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WERFEN USA LLC

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF SAN DIEGO

18
19 BRYAN ZUNIGA, individually, and on behalf
of others similarly situated,

20 Plaintiff,

21 v.

22 INOVA DIAGNOSTICS, INC., a California
corporation; WERFEN USA LLC, a
23 Massachusetts limited liability company; and
DOES 1 through 25, inclusive,

24 Defendants.
25

Case No.: 37-2023-00055201-CU-OE-CTL

Consolidated With Case No.: 37-2024-
00007407-CU-OE-CTL

(Assigned For All Purposes to the Honorable
Katherine Bacal, Dept. C-63)

**CLASS AND PAGA SETTLEMENT
AGREEMENT AND RELEASE**

Date Action Filed: December 21, 2023

Trial Date: Not Yet Set

1 This Class and PAGA Settlement Agreement and Release (the “Agreement”) is entered into
2 by and between plaintiff Bryan Zuniga (“Zuniga” or “Plaintiff”), on the one hand, individually and
3 on behalf of all persons who are members of the class to be certified for settlement purposes only
4 as provided for herein and the PAGA Group and the State of California, and defendants Inova
5 Diagnostics, Inc. (“Inova”) and Werfen USA LLC (“Werfen”) (collectively, “Defendants”), on the
6 other hand, subject to the approval of the Court. In consideration of the promises and mutual
7 covenants and agreements herein contained, Plaintiff and Defendants (collectively, the “Parties”)
8 hereby covenant and agree as follows:

9 **1. RECITALS**

10 1.1 On December 21, 2023, Plaintiff filed a putative class action complaint (the
11 “Putative Class Complaint”) against Defendants in the Superior Court of the State of California,
12 County of San Diego, entitled *Bryan Zuniga v. Inova Diagnostics, Inc., et al.*, Case No. 37-2023-
13 00055201-CU-OE-CTL (the “Putative Class Action”). The Putative Class Complaint alleged nine
14 causes of action for (1) failure to pay minimum wages in violation of Labor Code sections 1194,
15 1197, and 1197.1; (2) unpaid overtime in violation of Labor Code sections 510 and 1198; (3) meal
16 break violations in violation of Labor Code sections 226.7 and 512(a); (4) rest break violations in
17 violation of Labor Code section 226.7; (5) failure to timely pay wages during employment in
18 violation of Labor Code sections 204 and 210; (6) failure to provide accurate wage statements in
19 violation of Labor Code section 226(a); (7) failure to timely pay final wages in violation of Labor
20 Code sections 201, 202 and 203; (8) failure to reimburse necessary business expenses in violation
21 of Labor Code sections 2800 and 2802; and (9) unfair and unlawful business practices in violation
22 of Business and Professions Code sections 17200 et seq.

23 1.2 On February 16, 2024, Plaintiff filed another complaint against Defendants under
24 the Private Attorneys General Act of 2004 (“PAGA”) (the “PAGA Complaint”) in the Superior
25 Court of the State of California, County of San Diego, entitled *Bryan Zuniga v. Inova Diagnostics,*
26 *Inc., et al.*, Case No. 37-2024-00007407-CU-OE-CTL (the “PAGA Action”, and together with the
27 Putative Class Action, the “Actions”), alleging the same wage-and-hour violations under the Labor
28 Code.

1 1.3 On April 1, 2024, the Parties stipulated to stay the PAGA Action pursuant to an
2 agreement for early mediation of the same. On April 8, 2024, the Court ordered the PAGA Action
3 stayed pending the outcome of the Parties' mediation. On May 9, 2024, the Parties stipulated to
4 stay the Putative Class Action pursuant to an agreement for early mediation of the same. On May
5 13, 2024, the Court ordered the Putative Class Action stayed pending the outcome of the Parties'
6 mediation.

7 1.4 On July 26, 2024, the Court held a status conference and ordered the Actions related
8 and stayed the Actions pending the outcome of the Parties' mediation, scheduled for December 11,
9 2024.

10 1.5 In preparation for the mediation on December 11, 2024, Plaintiff asked for and
11 Defendants provided substantial informal discovery, including production of various policies,
12 employee headcounts and work week and pay period counts relevant to various claims, time and
13 payroll data, and other information requested by Plaintiff.

14 1.6 In these and other ways, the Parties investigated the facts and analyzed the relevant
15 legal issues regarding the claims and defenses in the Actions. Based on this investigation and
16 analysis, Plaintiff believes the Actions have merit, while Defendants believe the Actions have no
17 merit.

18 1.7 On December 11, 2024, the Parties participated in a full day mediation conducted
19 by Brandon McKelvey of M Resolution. Following the mediation, the Parties agreed to global
20 settlement of the Actions. The Parties also agreed to enter into a separate agreement that includes
21 a general release of claims by Plaintiff, which by itself the Parties agree does not require court
22 approval, but which is conditioned on approval of this Agreement.

23 1.8 On February 14, 2025, the Court held a status conference and consolidated the
24 Actions by stipulation of the Parties, with the Putative Class Action designated the lead case.

25 1.9 The Parties have each considered the uncertainties of continued litigation and the
26 benefits to be obtained under the proposed settlement, and have considered the costs, risks, and
27 delays associated with the continued prosecution of the Actions and the likely appeals of any rulings
28

1 in favor of either Plaintiff or Defendants. At all times, the Parties' settlement negotiations have
2 been non-collusive, adversarial, and at arm's length.

3 1.10 It is the Parties' intention and the objective of this Agreement to avoid the costs of
4 further litigation and trial, and to settle and dispose of, fully and completely and forever, the claims
5 released herein and described below.

