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REPUBLIC SERVICES, INC., AND DELTA  
CONTAINER CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

MICHAEL GEORGE MCCANN, individually  
and on behalf of himself and all others similarly  
situated,

Plaintiff,

v.

REPUBLIC SERVICES, INC., a Delaware  
Corporation; DELTA CONTAINER  
CORPORATION, a California Corporation; and  
DOES 1-50, inclusive,

Defendants.

Case No. STK-CV-UOE-2021-8294

CLASS ACTION AND PAGA  
SETTLEMENT AGREEMENT AND  
RELEASE OF CLAIMS

This Class Action and PAGA Settlement Agreement and Release of Claims is entered into by and between Plaintiff MICHAEL GEORGE MCCANN (“Plaintiff”), individually and on behalf of all others similarly situated, and REPUBLIC SERVICES, INC. and DELTA CONTAINER CORPORATION’s (collectively, “Defendants”), and is approved by their respective counsels of record, subject to the terms and conditions hereof and the Court’s approval.

**A. Definitions**

As used herein, for the purposes of this Settlement Agreement only, the following terms shall be defined as set forth below:

1. “Action” or “Lawsuit” mean and refer to the case entitled *Michael George McCann v. Republic Services, Inc., et al.*, San Joaquin Superior Court, Case No. STK-CV-UOE-2021-8294.
2. “Settlement Agreement” means this Class Action and PAGA Settlement Agreement and Release of Claims.
3. “Aggrieved Employees” means all non-exempt employees who worked for Delta Container Corporation in California (the “Company”) at any time during the PAGA Period.
4. “Class Counsel” refers to James Hawkins APLC.
5. “Class Data” mean a complete list that Defendants will diligently and in good faith compile from its records and provide to the Settlement Administrator on spreadsheets and shall include the Settlement Class Members’ full names; last known addresses; Social Security Numbers; and either the total Pay Periods Worked during the PAGA Period for each Aggrieved Employee and the total Weeks Worked during the Class Period for each Settlement Class Member, or the start and end date of employment for each Aggrieved Employee and each Settlement Class Member.
6. “Class Period” is deemed to be any time during the period of April 10, 2019 through the Preliminary Approval Date.
7. “Class Representative” or “Plaintiff” means and refers to MICHAEL GEORGE MCCANN.
8. “Complaint” refers to the operative Complaint in the Action, alleging Class Claims and

representative PAGA Claims.

9. “Court” or “Judge” means the Superior Court of California, County of San Joaquin.

10. “Defendants” refers to Republic Services, Inc., and Delta Container Corporation

11. “Defendants’ Counsel” or “Defense Counsel” refers to Littler Mendelson, P.C.

12. “Effective Date” means the date when all of the following events have occurred (“Effective Date”): (i) this Settlement Agreement has been executed by Plaintiff and Defendants; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been sent to the Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt out of the Settlement; (iv) the Court has held a formal fairness hearing and entered the Court’s Final Order and Judgment; and (v) the later of the following events: (A) when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; i.e., within 60 calendar days after entry of the Order and Judgment; (B) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) when any appeal, writ or other appellate proceeding has upheld the Court’s Final Order and Judgment with no right to pursue further remedies or relief.

13. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Settlement Agreement on substantially the terms provided herein or as the same may be modified by subsequent written agreement of the Parties.

14. “Final Settlement Class” means, collectively, all Participating Class Members who have not opted out of the Settlement Class by submitting timely, valid Requests for Exclusion.

15. “Gross Settlement Amount” shall have the meaning ascribed to it in Paragraph 49(a) below.

16. “Individual Settlement Payment(s)” shall have the meaning ascribed to it in Paragraph 49(c) below.

17. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 49(b) below.

18. “Notice” means the notice of class action and PAGA settlement that will be sent to the Settlement Class Members and Aggrieved Employees.

19. “Notice Response Deadline” is sixty (60) calendar days from the date the Notice is mailed to the Settlement Class Members and Aggrieved Employees.

20. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Settlement Agreement with respect to the Released Class Claims, pursuant to Paragraph 72(c) below.

21. “PAGA” means the California Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

22. “PAGA Penalties” means the total amount of civil penalties that the Parties have agreed will be paid from the Gross Settlement Amount to settle the PAGA Claims, allocated Twenty Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00) to the California Labor and Workforce Development Agency (“LWDA”) in accordance with PAGA, and Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for the individual PAGA payments to Aggrieved Employees, as set forth further below in Paragraph 49(h).

23. “PAGA Period” is deemed to be any time during the period of March 14, 2021, through the Preliminary Approval Date.

24. “PAGA Released Claims” by the Aggrieved Employees upon Final Approval of the settlement means the PAGA claims that Plaintiff alleged or could have alleged against the Released Parties, on behalf of the Aggrieved Employees and the State of California, based on the facts stated in the Complaint and in the relevant LWDA notice letter or that could have been asserted based on those facts, including all PAGA claims seeking civil penalties premised upon: 1) failure to pay wages including overtime; 2) failure to provide meal periods; 3) failure to provide rest periods; 4) failure to pay timely wages; 5) failure to provide accurate itemized wage statements; (6) unfair business

practices (California Business & Professions Code, § 17200 et seq.), and (7) and all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* based on the facts or claims alleged in the LWDA Notice and the Complaint.

25. “Participating Class Member” means any and all Settlement Class Members who are deemed to participate, who will receive an Individual Settlement Payment, and who do not opt-out by submitting a timely, valid Request for Exclusion.

26. “Parties” mean Plaintiff and Defendants, collectively.

27. “Pay Period(s) Worked” means all pay periods during the PAGA Period in which an Aggrieved Employee was employed in California as a nonexempt employee and worked at least one pay period.

28. “Preliminary Approval Date” means the date the Court preliminarily approves this Settlement Agreement, and any exhibits thereto, and enters the Preliminary Approval Order.

29. “Preliminary Approval Order” means the judicial Order to be entered by the Court, upon the application or motion of the Plaintiff, preliminarily approving this settlement and providing for the issuance of the Notice to the Settlement Class and Aggrieved Employees, an opportunity for Settlement Class Members to opt-out of the Settlement, an opportunity to submit timely objections to the Settlement, and setting a hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees and costs.

