released Class Claims and/or Released PAGA Claims.

16 10. Notice of entry of this Final Approval Order and Judgment shall be given to all
17 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
18 and Judgment shall be posted on the Administrator's website as set forth in the Class Notice to the
19 Class, and this website shall remain active until the Effective Date. It shall not be necessary to
20 send notice of entry of this Final Approval Order and Judgment to individual Class Members.

21 11. If the Agreement does not become final and effective in accordance with the terms
22 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
23 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
24 revert to their respective positions as of before entering into the Agreement, and expressly reserve
25 their respective rights regarding the prosecution and defense of this Action, including all available
26 defenses and affirmative defenses, and arguments that any claim in the Action could not be
27 certified as a class action and/or managed as a representative action.

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1 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

2 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
3 Plaintiff, and all members of the Class, shall take nothing in the Action.

4 2. All Parties shall bear their own attorneys' fees and costs, except as otherwise
5 provided in the Agreement, and in this Final Approval Order and Judgment.

6 3. Effective on the date when Defendant fully funds the entire Gross Settlement
7 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class
8 Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will
9 release claims against Defendant, and all Released Parties as follows:

10 (a) All Participating Class Members, on behalf of themselves and their
11 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
12 and assigns, release Released Parties from the Released Class Claims. The "Released Class
13 Claims" are all claims that were alleged, or reasonably could have been alleged, based on the facts
14 stated in the Operative Complaint, known or unknown, for any type of relief against Defendant,
15 including all claims for (i) meal and rest break violations or premium payments in lieu thereof; (ii)
16 failure to pay wages of any kind, including but not limited to regular or premium wages and/or
17 failure to apply the proper regular rate; (iii) failure to pay wages timely during employment and
18 upon termination; (iv) failure to pay sick time; (v) failure to reimburse employees for required
19 expenses; (vi) failure to furnish accurate wage statements; (vii) unfair business practices relating
20 to or arising out of any of the foregoing; and (viii) to the extent not covered above, any and all
21 claims reasonably based on the facts alleged in the Operative Complaint, which occurred during
22 the Class Period. Except as expressly set forth in the Agreement, Participating Class Members do
23 not release any other claims, including claims for vested benefits, wrongful termination, violation
24 of the Fair Employment and Housing Act, unemployment insurance, disability, social security,
25 workers' compensation, or claims based on facts occurring outside the Class Period.

26 (b) All Aggrieved Employees and the LWDA are deemed to release, on behalf
27 of themselves and their respective former and present representatives, agents, attorneys, heirs,

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1 administrators, successors, assigns, and the State of California, the Released Parties from the
2 Released PAGA Claims. The “Released PAGA Claims” are all claims for PAGA penalties that
3 were alleged, or could have been alleged, based on the facts alleged in the Operative Complaint
4 and/or the PAGA Notice which occurred during the PAGA Period. The Released PAGA Claims
5 do not include claims for wrongful termination, discrimination, unemployment insurance,
6 disability and worker’s compensation, and claims outside of the PAGA Period.

7 4. For any Class Member or Aggrieved Employee whose Individual Class Payment
8 check or Individual PAGA Payment check is uncashed and canceled after the void date, the
9 Administrator shall transmit the funds represented by such checks to the California Controller's
10 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
11 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

12 5. The Court hereby enters judgment in the entire Action as of the filing date of this
13 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the
14 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction
15 over the interpretation, implementation, and enforcement of the Settlement and all orders entered
16 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

17 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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19 Dated: _____

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HON. ALICIA EKLAND
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

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