6 **2. DEFINITIONS**

7 As used in this Agreement, the terms set forth in this Section 2 shall have the meanings
8 ascribed to them below.

9 2.1 **Actions.** "Actions" means the Putative Class Action and the PAGA Action.

10 2.2 **Agreement.** "Agreement" means this Class and PAGA Settlement Agreement and
11 Release, including all Exhibits referred to herein and attached hereto.

12 2.3 **Allocations.** "Allocations" means the amounts to be paid from the Net Settlement
13 Sum to the Settlement Class Members and from the PAGA Fund to the PAGA Group Members, as
14 provided in Section 4.5 of this Agreement.

15 2.4 **Class or Class Members.** "Class" or "Class Members" means all current and
16 former hourly-paid and/or non-exempt employees of Inova in the State of California at any time
17 during the Settlement Period.

18 2.5 **Class Counsel.** "Class Counsel" means the law firm of Blackstone Law, APC.

19 2.6 **Class Notice.** "Class Notice" means the Notice of Settlement of Class Action to be
20 mailed to Class Members. The Class Notice shall be substantially in the form of **Exhibit A** hereto.

21 2.7 **Class Settlement Award.** "Class Settlement Award" means the amount that the
22 Settlement Administrator determines is owed to a Class Member pursuant to the Plan of Allocation
23 described in Section 4.5, below.

24 2.8 **Class Work Weeks.** "Class Work Weeks" means the number of weeks during the
25 Settlement Period that a Class Member was employed by Inova in California for at least one day
26 as a non-exempt employee. Defendant represents that this is how workweeks was calculated prior
27 to mediation. Class Work Weeks shall be calculated by the Settlement Administrator. Settlement
28 Class Members may dispute the number of Class Work Weeks they worked during the Settlement

1 Period by submitting their dispute in writing to the Settlement Administrator in the manner
2 described in the Class Notice.

3 2.9 **Complaints.** “Complaints” means the Putative Class Complaint and the PAGA
4 Complaint.

5 2.10 **Court.** “Court” means the Superior Court of the State of California, County of San
6 Diego.

7 2.11 **Defendants.** “Defendants” mean defendants Inova Diagnostics, Inc. and Werfen
8 USA LLC.

9 2.12 **Defendants’ Counsel.** “Defendants’ Counsel” means the law firm of Morrison &
10 Foerster LLP.

11 2.13 **Effective Date.** “Effective Date” means either (a) the date sixty (60) calendar days
12 after entry of the Final Judgment and Order Approving Settlement, if no motions for
13 reconsideration and no appeals or other efforts to obtain review have been filed, or (b) in the event
14 that a motion for reconsideration, an appeal or other effort to obtain review of the Final Judgment
15 and Order Approving Settlement is filed, the date sixty (60) calendar days after such
16 reconsideration, appeal, or review has been finally concluded and is no longer subject to review,
17 whether by appeal, petition for rehearing, petition for review, or otherwise.

18 2.14 **Employer-Side Payroll Taxes.** “Employer-Side Payroll Taxes” means all federal,
19 state, and local employment payroll taxes due in regard to the wages portion of the Class Settlement
20 Award, owed by Defendants. For avoidance of doubt, Employer-Side Payroll Taxes are a subset
21 of Withholdings and Taxes, defined herein at Section 2.54.

22 2.15 **Enhancement Payment.** “Enhancement Payment” means the compensation paid
23 to Plaintiff in recognition of his effort and work in prosecuting the Actions on behalf of the Class
24 Members and PAGA Group Members and negotiating the Settlement, separate and apart from the
25 Class Settlement Award and PAGA Settlement Award he will receive, to be paid to him from the
26 Gross Settlement Amount.

27 2.16 **Fairness Hearing or Final Approval Hearing.** “Fairness Hearing” or “Final
28 Approval Hearing” means the hearing at or after which the Court will make a final decision on

1 whether to grant Final Approval of the Settlement as fair, reasonable, and adequate, implement the
2 terms of the Agreement, and enter Judgment. The Fairness Hearing shall be scheduled for a date
3 approximately ninety (90) calendar days after the Preliminary Approval Date, or as soon as
4 thereafter as the Court is available.

5 2.17 **Fee and Expense Award.** “Fee and Expense Award” means such award of
6 attorneys’ fees and costs/expenses as the Court may authorize to be paid to Class Counsel for the
7 services they have rendered to Plaintiff, the Class, and the PAGA Group.

8 2.18 **Final Approval or Judgment.** “Final Approval” or “Judgment” means the Final
9 Judgment and Order Approving Settlement finally certifying the Settlement Class and approving
10 the Settlement and this Agreement, as contemplated in Section 4.7 of this Agreement.

11 2.19 **Gross Settlement Amount.** “Gross Settlement Amount” means Three Million
12 Eighty-Nine Thousand Five Hundred Dollars and No Cents (\$3,089,500.00), which is the
13 maximum total amount that Defendants shall be required to pay for any and all purposes under this
14 Agreement. The following shall be paid from the Gross Settlement Amount pursuant to the Plan
15 of Allocation set forth in Section 4.5, below: (a) all Class Settlement Awards, (b) the PAGA
16 Settlement Amount, (c) the Fee and Expense Award, (d) the Enhancement Payment, (e) the
17 Settlement Administration Costs, and (f) Withholdings and Taxes. Under no other circumstances
18 shall Defendants pay any sum in excess of the Gross Settlement Amount in connection with the
19 Settlement, however, in the event that the Court does not approve the inclusion of Employer-Side
20 Payroll Taxes in the Gross Settlement Amount, Defendants shall pay such sums separate and in
21 addition to the Gross Settlement Amount.