30. “QSF” means the Qualified Settlement Fund set up by the Settlement Administrator for the benefit of the Final Settlement Class and Aggrieved Employees, and from which the settlement payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue Code Sec. 468.

31. “Released Class Claims” or “Class Claims” by the Participating Class Members upon Final Approval of the settlement will include the claims stated in the Complaint or those claims which could have been asserted in the Complaint based upon the facts in the Complaint, including: 1) failure to pay wages including overtime; 2) failure to provide meal periods; 3) failure to provide rest periods;

4) failure to pay timely wages; 5) failure to provide accurate itemized wage statements; (6) failure to pay all wages due upon termination of employment; (7) unfair business practices (California Business & Professions Code, § 17200 et seq.), and (8) and all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* based on the facts or claims alleged in the LWDA Notice and the Complaint; and (9) all related claims for conversion, liquidated damages, punitive damages, penalties, statutory penalties based on the preceding released claims.

32. “Released Parties” means Defendants and their past and present officers, directors, shareholders, members, partners, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective parent corporations, subsidiaries, divisions, affiliates, attorneys, predecessors, successors and assigns.

33. “Release” shall mean (1) the release and discharge of the Released Class Claims by Plaintiff and all Participating Class Members, and (2) the release and discharge of the PAGA Released Claims by Plaintiff, the State of California, and all of the Aggrieved Employees. The *res judicata* effect of the judgment will be the same as that of the Release of the Released Class Claims and PAGA Released Claims.

34. “Request for Exclusion” means and refers to a valid and timely request for exclusion from the settlement of the Released Class Claims, which may be submitted by any Settlement Class Member, other than Plaintiff, pursuant to Paragraph 72(a) below.

35. “Service Payment” means, as set forth further in Paragraph 49(e) below, the amount approved by the Court to be paid from the Gross Settlement Amount to the Class Representative, Michael McCann, in addition to Michael McCann’s Individual Settlement Payment as a Participating Class Member and Aggrieved Employee.

36. “Settlement Administrator” means and refers to APEX Class Action Administration, the third-party class action settlement administrator agreed to by the Parties, that will provide the Notice to the Settlement Class and Aggrieved Employees and distribute the settlement amounts as described in this Settlement Agreement.

37. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this settlement, including, but not limited to, printing, distributing, and tracking documents for this settlement, tax reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property due diligence, reporting and remittance obligations, distributing the Gross Settlement Amount, and providing necessary reports and declarations, as requested by the Parties.

38. “Settlement Class” consists of all non-exempt employees who worked for Delta Container Corporation in California (the “Company”), during the Class Period (April 10, 2019 through the date of preliminary approval of the Settlement Agreement).

39. “Settlement Class Member(s)” or “Class Member(s)” refers to individual members of the Settlement Class.

40. “Work Week(s)” or “Week(s) Worked” means all calendar weeks in which the Settlement Class Member was employed in California as a nonexempt employee and worked at least one work week.

**B. General Terms**

41. Plaintiff filed a class complaint with the Court on September 2, 2021. Then, on March 15, 2022, Plaintiff filed the operative Complaint (which included an amendment to the Complaint) against Defendants, alleging class and representative PAGA claims. Plaintiff’s Complaint alleged the following class claims: 1) failure to pay wages including overtime; 2) failure to provide meal periods; 3) failure to provide rest periods; 4) failure to pay timely wages; 5) failure to provide accurate itemized wage statements; 6) unfair business practices; 7) Civil Penalties under the Private Attorney General Act (“PAGA”) based on the above alleged violations.

42. Plaintiff gave written notice to Defendants and the LWDA by sending his LWDA notice letter on September 7, 2021 (“PAGA Notice”) alleging Defendants violated Labor Code §§ sections 200-203, 510, 512, 558, 226, 226.3, 226.7, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, and the IWC Wage Orders. A copy of Plaintiff’s PAGA Notice is attached to this Settlement

Agreement as Exhibit A.

43. Defendants deny Plaintiff's claims and allegations and contend that the Action is not suitable for class certification or manageable as a class or representative action.

44. The Class Representative believes he can proceed with his representative and class claims, that the Action is meritorious, and that class certification is appropriate.

45. The Parties have conducted a thorough investigation into the facts of the Action. This includes conducting an extensive exchange of informal discovery, including Defendants' written policies and practices and confirmation regarding the uniform payroll and timekeeping practices for Settlement Class Members. Class Counsel is both knowledgeable about and has done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Class. Class Counsel has diligently pursued an investigation of the Class Members' claims against Defendants. Based on the foregoing data and on their own independent investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendants, and numerous potential appellate issues.

46. On September 21, 2023, Plaintiff and Defendants participated in mediation before Lisa Klerman, Esq., a well-respected wage and hour mediator. Though the case did not settle at mediation, the parties accepted a mediator's proposal on September 27, 2023.

47. The Parties agree that neither the Parties' settlement, this Settlement Agreement, nor the acts to be performed or judgments to be entered pursuant to the terms of the settlement and this Settlement Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation of any statute or law or liability on the claims or allegations in the Action.

48. Stipulation to Class Certification and Representative Treatment. For settlement purposes only, Defendants will stipulate that the Settlement Class Members described herein who do



not submit a timely Request for Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the Aggrieved Employees are appropriate for representative treatment. Defendants' stipulation to certification and representative treatment for settlement purposes only is not an admission that class action certification and/or representative treatment is proper, not admissible in this or any other action except for the sole purpose of enforcing this Settlement Agreement, and not deemed as a waiver to any additional defenses against class or representative action treatment. Should, for whatever reason, the Court fail to issue either Preliminary Approval or Final Approval, the Parties' stipulation to class certification and representative treatment as part of the settlement shall become null and void *ab initio* and shall have no bearing on and shall not be admissible in connection with the issue of whether or not certification and/or representative treatment would be appropriate in a non-settlement context. Defendants expressly reserve their rights and declare that Defendants would continue to oppose class certification, representative treatment, and the substantive merits of the case should the Court decline to issue Final Approval. Plaintiff expressly reserves his rights and declares that he will continue to pursue class certification, representative treatment, and a trial should the Court decline to issue Final Approval.

**C. Terms of Settlement**

49. The financial terms of the Settlement are as follows:

(a) Gross Settlement Amount: The Parties agree to settle this Action for Two Hundred Ninety Five Dollars and Zero Cents (\$295,000.00) ("the Gross Settlement Amount"). The Gross Settlement Amount is the maximum amount that will be paid, and includes Individual Settlement Payments, Attorneys' Fees and Costs Award, the Service Payment to the Class Representative, all Settlement Administration Costs, PAGA Penalties, and interest. Defendants shall separately pay the employer's share of applicable payroll tax obligations due on the wage portions of the Individual Settlement Payments, which shall be reported through the Settlement Administrator. As of August 5, 2023, Defendant estimated there are approximately 10,184 workweeks worked by putative class members. In the event the total workweeks on the final class list as of preliminary

1 approval is more than 15% larger, at the option of the Defendant, the Defendant shall either increase  
2 the Gross Settlement Amount pro rata, with a 15% grace margin (i.e. if the numbers increase by 17%,  
3 the Gross Settlement Amount shall increase by 2%), or elect to limit the date for determining class  
4 membership so as to limit the class size to a maximum of no more than 15% of the estimated class.

5 (b) Net Settlement Amount: The “Net Settlement Amount” is defined as the Gross  
6 Settlement Amount less the court-approved Attorneys’ Fees and Costs Award, the court-approved  
7 Service Payment to the Class Representative, the court-approved Settlement Administration Costs,  
8 and PAGA Penalties. If the Court reduces the Attorneys’ Fees and Costs Award, Service Payment to  
9 the Class Representative, and/or Settlement Administration Costs, and/or either increases or decreases  
10 the amount allocated to the PAGA Penalties, the Net Settlement Amount shall be increased or  
11 decreased accordingly.

12 (c) Individual Settlement Payments: Individual Settlement Payments for the  
13 Settlement Class will be calculated and apportioned from the Net Settlement Amount based on the  
14 number of Weeks Worked by a Settlement Class Member during the Class Period. Each specific  
15 Individual Settlement Payment will be calculated by: (a) dividing the Net Settlement Amount by the  
16 total number of Weeks Worked by all Participating Class Members during the Class Period, and (b)  
17 multiplying the result by each Participating Class Members’ Weeks Worked. The entire Net  
18 Settlement Amount will be disbursed to all Participating Class Members. If there are any valid and  
19 timely Requests for Exclusion, the Settlement Administrator shall proportionally increase the  
20 Individual Settlement Payment for each Participating Class Member according to the number of  
21 Weeks Worked, so that the amount actually distributed to Participating Class Members equals one  
22 hundred percent (100%) of the Net Settlement Amount.

23 (d) Allocation of Individual Settlement Payments: The Individual Settlement  
24 Payments will be allocated based on the allegations in the Action as follows: one-third (1/3) will be  
25 allocated as wages subject to withholding of all applicable local, state and federal taxes; and the  
26 remaining two-thirds (2/3) will be allocated between interest and penalties (pursuant to, e.g., California  
27

Labor Code §§ 203, 210, 226, 2699) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the penalties and interest allocations.

(e) Service Payment to Class Representative: The amount, if any, awarded to the Class Representative as a Service Payment will be set by the Court in its discretion, not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00), in exchange for the services Plaintiff performed on behalf of the Class (including taking steps to support the settlement) and for entering into the general and expansive release discussed hereinafter. Defendants agree not to oppose this Service Payment request if Plaintiff does not request exclusion from the Settlement Class and does not take any action, directly or indirectly, to undercut this settlement. The Service Payment to Plaintiff will be paid out of the Gross Settlement Amount. The Class Representative will be issued IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on this Service Payment. The Parties agree that any amount awarded as the Service Payment to Plaintiff less than the requested amount shall not be a basis for Class Counsel to void this Settlement Agreement or to appeal this aspect of the Court's ruling. Should the Court approve a lesser amount for the Service Payment, the difference shall be added to the Net Settlement Amount to be distributed to Participating Class Members.

(f) Attorneys' Fees and Costs Award: Defendants agree to not oppose a request by Class Counsel to the Court for an award of attorneys' fees of not more than one-third (1/3) of the Gross Settlement Amount (Two Hundred Ninety Five Thousand and Zero Cents (\$295,000.00)), plus reasonable litigation costs not to exceed Twenty Five Thousand Dollars and Zero Cents (\$25,000 .00) ("Attorneys' Fees and Cost Award"), subject to Court approval. The Attorneys' Fees and Cost Award shall be paid from the Gross Settlement Amount, and Defendants shall have no further obligation to pay any attorneys' fees, costs, or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to

1 be distributed to Participating Class Members. The Parties agree that any amount awarded as  
2 attorneys' fees and costs to Class Counsel less than the requested amount shall not be a basis for Class  
3 Counsel to rescind or otherwise void this Settlement Agreement. The Settlement Administrator shall  
4 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded  
5 by the Court.

6 (g) Settlement Administration Costs: The fees and other charges of the Settlement  
7 Administrator will be paid from the Gross Settlement Amount, not to exceed \$10,000.00 unless  
8 approved by all Parties and the Court.

9 (h) PAGA Penalties: The Parties agree that Thirty Thousand Dollars and Zero  
10 Cents (\$30,000.00) is allocated to PAGA Penalties and is to be paid from the Gross Settlement  
11 Amount, subject to the Court's approval. Twenty Two Thousand Five Hundred Dollars and Zero  
12 Cents (\$22,500.00) of the PAGA Penalties shall be paid to the LWDA in satisfaction of civil penalties  
13 under the Private Attorney General Act of 2004 ("PAGA") Seven Thousand Five Hundred Dollars  
14 and Zero Cents (\$7,500.00) of the PAGA Penalties will be paid to the Aggrieved Employees based  
15 upon the number of Pay Periods Worked by each Aggrieved Employee during the PAGA Period,  
16 which will be treated entirely as civil penalties and reported as required on an IRS Form 1099. Class  
17 Counsel shall give proper notice to the LWDA of the settlement.