22 2.20 **Inova.** “Inova” means defendant Inova Diagnostics, Inc.

23 2.21 **LWDA.** “LWDA” means the California Labor and Workforce Development
24 Agency.

25 2.22 **Net Settlement Sum.** “Net Settlement Sum” means the Gross Settlement Amount
26 less the following: (a) the PAGA Settlement Amount, (b) the Fee and Expense Award, (c) the
27 Enhancement Payment, (d) the Settlement Administration Costs, and (e) Withholdings and Taxes.
28

1 2.23 **Notice Response Deadline.** “Notice Response Deadline” means forty-five (45)
2 calendar days from the date of initial mailing of the Class Notice, or such other date set by the Court
3 in the Preliminary Approval Order.

4 2.24 **PAGA.** “PAGA” means the Labor Code Private Attorneys General Act of 2004
5 (Lab. Code, § 2698 et seq.).

6 2.25 **PAGA Action.** “PAGA Action” means the above-captioned action entitled *Bryan*
7 *Zuniga v. Inova Diagnostics, Inc., et al.*, Case No. 37-2024-00007407-CU-OE-CTL, currently
8 pending in the Superior Court of the State of California, County of San Diego.

9 2.26 **PAGA Complaint.** “PAGA Complaint” means the complaint filed by Plaintiff in
10 the PAGA Action on February 16, 2024.

11 2.27 **PAGA Fund.** “PAGA Fund” means 25% of the PAGA Settlement Amount, which
12 is the portion to be paid to PAGA Group Members.

13 2.28 **PAGA Group.** “PAGA Group” means all current and former hourly-paid and/or
14 non-exempt employees of Inova in the State of California at any time during the PAGA Period.

15 2.29 **PAGA Group Members.** “PAGA Group Members” means all members of the
16 PAGA Group.

17 2.30 **PAGA Notice.** “PAGA Notice” means the PAGA notice filed by Plaintiff with the
18 LWDA regarding Defendants on or about December 13, 2023.

19 2.31 **PAGA Pay Periods.** “PAGA Pay Periods” means the number of pay periods during
20 the PAGA Period that a PAGA Group Member was employed by Inova in California for at least
21 one day as a non-exempt employee. Defendant warrants and represents that pay periods were
22 calculated using this methodology prior to mediation. PAGA Pay Periods as provided in this
23 Agreement shall be calculated by the Settlement Administrator. PAGA Group Members may
24 dispute the number of PAGA Pay Periods they worked during the PAGA Period by submitting their
25 dispute in writing to the Settlement Administrator in the manner described in the Class Notice.

26 2.32 **PAGA Period.** “PAGA Period” means from December 13, 2022 through April 15,
27 2025.

28

1 2.33 **PAGA Settlement Amount.** “PAGA Settlement Amount” means One Hundred
2 Thousand Dollars and No Cents (\$100,000.00) or such other amount approved by the Court, 75%
3 of which (\$75,000.00) is to be paid to the LWDA and 25% of which (\$25,000.00) is to form the
4 PAGA Fund to be paid to PAGA Group Members. The PAGA Settlement Amount is to be paid
5 for resolution of the PAGA claims alleged in the PAGA Action, and which are included in the
6 Released PAGA Claims.

7 2.34 **PAGA Settlement Award.** “PAGA Settlement Award” means the amount that the
8 Settlement Administrator determines is owed to a PAGA Group Member pursuant to the Plan of
9 Allocation described in Section 4.5, below.

10 2.35 **Parties.** “Parties” means plaintiff Bryan Zuniga, on the one hand, individually and
11 on behalf of all Settlement Class Members, and on behalf of the PAGA Group and the State of
12 California, and defendants Inova Diagnostics, Inc. and Werfen USA LLC, on the other hand.

13 2.36 **Plaintiff.** “Plaintiff” means plaintiff Bryan Zuniga.

14 2.37 **Plan of Allocation.** “Plan of Allocation” means the manner in which the Net
15 Settlement Sum shall be allocated to Settlement Class Members and the PAGA Fund shall be
16 allocated to the LWDA and PAGA Group Members as set forth in Section 4.5, below.

17 2.38 **Preliminary Approval or Preliminary Approval Order.** “Preliminary Approval”
18 or “Preliminary Approval Order” means the order preliminarily approving this Settlement, which
19 shall, among other things, provisionally certify the Settlement Class for purposes of this Settlement
20 only; determine that Plaintiff adequately represents the Settlement Class and shall be its class
21 representative; appoint Class Counsel as counsel for the Settlement Class; approve Apex Class
22 Action as the Settlement Administrator; approve the content and distribution of the Class Notice to
23 the Class Members; set the Notice Response Deadline; and set the date for the Fairness Hearing, all
24 as contemplated in Section 4.1, below.

25 2.39 **Preliminary Approval Date.** “Preliminary Approval Date” means the date upon
26 which the Court enters the Preliminary Approval Order.

1 2.40 **Putative Class Action.** “Putative Class Action” means the above-captioned action
2 entitled *Bryan Zuniga v. Inova Diagnostics, Inc., et al.*, Case No. 37-2023-00055201-CU-OE-CTL,
3 currently pending in the Superior Court of the State of California, County of San Diego.

4 2.41 **Putative Class Complaint.** “Putative Class Complaint” means the complaint filed
5 by Plaintiff in the Putative Class Action on December 21, 2023.