18 (i) Tax Liability: Class Counsel, Defendants, and Defendants' counsel make no  
19 representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder, and  
20 Plaintiff, Settlement Class Members, and Aggrieved Employees are not relying on any statement or  
21 representation by Class Counsel, Defendants, or Defendants' counsel in this regard. Plaintiff,  
22 Participating Class Members, and Aggrieved Employees understand and agree that they will be solely  
23 responsible for the payment of any taxes and penalties assessed on their respective Settlement  
24 Amounts described herein. The amount of federal income tax withholding will be based upon a flat  
25 withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2)  
26 as amended or supplemented. Income tax withholding will also be made pursuant to applicable state  
27

1 and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at  
2 the times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and consistent  
3 with this Settlement Agreement. If the Code, the regulations promulgated thereunder, or other  
4 applicable tax law, are changed after the date of this Settlement Agreement, the processes set forth in  
5 this Section of this Settlement Agreement may be modified in a manner to bring Defendants into  
6 compliance with any such changes. Plaintiff, Participating Class Members, and Aggrieved Employees  
7 understand and agree that they will be solely responsible for the payment of any taxes and penalties  
8 assessed on their respective payments described herein and will hold Defendants harmless from and  
9 against any claims resulting from treatment of such payments as non-taxable damages.

10 (j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS SETTLEMENT  
11 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND  
12 EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE  
13 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT  
14 (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN  
15 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR  
16 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY  
17 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE  
18 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY  
19 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE  
20 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN,  
21 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN  
22 CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT ENTERED INTO  
23 THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION OF ANY  
24 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS  
25 NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY  
26 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT

1 MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR  
2 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS  
3 THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES  
4 (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON  
5 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX  
6 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION  
7 CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

8 50. No Credit Toward Benefit Plans. The Individual Settlement Payments made to  
9 Participating Class Members under this Settlement Agreement, as well as any other payments made  
10 pursuant to this Settlement Agreement, shall not be utilized to calculate any additional benefits under  
11 any benefit plans to which any Participating Class Members may be eligible, including, but not limited  
12 to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase or other types of equity plans,  
13 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'  
14 intention that this settlement will not affect any rights, contributions, or amounts to which any  
15 Participating Class Members may be entitled under any benefit plans. The Parties agree that the  
16 amounts paid pursuant to this settlement are not for days or hours worked, and shall not be included  
17 toward any regular rate of pay calculation, or any benefit vesting or accrual purpose.

18 51. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no  
19 circumstances will any portion of the Gross Settlement Amount revert to Defendants. Participating  
20 Class Members will not have to make a claim in order to receive an Individual Settlement Payment,  
21 and Aggrieved Employees will not have to make a claim in order to receive their share of PAGA  
22 Penalties. Distributions, in the form of Individual Settlement Payments, will be made directly to each  
23 Participating Class Member and Aggrieved Employee. The Settlement Administrator shall be  
24 responsible for accurately and timely reporting and remittance obligations with respect to unclaimed  
25 funds as a result of a Participating Class Member or Aggrieved Employee not cashing an Individual  
26 Settlement Payment by the check cashing deadline, as set forth herein.

52. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

**D. Release by Plaintiff, Participating Class Members, and Aggrieved Employees**

53. Upon entry of the Final Approval Order, and except as to such rights or claims as may be created by this Settlement Agreement, the Participating Class Members will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Period. It is the intent of the Parties that the Final Approval Order and judgment entered by the Court shall have full equitable and collateral estoppel and *res judicata* effect and be final and binding upon Participating Class Members regarding the Released Class Claims.

54. Each Participating Class Member will be deemed to have made the foregoing Release as if by manually signing it.

55. Upon entry of the Final Approval Order and Defendants' funding of the entire Gross Settlement Amount, Plaintiff, standing in the shoes of the Labor Commissioner/LWDA, and on behalf of the State of California and all Aggrieved Employees, will forever completely release and discharge the Released Parties from the PAGA Released Claims for the PAGA Period. It is the intent of the Parties that the Final Approval Order and judgment entered by the Court shall have full equitable and collateral estoppel and *res judicata* effect and be final and binding upon Aggrieved Employees regarding the PAGA Released Claims.

56. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

57. Plaintiff and Defendants intend that the settlement described in this Settlement Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims. The Class Members shall be so notified in the Notice. This paragraph only applies to Participating Class Members and, thus, does not apply to any Class Member who timely and validly

submits a Request for Exclusion.

58. Plaintiff and Defendants also intend that the settlement described in this Settlement Agreement will release and preclude any further PAGA claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other PAGA action of any kind, by each and all of the Aggrieved Employees to obtain a recovery based on, arising out of, and/or related to any and all of the PAGA Released Claims. The Aggrieved Employees shall be so notified in the Notice and Class Counsel shall provide appropriate notice to the LWDA of this Settlement Agreement prior to the filing of the Motion for Preliminary Approval. Aggrieved Employees shall receive their portion of the PAGA Settlement and shall be deemed to have released the PAGA Claims even if they opt out of the Class Settlement.

59. Class Representative, on behalf of himself and the Participating Class Members, acknowledges and agrees that the claims, including claims for unpaid wages and untimely payment of wages are disputed, and that the payments set forth herein constitute payment of all sums allegedly due to them. Class Representative, on behalf of himself and the Participating Class Members, acknowledges and agrees that California Labor Code § 206.5 is not applicable to the Parties hereto. California Labor Code § 206.5 provides in pertinent part as follows:

An employer shall not require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.

**E. Release by Class Representative**

60. As a material inducement to Defendants to enter into this Settlement Agreement and in consideration of the Service Payment, and in addition to the Class Representative's release of the Released Class Claims and PAGA Released Claims, Class Representative does hereby, for himself and for his respective spouses, domestic partners, marital community, children, estates, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and assigns forever and completely release and discharge and