6 2.42 **Released Claims.** “Released Claims” means all claims, debts, liabilities, demands,
7 obligations, damages, and actions or causes of action of any kind, including wage and hour claims
8 related to allegations of failure to pay overtime wages, failure to pay minimum wages, failure to
9 provide meal and rest periods, failure to pay meal and rest period premiums, failure to timely pay
10 wages, failure to pay all wages at time of discharge, failure to provide accurate wage statements,
11 failure to keep complete and accurate payroll records, and failure to reimburse necessary business-
12 related expenses, arising during the Settlement Period and that were alleged in the Putative Class
13 Complaint, the PAGA Complaint, or the PAGA Notice or could have reasonably been alleged
14 against any of the Released Parties based on the facts alleged in any of the Complaints or the PAGA
15 Notice. Specifically, for the Settlement Class Members, released claims include, without
16 limitation, claims under Labor Code sections 201-204, 210, 226(a), 226.7, 510, 512(a), 558,
17 1174(d), 1174.5, 1194, 1197, 1197.1, 1198, 2800, 2802, and 2698 et seq.; Business and Professions
18 Code section 17200 et seq.; and Code of Civil Procedure section 1021.5.

19 2.43 **Released PAGA Claims.** “Released PAGA Claims” means all claims that were or
20 could have been asserted pursuant to PAGA arising out of or related to the Released Claims arising
21 during the PAGA Period. Specifically, for the PAGA Group, released PAGA claims include those
22 based on, without limitation, alleged violations of Labor Code sections 201-204, 210, 226(a), 226.7,
23 510, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and 2698 *et seq.*

24 2.44 **Released Parties.** “Released Parties” means Defendants; each of their respective
25 present, former, or future parents, subsidiaries, affiliates, divisions, corporations in common
26 control, predecessors, successors, and assigns; each of its respective present, past, or future officers,
27 directors, employees, partners (both general and limited), shareholders, agents, attorneys, insurers,
28

1 and any other successors, assigns, or legal representatives; and any other individual or entity which
2 could be liable for any of the Released Claims or Released PAGA Claims.

3 **2.45 Request for Exclusion.** Class Members who wish to be excluded from or opt out
4 of the Settlement Class, must sign and submit a “Request for Exclusion”, which is a written request
5 made by a Class Member to the Settlement Administrator seeking to be excluded from the
6 Settlement Class.

7 **2.46 Settlement.** “Settlement” means this Agreement and all actions taken pursuant to
8 and in furtherance of this Agreement.

9 **2.47 Settlement Administration Costs.** “Settlement Administration Costs” means the
10 amount approved by the Court to be paid for the services of the Settlement Administrator to perform
11 the Settlement Administrator Duties, as specified in Section 4.2.2, below, estimated not to exceed
12 Nine Thousand Dollars and No Cents (\$9,000.00).

13 **2.48 Settlement Administrator.** “Settlement Administrator” means Apex Class Action
14 or such professional, third-party administrator as may be approved by the Court, which shall be
15 responsible for administering the Settlement pursuant to the terms of the Agreement, the Class
16 Notice, the Preliminary Approval Order, and the Judgment. The Settlement Administrator shall
17 agree to confidentiality terms as may be required by Defendants regarding personnel, payroll, and
18 any other data provided to the Settlement Administrator and shall work with Class Counsel and
19 Counsel for Defendants to implement and administer appropriate fraud-prevention policies. The
20 Settlement Administration Costs shall be paid out of the Gross Settlement Amount.

21 **2.49 Settlement Class.** “Settlement Class” means Plaintiff and all Settlement Class
22 Members.

23 **2.50 Settlement Class Members.** “Settlement Class Members” means each Class
24 Member who does not submit a valid and timely Request for Exclusion.

25 **2.51 Settlement Fund.** “Settlement Fund” means the fund established and administered
26 by the Settlement Administrator for the purpose of receiving and disbursing amounts to be paid to
27 Settlement Class Members, PAGA Group Members, the LWDA, Plaintiff, Class Counsel, and the
28

1 Settlement Administrator pursuant to this Agreement. The Settlement Fund shall be funded by
2 Defendants following the Effective Date in accordance with Section 4.8, below.

3 2.52 **Settlement Period.** “Settlement Period” means from December 21, 2019 through
4 April 15, 2025.

5 2.53 **Werfen.** “Werfen” means defendant Werfen USA LLC.

6 2.54 **Withholdings and Taxes.** “Withholdings and Taxes” means all withholdings from
7 the Class Settlement Award required by law plus all federal, state, and local employment payroll
8 taxes due in regard to the wages portion of Class Settlement Award, owed by a Settlement Class
9 Member of the Class or by Defendants. Withholdings and Taxes shall be deducted from the Net
10 Settlement Sum.

11 2.55 **Work Weeks Dispute.** “Work Weeks Dispute” means a dispute by a Settlement
12 Class Member and/or PAGA Group Member regarding the number of Class Work Weeks and/or
13 PAGA Pay Periods credited to that individual, which the individual has submitted in writing to the
14 Settlement Administrator in the manner described in the Class Notice.

15 2.56 **Zuniga.** “Zuniga” means plaintiff Bryan Zuniga.

16 **3. SETTLEMENT TERMS**

17 3.1 **Stay of Proceedings.** Subject to Court approval, the Parties agree to the entry of a
18 formal stay of all proceedings in this Action, including with respect to California Code of Civil
19 Procedure section 583.310, except such proceedings as may be necessary to implement and
20 complete the settlement, including for the sole and limited purpose of Plaintiff filing the motion for
21 Preliminary Approval and motion for Final Approval (as set forth in Section 4.1).

22 3.2 **Certification of the Settlement Class.** For purposes of settlement and the
23 proceedings contemplated by this Agreement only, the Settlement Class shall be provisionally
24 certified and consist of Plaintiff and all Settlement Class Members.

25 3.3 **Decertification of the Settlement Class If Settlement Not Approved.** Defendants
26 do not consent to certification of the Settlement Class or any settlement class for any purpose other
27 than to effectuate the Settlement of the Action. If, for any reason, the Settlement does not become
28 final, any certification of any Settlement Class will be vacated and the Parties will be returned to

1 their positions with respect to the Actions as if the Agreement had not been entered into. In the
2 event that Final Approval is not achieved: (a) any Court order preliminarily approving the
3 certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall
4 not be used or cited thereafter by any person or entity; (b) the fact of the Settlement reflected in this
5 Agreement, that Defendants did not oppose the certification of the Settlement Class under this
6 Agreement, or that the Court preliminarily approved the certification of the Settlement Class, shall
7 not be used or cited thereafter by any person or entity in any manner whatsoever, including without
8 limitation any contested proceeding relating to the certification of any class; and (c) the Parties
9 agree that they will be returned to their status quo ante positions. In the event the terms and
10 conditions of this Agreement are substantially modified by the Court, Plaintiff and Defendants
11 reserve the right to declare this Agreement null and void, in their sole discretion, within fourteen
12 (14) calendar days after such modification; provided, however, the Party exercising this right shall
13 be solely responsible for the Settlement Administrator's expenses incurred through the date of that
14 Party's exercise, not to exceed the amount approved by the Court in the Preliminary Approval
15 Order.

16 **3.4 Settlement Payment by Defendants.** In full settlement of the Released Claims and
17 Released PAGA Claims and following the Effective Date, Defendants shall deliver the Gross
18 Settlement Amount to the Settlement Administrator for establishment of the Settlement Fund, in
19 accordance with Section 4.8.1, below.

20 **3.5 Attorneys' Fees and Costs.** Defendants agree not to oppose Plaintiff's application
21 for a Fee and Expense Award consisting of attorneys' fees up to One Million Eighty-One Thousand
22 Three Hundred Twenty-Five Dollars and No Cents (\$1,081,325.00) (i.e., 35% of the Gross
23 Settlement Amount) plus actual costs and expenses, subject to the Court's approval. Plaintiff agrees
24 not to petition the Court for more than One Million Eighty-One Thousand Three Hundred Twenty-
25 Five Dollars and No Cents (\$1,081,325.00) for attorneys' fees or more than Thirty Thousand
26 Dollars and No Cents (\$30,000) for costs, and in no event shall Defendants be liable for any
27 attorneys' fees or costs in excess of these amounts. The Fee and Expense Award shall represent
28 payment for all claims for Class Counsel's attorneys' fees and costs, past and future, incurred in

1 the Action. The Fee and Expense Award shall be paid from the Gross Settlement Amount, and
2 Defendants shall not otherwise be required to pay for any portion of Class Counsel's attorneys'
3 fees, costs, or expenses. The Fee and Expense Award shall be paid to Class Counsel following the
4 Effective Date, in accordance with Section 4.8.2, below. An award by the Court of attorneys' fees
5 or costs that is less than the amounts applied for will not be grounds for Plaintiff or Class Counsel
6 to challenge or withdraw from the Settlement, and any amounts not awarded in costs or fees will
7 be included in the Net Settlement Sum.

8 **3.6 Enhancement Payment.** In recognition of his effort and work in prosecuting the
9 Actions on behalf of the Class Members and PAGA Group Members and negotiating the
10 Settlement, Plaintiff shall receive compensation in the sum of Ten Thousand Dollars and No Cents
11 (\$10,000.00). This Enhancement Payment is to be paid from the Gross Settlement Amount and
12 reported on IRS Form 1099-MISC. The Enhancement Payment is separate from and in addition to
13 the Class Settlement Award and PAGA Settlement Award to be paid to Plaintiff as a Settlement
14 Class Member and PAGA Group Member. It will not be grounds for Plaintiff or Class Counsel to
15 challenge or withdraw from the Settlement if the Court denies Plaintiff's application for the
16 Enhancement Payment or awards a lesser amount than that for which Plaintiff applies, and any
17 amounts not awarded in the Enhancement Payment will be included in the Net Settlement Sum.

18 **3.7 PAGA Settlement Amount.** Plaintiff shall seek approval from the Court for a total
19 payment of One Hundred Thousand Dollars and No Cents (\$100,000.00) for resolution of the
20 PAGA claims alleged in the PAGA Complaint, the PAGA Notice, or any of them. 75% of the
21 PAGA Settlement Amount shall be paid to the LWDA, and 25% of the PAGA Settlement Amount
22 shall form the PAGA Fund to be paid to PAGA Group Members in accordance with the Plan of
23 Allocation set forth in Section 4.5, below.

24 **4. CLASS SETTLEMENT PROCEDURES**

25 **4.1 Preliminary Approval.** As soon as practicable, Plaintiff shall move for Preliminary
26 Approval of the Settlement in the Putative Class Action. Plaintiff's motion shall request the Court
27 to:

28 4.1.1 Preliminarily approve this Agreement as fair, reasonable, and adequate;

1 4.1.2 Preliminarily approve the form, manner, and content of the Class Notice
2 described in Section 4.2 and attached as **Exhibit A**;

3 4.1.3 Set deadlines for the Settlement Administrator to provide the Class Notice,
4 and for Class Members to opt out of or object to the Settlement;

5 4.1.4 Set the date and time for the Fairness Hearing;

6 4.1.5 Provisionally certify the Settlement Class;

7 4.1.6 Stay all proceedings except for such proceedings as may be necessary to
8 implement and complete the Settlement, including for the sole and limited purpose of Plaintiff filing
9 the motion for Preliminary Approval, and motion for Final Approval, until Final Approval;

10 4.1.7 Appoint Plaintiff as class representative for the Settlement Class for
11 settlement purposes only;

12 4.1.8 Appoint Class Counsel as class counsel for settlement purposes only; and

13 4.1.9 Approve Apex Class Action as the Settlement Administrator.