1 covenants not to sue the Released Parties with respect to any and all claims, demands, liens,  
2 agreements, contracts, covenants, actions, suits, causes of action, wages, obligations, debts, liquidated  
3 damages, penalties, interest, costs, expenses, attorneys' fees, damages, judgments, orders and  
4 liabilities of whatever kind or nature in law, equity or otherwise, whether now known or unknown,  
5 suspected or unsuspected, concealed or hidden, which Plaintiff now owns or holds or has at any time  
6 heretofore owned or held as against said Released Parties, or any of them. Such released claims  
7 include specifically, but not exclusively and without limiting the generality of the foregoing, any and  
8 all claims, demands, agreements, obligations and causes of action, known or unknown, suspected or  
9 unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon,  
10 or relating to Class Representative's employment with Defendants or the remuneration for or  
11 termination of such employment, as alleged in the operative Complaint, arising out of or in any way  
12 connected with any transactions, occurrences, acts or omissions set forth, or facts alleged, in any and  
13 all charges, complaints, claims or pleadings filed by Class Representative against any Released Party  
14 prior to the date hereof with any city, county, state or federal agency, commission, office or tribunal  
15 whatsoever; or arising out of or in any way connected with any transactions, occurrences, acts or  
16 omissions occurring prior to the date hereof, including specifically without limiting the generality of  
17 the foregoing any claim under Title VII of the Civil Rights Act of 1964, the Age Discrimination in  
18 Employment Act (29 U.S.C. Section 621 *et seq.*), the Americans with Disabilities Act, the Employee  
19 Retirement Income Security Act, the National Labor Relations Act, the Fair Labor Standards Act, the  
20 Family and Medical Leave Act, the California Constitution, the California Labor Code, the California  
21 Civil Code, the California Government Code, the California Business & Professions Code, the  
22 California Family Rights Act, the California Fair Employment and Housing Act, the California  
23 Industrial Welfare Commission Wage Orders, or any other federal, state, or local statute or regulation  
24 (collectively, the "Class Representative's Claims").

25 61. Class Representative agrees that there is a risk that any injury that he may have suffered  
26 by reason of the Released Parties' relationship with him might not now be known, and there is a further

1 risk that said injuries, whether known or unknown at the date of this Settlement Agreement, might  
2 possibly become progressively worse, and that as a result thereof further damages may be sustained.  
3 Nevertheless, Class Representative agrees to forever and fully release and discharge the Released  
4 Parties, and understands that by the execution of this Settlement Agreement no further claims for any  
5 such injuries that existed at the time of the execution of this Settlement Agreement may ever be  
6 asserted by Class Representative with respect to claims arising in the time period from the beginning  
7 of time to the execution of this Settlement Agreement.

8         62. Class Representative expressly waives and relinquishes all rights and benefits afforded  
9 by Section 1542 of the Civil Code of the State of California and does so understanding and  
10 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of the  
11 State of California states:

12                 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
13                 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
14                 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE  
15                 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
16                 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED  
17                 PARTY.

18         Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full  
19 and complete release and discharge of all parties, Class Representative and Class Counsel expressly  
20 acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all  
21 claims that Class Representative knew of, as well as all claims that he does not know or suspect to  
22 exist in his favor against the Released Parties, or any of them, for the time period from the beginning  
23 of time to the execution of this Settlement Agreement, and that this Settlement Agreement  
24 contemplates the extinguishment of any such Class Representative's claims. Notwithstanding the  
25 above, the general release by Class Representative shall not extend to claims for workers'  
26 compensation benefits, claims for unemployment benefits, or other claims that may not be released by

1 law.

2 63. Class Representative represents and warrants that he has not filed and will not file any  
3 other lawsuit, administrative claim or action, arbitration, demand, or other action of any kind against  
4 Defendants or the Released Parties. Class Representative represents and warrants that, the only  
5 pending claims against Defendants or the Released Parties are included in this Action. However, the  
6 Parties agree that nothing in this paragraph shall prevent or prohibit Plaintiff from filing any other  
7 lawsuit, administrative claim or action, arbitration, demand, or other action of any kind against  
8 Defendants or the Released Parties for workers' compensation benefits, claims for unemployment  
9 benefits, or other claims that may not be released by law.

10 **F. Interim Stay of Proceedings**

11 64. Pending completion of all of the prerequisites necessary to effectuate this Settlement,  
12 the Parties agree, subject to Court's approval, to a stay of all proceedings in the Action except such as  
13 are necessary to effectuate this settlement.

14 **G. Notice Process**

15 65. Appointment of Settlement Administrator. The Parties have agreed to the appointment  
16 of the Settlement Administrator to perform the duties of a settlement administrator, including mailing  
17 the Notice, using standard devices to obtain forwarding addresses, independently reviewing and  
18 verifying documentation associated with any claims or opt-out requests, resolving any disputes  
19 regarding the calculation or application of the formula for determining the Individual Settlement  
20 Payments, drafting and mailing the settlement checks to Participating Class Members, and Aggrieved  
21 Employees, issuing W-2 and 1099 Tax Forms, performing unclaimed funds due diligence, reporting  
22 and performing remittance obligations, and performing such other tasks as set forth herein or as the  
23 Parties mutually agree or that the Court orders.

24 66. Disputes Regarding Settlement Administration. Any and all disputes relating to  
25 administration of this settlement by the Settlement Administrator (except for disputes regarding Class  
26 Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the  
27

1 terms and conditions of this Settlement Agreement, until Plaintiff and Defendants notify the Court that  
2 all payments and obligations contemplated by this Settlement Agreement have been fully carried out.  
3 Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve  
4 the dispute without the necessity of Court intervention. The Settlement Administrator shall also be  
5 responsible for issuing to Plaintiff, Participating Class Members, Aggrieved Employees, and Class  
6 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant  
7 to this Settlement Agreement. The Settlement Administrator shall also be responsible for setting up  
8 all necessary tax accounts and forwarding all payroll taxes and penalties to the appropriate government  
9 authorities.

10 67. Class Data. Within fourteen (14) business days after entry of the Preliminary Approval  
11 Order, Defendants shall provide the Class Data to the Settlement Administrator. The Settlement  
12 Administrator will run a check of the Class Members' addresses against those on file with the U.S.  
13 Postal Service's National Change of Address Database. The Class Data provided to the Settlement  
14 Administrator will remain confidential, shall be used solely to administer the Settlement, and it will  
15 not be used or disclosed to anyone (including Class Counsel), except as required by applicable tax  
16 authorities, pursuant to Defendants' express written consent, or by order of the Court. Although Class  
17 Counsel will not be provided with the list of Class Data, nothing herein shall prevent Class Counsel  
18 from communicating with Class Members regarding the Action and settlement.