14 Class Counsel shall draft the preliminary approval papers and give Defendants' Counsel a
15 draft of the papers to review at least three (3) court days prior, or as soon as practicable, before they
16 are filed.

17 4.2 **Class Notice.** Subject to Court approval, the Parties agree that as soon as practicable
18 after entry of the Preliminary Approval Order, the Settlement Administrator shall provide notice to
19 the Settlement Class pursuant to the following procedures:

20 4.2.1 **Information Regarding Class Members.** Within fifteen (15) business days
21 following entry of the Preliminary Approval Order, Defendants will provide the Settlement
22 Administrator the following information with respect to each Class Member: (i) name, (ii) last
23 known residence address, (iii) Social Security number, (iv) dates of employment, (v) individual
24 number of Class Work Weeks during the Settlement Period, and (vi) individual number of PAGA
25 Pay Periods during the PAGA Period (if applicable). Defendants will provide this information in
26 spreadsheet format. The information Defendants provide to the Settlement Administrator, along
27 with any updated contact information identified by the Settlement Administrator as set forth in
28 Sections 4.2.2 and 4.2.3, below, shall be used solely to administer the Class Notice and Plan of

1 Allocation process described herein, shall remain confidential, and shall not be disclosed to anyone,
2 except pursuant to the express written authorization of Defendants or the individual in question, by
3 order of the Court, or to the extent necessary to fulfill the Settlement Administrator's reporting
4 obligations hereunder.

5 **4.2.2 Settlement Administrator Duties.** The Settlement Administrator's duties
6 shall include, without limitation: (i) printing the Class Notice (including exhibits thereto) in English
7 and Spanish, and mailing it to the Class Members as directed by the Court; (ii) taking all steps
8 reasonably necessary to ensure Class Members timely receive the Class Notice; (iii) resolving any
9 disputes by Settlement Class Members regarding their number of Class Work Weeks; (iv) taking
10 receipt of and safeguarding the Gross Settlement Amount; (v) calculating and distributing Class
11 Settlement Awards, PAGA Settlement Awards, the portion of the PAGA Settlement Amount
12 payable to the LWDA, the Enhancement Payment, and the Fee and Expense Award, provided such
13 amounts are approved by the Court; (vi) calculating and remitting all Withholdings and Taxes;
14 (vii) issuing IRS Forms W-2 and 1099-MISC, as applicable; and (viii) filing such other reports with
15 the taxing authorities as required by law, together with such other tasks as the Parties may mutually
16 agree or the Court may order the Settlement Administrator to perform. The Settlement
17 Administrator shall take all reasonable steps to ensure that (a) the highest percentage of Class
18 Members receive the Class Notice; (b) Class Members who wish to participate in the Settlement
19 are permitted to do so consistent with this Agreement; and (c) the Settlement Administrator has the
20 most current and accurate addresses for Class Members, including but not limited to performing an
21 initial National Change of Address database search on all Class Members who are former
22 employees. In addition, the Settlement Administrator shall perform a standard search, also known
23 as "batch," "skip trace," or "credit header" searches, on all addresses returned as undeliverable.
24 The Settlement Administrator shall immediately re-mail the Class Notice to all updated addresses
25 obtained through its efforts to locate the most current and accurate addresses for Class Members.
26 The Settlement Administrator shall also provide toll-free telephone support to Class Members;
27 maintain appropriate databases to fulfill its duties; receive, control, and account for all returned
28 Class Notices, disputes, requests for exclusion/opt-outs, and objections; and prepare and deliver

1 reports to Class Counsel and Defendants' Counsel on a weekly basis that communicate the status
2 of the notice process, including the number of Class Notices mailed, returned, searched, and re-
3 mailed as well as disputes, requests for exclusion, and objections. In addition to the duties identified
4 above, the Settlement Administrator shall prepare final declarations, reports, and invoices that
5 accurately describe the notice process, the level of participation, and actions taken to ensure the
6 best possible notice of the Settlement was provided to Class Members.

7 **4.2.3 Mailing of Class Notice to Class Members.** No later than five (5) calendar
8 days following receipt of the information to be provided under Section 4.2.1, above, the Settlement
9 Administrator shall mail the Class Notice to all Class Members. The Settlement Administrator
10 shall send a copy of the Class Notice in the form approved by the Court in its Preliminary Approval
11 Order to Class Members, via first class United States mail, using Class Members' most current
12 mailing address. Any Class Notices returned to the Settlement Administrator with a forwarding
13 address shall be immediately re-mailed by the Settlement Administrator. The Settlement
14 Administrator shall conduct one address search for any Class Member's Class Notice that is
15 returned without a forwarding address and shall, upon obtaining a new or different address,
16 immediately re-mail the Class Member's Class Notice. Plaintiff, Defendants, and their respective
17 counsel each agree that, other than as provided in this Agreement, they will not distribute or make
18 available any documents, notices, or information regarding the Actions or the Settlement to any
19 Class Member, unless a specific request is first made by the Class Member.

20 **4.3 Requests for Exclusion/Opt Outs.** Class Members who wish to be excluded from
21 or opt out of the Settlement must submit a written, signed Request for Exclusion to the Settlement
22 Administrator, within the Notice Response Deadline. This is the only way Class Members can
23 exclude themselves from the Class Settlement.

24 **4.3.1 Contents of Request.** The Request for Exclusion must contain (i) the full
25 name, address, telephone number, and last four digits of the Social Security number of the person
26 requesting to be excluded; and (ii) clearly state that the person does not wish to be included in the
27 Class Settlement.
28

1 4.3.2 **Personal Signatures.** The Request for Exclusion must be personally signed
2 by the Class Member who seeks to opt out. No Class Member may opt out by having a request to
3 opt out submitted by an actual or purported agent or attorney acting on behalf of the Class Member.
4 No opt out request may be made on behalf of a group of Class Members.

5 4.3.3 **Timeliness.** For purposes of determining timeliness, Requests for Exclusion
6 shall be deemed to have been submitted on the date postmarked by the U.S. Postal Service or other
7 delivery service. The Settlement Administrator shall stamp the date received on the original of any
8 Request for Exclusion it receives. Not later than fifteen (15) calendar days after the Notice
9 Response Deadline set by the Court, the Settlement Administrator will inform Class Counsel and
10 Defendants' Counsel of the total number of Class Members who timely submitted valid Requests
11 for Exclusion. Not later than sixteen (16) court days before the date set for the Fairness Hearing,
12 the Settlement Administrator shall serve copies of all date-stamped Requests for Exclusion on Class
13 Counsel and Defendants' Counsel as well as a declaration describing the Class Notice procedures.
14 The Settlement Administrator shall retain the originals of all Requests for Exclusion in its files.
15 Counsel for the Parties shall not use or disclose the information thus received for any purpose other
16 than the effectuation of the Settlement.

17 4.3.4 **Effect of Exclusion/Opt-Out.** Class Members who are excluded from or
18 opt out of the Settlement cannot object to the Settlement. Only Settlement Class Members (i.e.,
19 those Class Members who have not excluded themselves from or opted out of the Settlement) may
20 object to the Settlement, in accordance with Section 4.4 of this Agreement.

21 4.3.5 **Non-Opt Outs Bound by Settlement.** Each Class Member who does not
22 submit a Request for Exclusion substantially in compliance with this Section 4.3 within the
23 deadline set by the Court shall be included in the Settlement as a Settlement Class Member and be
24 bound by the terms of this Agreement and any Court order approving the terms of the Settlement,
25 unless the Court deems such Class Member excluded at the time of the final Fairness Hearing.

26 4.3.6 **Resolution of Disputes.** In the event of any issue over the completeness,
27 accuracy, timeliness, or validity of a Request for Exclusion, the Parties shall meet and confer in
28 good faith for the purpose of resolving the issue and, if the issue cannot be resolved, shall submit

1 the dispute to the Settlement Administrator or the Court for a final and binding determination that
2 shall not be appealable.

3 **4.3.7 Defendants' Right to Rescind.** If more than five percent (5%) of the Class
4 Members opt out of the Settlement, then Defendants shall have the option, in their sole discretion,
5 to rescind this Agreement, in which case all of Defendants' obligations under this Agreement shall
6 cease to be of any force or effect, and this Agreement shall be null and void. If Defendants exercise
7 this option, they shall provide Plaintiff with written notice of their election within thirty (30)
8 calendar days of the Notice Response Deadline set by the Court, with a copy to the Settlement
9 Administrator, at which point the Parties shall return to their respective positions that existed before
10 the execution of this Agreement, and no term of this Agreement or any draft thereof, or the
11 negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall have
12 any effect or be admissible as evidence for any purpose in the Action, or in any other proceeding.
13 Notwithstanding the foregoing, the Parties agree that in the event this Agreement is rescinded by
14 Defendants pursuant to this Section, Defendants shall pay the expenses incurred by the Settlement
15 Administrator through the date of Defendants' election to rescind, not to exceed the amount
16 approved by the Court in the Preliminary Approval Order.

17 **4.3.8 No Right to Exclusion by PAGA Group Members.** Because this
18 Settlement resolves claims brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private
19 Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA
20 Group Member has the right to exclude himself or herself from the release of Released PAGA
21 Claims. PAGA Group Members shall be bound by the terms of the Settlement, upon its approval
22 by the Court, regardless of whether he or she requested exclusion as a Class Member, and thus is
23 not a Settlement Class Member, and regardless of whether he or she cashes the PAGA Settlement
24 Award issued to him or her.

25 **4.4 Objections.** Only Settlement Class Members (i.e., those Class Members who have
26 not excluded themselves from the Settlement) may object to the Settlement.

27 **4.4.1 Manner of Objecting.** Settlement Class Members who wish to object to the
28 Settlement do not need to submit their objection in writing, but if they wish to do so, they must

1 submit to the Settlement Administrator a signed, written statement objecting to the Settlement
2 Administrator in accordance with the Class Notice. Any such written objection and any supporting
3 briefs or other materials must be submitted to the Settlement Administrator no later than the Notice
4 Response Deadline. Settlement Class Members may but are not required to appear at the Fairness
5 Hearing. Settlement Class Members may appear at the Fairness Hearing to object to the Settlement
6 without providing any prior notice to the Parties, their counsel, the Settlement Administrator, or the
7 Court.