19 68. Notice. The Notice, as approved by the Court, shall be sent by the Settlement  
20 Administrator to the Settlement Class Members, by first class mail, in English, within ten (10) calendar  
21 days following the Settlement Administrator's receipt of the Class Data. The Settlement  
22 Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses of  
23 Settlement Class Members if any envelopes are returned.

24 69. Returned Notices of Settlement. The Settlement Administrator will take steps to ensure  
25 that the Notice is received by all Settlement Class Members, including utilization of the National  
26 Change of Address Database maintained by the United States Postal Service to review the accuracy

of and, if possible, update a mailing address. Notices of Settlement will be re-mailed to any Settlement Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The re-mailed Notice shall be identical to the original Notice, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) calendar days after the remailing of the Notice.

70. Disputes Regarding Information on Notices of Settlement. Class Members are deemed to participate in the Settlement, unless they timely opt-out, and Aggrieved Employees may not opt-out of the PAGA Released Claims. The Notice will inform Class Members of his/her estimated Individual Settlement Payment and the number of Weeks Worked during the Class Period and Pay Periods Worked during the PAGA Period. Class Members may dispute their Weeks Worked and/or Pay Periods Worked if they feel they should be credited with more than represented on the Notice by timely submitting evidence to the Settlement Administrator. Defendants' records will be presumed determinative absent reliable evidence to rebut Defendants' records, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Weeks Worked and estimated Individual Settlement Payment. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. Class Members will have until the Notice Response Deadline to dispute Weeks Worked and/or Pay Periods Worked, object or opt-out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Weeks Worked and/or Pay Periods Worked for any Settlement Class Member, then the Settlement Administrator will recalculate the Participating Class Members' Individual Settlement Payments; accordingly, in no event will Defendants be required to increase the Gross Settlement Amount.

71. Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the Parties, at least twenty-five (25) calendar days prior to the Final Approval Hearing, a declaration

of due diligence and proof of mailing with regard to the mailing of the Notices of Settlement.

72. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the provisions in the Settlement related to the Released Class Claims, and the ability to opt-out or request exclusion from the Settlement with respect to the Released Class Claims. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Settlement with respect to the Released Class Claims in accordance with the following guidelines:

(a) Requests for Exclusion from Participating in the Settlement Class. Any Settlement Class Member, other than Plaintiff, may request to be excluded from the Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE  
MICHAEL GEORGE MCCANN V. REPUBLIC SERVICES, INC. ET AL.  
LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE  
SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE  
CLASS ACTION PORTION OF THIS LAWSUIT."

To be valid, any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address set forth in the Notice. Any such Request must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Settlement Agreement with respect to the Released Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this Settlement Agreement for the Released Class Claims; and (iii) will not be

bound by this Settlement Agreement, or the judgment, with respect to the Released Class Claims. Any Aggrieved Employee who requests timely exclusion will still be subject to the PAGA Released Claims to the fullest extent permitted by law and shall be sent his or her share of PAGA Penalties.

(b) Binding Effect on Participating Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for all purposes under this Settlement Agreement; (ii) will be bound by the terms and conditions of this Settlement Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement of the Released Class Claims. Any Settlement Class Member, other than Plaintiff, may object to the terms of this Settlement Agreement, except as to the PAGA Released Claims. To object, a Settlement Class Member shall do one of the following: (1) inform the Settlement Administrator, in writing, of his or her objection which must be postmarked by the Notice Response Deadline at the address set forth in the Notice. Such objection shall include the objecting Settlement Class Member's full name, address, telephone number, last four digits of the social security number or date of birth, signature, and dates of employment, in addition to the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by counsel, the name and address of his or her counsel. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) calendar days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence and file with the Court prior to the Final Approval Hearing; or (2) appear at the final approval hearing to state his or her objection and provide the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof. Any Participating Class Member who files an

1 objection remains eligible to receive monetary compensation from the settlement. Plaintiff and  
2 Defendants shall not be responsible for any fees, costs, or expenses incurred by any Class Member  
3 and/or his or her counsel related to any objections to the settlement. Submitting an objection does not  
4 preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a  
5 party of record by timely and properly intervening or filing a motion to vacate the judgment under  
6 California Code of Civil Procedure § 663. Settlement Class Members and Aggrieved Employees may  
7 not object to or opt-out of the Settlement with respect to the PAGA Released Claims.

8 (d) Failure to Object. Any Settlement Class Member who desires to object to the  
9 Released Class Claims in the Settlement but fails to timely submit a written objection or in person  
10 objection at the Final Approval Hearing waives any right to object and will be foreclosed from making  
11 any objection to this Settlement. Any Settlement Class Member who does not timely and properly  
12 become a party of record by intervening or filing a motion to vacate the judgment waives any and all  
13 rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate  
14 proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code  
15 of Civil Procedure § 473, and extraordinary writs.

16 (e) Responses to Objections. Counsel for the Parties may file a response to any  
17 objections submitted by objecting Settlement Class Members at least five (5) court days before the  
18 date of the Final Approval Hearing.

19 (f) Settlement Class Members will have until the Notice Response Deadline to  
20 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement  
21 Administrator shall disclose jointly to Class Counsel and Defendants' counsel what objections or  
22 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class  
23 Counsel or Defense Counsel.

24 (g) Defective Submissions. If a Settlement Class Member's Request for Exclusion  
25 or objection is defective as to the requirements listed herein, that Settlement Class Member will be  
26 given an opportunity to cure the defect(s). The Settlement Administrator will mail the Settlement  
27



1 Class Member a cure letter within three (3) business days of receiving the defective submission to  
2 advise the Settlement Class Member that his or her submission is defective and that the defect must  
3 be cured to render the Request for Exclusion or objection valid. The Settlement Class Member will  
4 have the later of (i) the Notice Response Deadline or (ii) fifteen (15) calendar days from the date of  
5 the cure letter to postmark or fax a revised Request for Exclusion or objection. If the revised Request  
6 for Exclusion or objection is not postmarked or received by fax within that period, it will be deemed  
7 untimely and disregarded.

8 (h) Right to Rescission: If 5% or more of the Class Members opt-out, Defendants  
9 shall have the right to rescind and void the Settlement.

10 73. Funding of the Settlement Amount. Defendants shall make a one-time deposit into the  
11 QSF of the Gross Settlement Amount, no later than thirty (30) calendar days after the Effective Date.  
12 Once Defendants have complied with their obligation set forth in this paragraph, it shall be deemed to  
13 have satisfied all of the terms and conditions of this Settlement Agreement, shall be entitled to all the  
14 protections afforded it under this Settlement Agreement, and shall have no further obligations under  
15 this Settlement Agreement, regardless of what occurs with respect to the further administration of the  
16 Settlement. The Settlement Administrator (and not Defendant) shall issue the applicable W-2s and  
17 IRS Form 1099 reflecting all payments to the Class Members.

18 74. Distribution of Funds. No later than ten (10) calendar days after the deposit of the  
19 payment into the QSF, the Settlement Administrator will mail the Individual Settlement Payments to  
20 the Participating Class Members, the payment to Class Counsel for the Attorneys' Fees and Costs  
21 Award, any Service Payment to the Class Representative, the payment to the LWDA for PAGA  
22 Penalties, the payments to Aggrieved Employees for PAGA Penalties, and will pay itself the  
23 Settlement Administration Costs.

24 75. Deadline for Cashing Settlement Checks. Participating Class Members and Aggrieved  
25 Employees shall have one hundred eighty (180) calendar days after mailing by the Settlement  
26 Administrator to cash each settlement check. If any Participating Class Member's or Aggrieved  
27

Employee's check is not cashed within that period, the check will be void and a stop-payment will be issued, and the Settlement Administrator shall issue the unclaimed funds to the California State Controller's Office in the name of the Class Member or Aggrieved Employee. The release will be binding upon all Participating Class Members and Aggrieved Employees who do not cash their checks within the one hundred eighty (180) calendar days period. In the event that any settlement check is returned to the Settlement Administrator within one hundred eighty (180) calendar days of mailing, the Settlement Administrator will, within five (5) business days of receipt of the returned settlement check, perform a skip trace to locate the individual, and notify Defense Counsel and Class Counsel of the results. If a new address is located by these means, the Administrator will have ten (10) business days to re-issue the check. Neither Defendant, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Participating Class Member or Aggrieved Employee notifies the Settlement Administrator that he or she believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check in question has not been negotiated prior to the stop payment order, the Settlement Administrator will issue a replacement check.

76. No person shall have any claim against Defendants or the Released Parties, Defendants' Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on mailings, distributions, payments or reports made in accordance with or pursuant to this Settlement Agreement. This provision does not, however, prevent a Party from seeking enforcement of this Settlement Agreement.

77. Without prejudice to any other remedies, the Settlement Administrator shall agree to be responsible for any breach of its obligations (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

**H. Duties of the Parties Prior to the Court's Approval**

78. Promptly after execution of this Settlement Agreement, Plaintiff will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order accomplishing the following:

(a) Scheduling the Final Approval Hearing on the issue of whether this Settlement should be finally approved as fair, reasonable and adequate as to the Class Members and Aggrieved Employees and a hearing on fees, costs and the Service Payment;

(b) Approving as to form and content of the proposed Notice;

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members and Aggrieved Employees;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class solely for purposes of this Settlement.

79. Reallocation of Settlement Proceeds. In the event the Court fails, on its first hearing, to approve this Settlement Agreement because the amount of the PAGA Penalties is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within this Settlement Agreement, in order to try to achieve Final Approval of this Settlement Agreement upon any subsequent Court hearings.

**I. Duties of the Parties Following Court's Final Approval**

80. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representative, and the payment to the Settlement Administrator for costs of administering the settlement; and

(c) Entering judgment approving settlement, thereby permanently barring all

Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties and permanently barring all Aggrieved Employees and the LWDA from prosecuting any PAGA Released Claims against any of the Released Parties.

81. Final Judgment. The Settlement Administrator shall give the Participating Class Members and Aggrieved Employees notice of the entry of Final Judgment on a postcard or letter that will be included with the Individual Settlement Payments.

**J. Voiding this Settlement Agreement**

82. All Parties, signatories, and their counsel shall not encourage opt-outs or objections to this Settlement Agreement. The Parties specifically agree not to solicit opt-outs, directly or indirectly, through any means.

83. If the settlement is voided or fails for any reason, Plaintiff and Defendants will have no further obligations under the settlement, including any obligation by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

84. If the settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendants and Plaintiff, unless otherwise specified in this Settlement Agreement.

**K. Other Terms**

85. Waiver. The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

86. Full and Complete Defense. This Settlement Agreement may be pleaded by any Released Party as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted or attempted, asserting any Released Class Claim or PAGA Released Claim.

87. Injunction Against Duplicative Claims. Upon Preliminary Approval of the Settlement Agreement, all Settlement Class Members who do not opt out of the Settlement Class shall be enjoined

1 from filing, joining, or becoming a party, member or representative in any actions, claims, complaints,  
2 or proceedings in any state or federal court on an individual, representative, collective or class action  
3 basis, or with the California Department of Industrial Relations' Division of Labor Standards  
4 Enforcement ("DLSE") or the United States Department of Labor ("DOL"), or from initiating any  
5 other proceedings, regarding any of the Released Claims. Any related pending actions, claims,  
6 complaints, or proceedings in any state or federal court or with the DLSE or DOL, shall be stayed until  
7 the Settlement Class Members have had an opportunity to decide to participate, object or file a Request  
8 for Exclusion from this settlement. In addition, upon Preliminary Approval of the Settlement  
9 Agreement, all Settlement Class Members (regardless of whether they opt-out) shall be enjoined from  
10 filing, joining, or becoming a party, member or representative in any actions, claims, complaints, or  
11 proceedings in any state or federal court on an individual, representative, collective or class action  
12 basis, or with the California Department of Industrial Relations' Division of Labor Standards  
13 Enforcement ("DLSE") or the United States Department of Labor ("DOL"), or from initiating any  
14 other proceedings, regarding any of the Release defined hereinabove to the extent such actions, claims,  
15 complaints, or proceedings are based on the PAGA Released Claims released via this Settlement  
16 Agreement.

17 88. Parties' Authority. The signatories hereto represent that they are fully authorized to  
18 enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.  
19 The signatories hereto further represent that the Parties to this Settlement Agreement are represented  
20 by competent counsel, and they have had an opportunity to consult with counsel prior to authorizing  
21 its execution.

22 89. No Publicity. The Parties will not publicize the settlement or disclose it to third parties,  
23 except as required or necessary to effectuate its terms and comply with law, including the payment of  
24 taxes. Specifically, Plaintiff and Plaintiff's counsel shall not publicize the settlement on their websites,  
25 in advertising/marketing materials or on social media. The Parties and their counsel agree that they  
26 will not issue any press releases or initiate any contact with the media about the fact, amount, or terms

1 of the settlement. If counsel for any party receives an inquiry about the settlement from the media,  
2 counsel may respond only after the motion for preliminary approval of the settlement has been filed  
3 and only by confirming the accurate terms of the settlement. Nothing in this provision shall prevent  
4 Defendants from making any required disclosure.

5 90. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to  
6 accomplish the terms of this Settlement Agreement, including but not limited to, execution of such  
7 documents and to take such other action as may reasonably be necessary to implement the terms of  
8 this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts,  
9 including all efforts contemplated by this Settlement Agreement and any other efforts that may become  
10 necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms  
11 set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel  
12 shall, with the assistance and cooperation of Defendants and Defendants' Counsel, take all necessary  
13 steps to secure the Court's preliminary and final approval of the settlement, and the final entry of  
14 judgment. Class Counsel shall provide Defendants' Counsel with copies of the Preliminary Approval  
15 Motion and Final Approval Motion for review at least five (5) court days prior to the filing deadline.

16 91. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they  
17 have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or  
18 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action  
19 or rights released and discharged by this Settlement Agreement.

20 92. No Admission. Defendants deny any and all liability to Plaintiff, any Settlement Class  
21 Member, and/or any Aggrieved Employee in this Action, as to any and all causes of action that were  
22 asserted or that might have been asserted in this Action. Nonetheless, Defendants wish to settle and  
23 compromise the matters at issue in the Complaint to avoid further substantial expense and the  
24 inconvenience and distraction of protracted and burdensome litigation. Defendants also has taken into  
25 account the uncertainty and risks inherent in litigation, and without conceding any infirmity in the  
26 defenses that they have asserted or could assert against Plaintiff, has determined that it is desirable and

beneficial that Plaintiff's claims be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

93. Inadmissibility of this Settlement Agreement. Whether or not the Court issues the Final Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices, and motions for preliminary and final approval, shall, pursuant to California Evidence Code § 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only and if, for any reason the settlement is not approved, the stipulation will have no force or effect.

94. Notices. Unless otherwise specifically provided herein, all notices, demands, or other communications pursuant to this Settlement Agreement shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

To the Settlement Class Members and Aggrieved Employees:

JAMES HAWKINS APLC  
James R. Hawkins, Esq. (#192925)  
Gregory Mauro, Esq. (#222239)  
Michael Calvo, Esq. (#314986)  
Lauren Falk, Esq. (#316893)  
Ava Issary, Esq. (#342252)  
9880 Research Drive, Suite 200  
Irvine, CA 92618  
Tel.: (949) 387-7200  
Fax: (949) 387-6676  
Email: James@jameshawkinsaplc.com  
Email: Greg@jameshawkinsaplc.com

Email: Michael@jameshawkinsaplc.com  
Email: Lauren@jameshawkinsaplc.com  
Email: Ava@jameshawkinsaplc.com

To Defendants:

Irene V. Fitzgerald, Bar No. 266949  
ifitzgerald@littler.com  
Julie R. Campos, Bar No. 314063  
jcampos@littler.com  
LITTLER MENDELSON P.C.  
5200 North Palm Avenue  
Suite 302  
Fresno, California 93704.2225  
Telephone: 559.244.7500  
Fax No.: 559.244.7525

95. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Settlement Agreement. Plaintiff and Defendants expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Settlement Agreement shall be in all cases construed as a whole, according to its fair meaning.

96. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

97. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.



1           98.    Dispute Resolution. Prior to instituting legal action to enforce the provisions of this  
2 Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, a Party  
3 shall provide written notice to the other Party and allow an opportunity to cure the alleged deficiencies,  
4 and Plaintiff and Defendants agree to seek the help of the mediator identified in this Settlement  
5 Agreement to resolve any dispute they are unable to resolve informally. During this period, the Parties  
6 shall bear their own attorneys' fees and costs. This provision shall not apply to any legal action or  
7 other proceeding instituted by any person or entity other than Plaintiff or Defendants.

8           99.    Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of  
9 dismissal pursuant to the terms of this Settlement Agreement, that, pursuant to California Code of  
10 Civil Procedure § 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this  
11 Action over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and  
12 obligations of this Settlement Agreement.

13          100.   Enforceability. Pursuant to California Evidence Code §§ 1123(a) and (b), the Parties  
14 intend that this Settlement Agreement shall be enforceable, binding, and admissible in a court of law.

15          101.   Choice of Law. This Settlement Agreement shall be governed by and construed,  
16 enforced and administered in accordance with the laws of the State of California.

17          102.   Integration Clause. This Settlement Agreement contains the entire agreement between  
18 the Parties relating to the settlement and transaction contemplated hereby, and all prior or  
19 contemporaneous agreements, understandings, representations, and statements, whether oral or  
20 written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder  
21 may be waived except in writing.

22          103.   Binding On Assigns. This Settlement Agreement shall be binding upon and inure to  
23 the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,  
24 successors, and assigns.

25          104.   Signatures of All Class Members and Aggrieved Employees Unnecessary to be  
26 Binding. It is agreed that, because the members of the Settlement Class and Aggrieved Employees

are numerous, it is impossible or impractical to have each Class Member and Aggrieved Employee execute this Settlement Agreement. The Notice will advise all Settlement Class Members and Aggrieved Employees of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member and Aggrieved Employee.

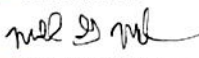
105. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

106. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

*--- Signatures on Next Page ---*

Dated: November 18, 2024

**PLAINTIFF AND CLASS REPRESENTATIVE:**



6C1A4D0552AC41C  
MICHAEL GEORGE MCCANN

Dated: November 20, 2024

**DEFENDANTS:**

DELTA CONTAINER CORPORATION  
REPUBLIC SERVICES, INC.



By: Ashley Kasanian

Title: Vice President

**END OF DOCUMENT**