8 **4.4.2 Response to Objections.** At the same time Plaintiff moves for Final
9 Approval pursuant to Section 4.7 of this Agreement, Plaintiff shall also file a response to any
10 written objections submitted by Settlement Class Members. Class Counsel must draft the response
11 to the objections and give Defendants' Counsel a draft of the response to review at least three (3)
12 court days before it is filed or as soon as practical under the circumstances. Defendants shall be
13 permitted, but not required, to file their own response to any objections.

14 **4.4.3 No Right to Objections by PAGA Group Members.** Because this
15 Settlement resolves claims brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private
16 Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA
17 Group Member has the right to object to the PAGA Settlement or release of Released PAGA
18 Claims, whether or not he or she has objected thereto as a Settlement Class Member.

19 **4.5 Plan of Allocation: Calculation of All Settlement Awards.** The Settlement
20 Administrator shall be responsible for the Allocations of the Net Settlement Sum to Settlement
21 Class Members and of the PAGA Fund to PAGA Group Members and, thereby, for determining
22 the Class Settlement Award and the PAGA Settlement Award, all to be paid on a pro rata basis as
23 follows:

24 **4.5.1 Calculating Class Settlement Awards.** The Class Settlement Award for
25 each Settlement Class Member of the Class shall be his or her pro-rata share of the Net Settlement
26 Sum (including and subject to Withholdings and Taxes) calculated as follows: The Settlement
27 Administrator shall first calculate the total number of Class Work Weeks for all Settlement Class
28 Members of the Class. The Settlement Administrator shall then divide the Net Settlement Sum by

1 this sum total number of Class Work Weeks, resulting in a per Class Work Week value to be used
2 in calculating the Class Settlement Award for the Class. The Settlement Administrator shall then
3 take this per Class Work Week value and multiply it by the number of individual Class Work Weeks
4 for each Settlement Class Member of the Class, resulting in the Class Settlement Award plus their
5 Withholdings and Taxes for each Settlement Class Member of the Class.

6 **4.5.2 Class Settlement Awards Payable Only to Settlement Class Members.**

7 The Settlement Administrator shall pay the Class Settlement Awards from the Net Settlement Sum
8 and shall pay only the Class Settlement Awards payable to Settlement Class Members.
9 Withholdings and Taxes will be remitted by the Settlement Administrator prior to distributing Class
10 Settlement Awards to Settlement Class Members.

11 **4.5.3 Calculating PAGA Settlement Awards.**

12 The PAGA Settlement Award for each member of the PAGA Group shall be the member's pro-rata share of the PAGA Fund,
13 calculated as follows: The Settlement Administrator shall first calculate the sum total number of
14 PAGA Pay Periods for all members of the PAGA Group. The Settlement Administrator shall then
15 divide the PAGA Fund by the sum total number of PAGA Pay Periods for all members of the
16 PAGA Group, resulting in a per PAGA Pay Period value to be used in calculating the PAGA
17 Settlement Award for these members. The Settlement Administrator shall then take this per PAGA
18 Pay Period value and multiply it by the number of individual PAGA Pay Periods for each of these
19 members, resulting in the PAGA Settlement Award for each member of the PAGA Group.

20 **4.5.4 Payment of Settlement Awards.**

21 At its discretion, the Settlement Administrator may combine the Class Settlement Award and PAGA Settlement Award to be issued
22 to an individual who is both a Settlement Class Member and a PAGA Group Member, into a single
23 check. The Parties understand and acknowledge that a given person may be both a Settlement Class
24 Member and a PAGA Group Member or may be a Settlement Class Member but not a PAGA Group
25 Member (to the extent such person was not employed during the PAGA Period).

26 **4.5.5 Using Class Information Provided by Defendants to Determine**

27 **Settlement Awards.** In order to determine the Class Settlement Awards and PAGA Settlement
28 Awards, the Settlement Administrator shall use the information provided by Defendants pursuant

1 to Section 4.2.1, above. In the event that any dispute arises with respect to a Settlement Award
2 amount, the Settlement Administrator shall make the final determination after consultation with
3 Class Counsel and Defendants' Counsel.

4 **4.6 Taxes.**

5 **4.6.1 Tax Allocation of Awards.** The Parties agree that, for purposes of this
6 Settlement, the Class Settlement Awards shall be allocated 30% to wages subject to Withholdings
7 and Taxes, and 70% to interest, penalties, and non-wage damages. The entirety of the PAGA
8 Settlement Award shall be allocated as penalties.

9 **4.6.2 Tax Reporting.** When reporting the Class Settlement Awards and PAGA
10 Settlement Awards for tax purposes, the amount of the Class Settlement Awards allocated to wages
11 under Section 4.6.1 shall be reported by the Settlement Administrator on IRS Form W-2 as wages,
12 and the remainder of any Class Settlement Award, together with any PAGA Settlement Award,
13 shall be reported by the Settlement Administrator on IRS Form 1099-MISC as interest, penalties,
14 and non-wage damages.

15 **4.6.3 Settlement Class Member and PAGA Group Member Obligations.**
16 Each Settlement Class Member and/or PAGA Group Member receiving a Class Settlement Award
17 and/or PAGA Settlement Award shall be responsible for paying applicable federal, state, and local
18 income taxes, if any, on all amounts such person receives pursuant to this Agreement, and
19 Defendants shall have no liability therefor.

20 **4.6.4 Settlement Administrator Responsibilities Regarding Taxes.** It shall be
21 the responsibility of the Settlement Administrator or its designee to timely and properly withhold
22 all applicable Withholdings and Taxes from the Class Settlement Awards and to prepare and deliver
23 the necessary tax documentation for signature by all necessary parties and, thereafter, to pay
24 Withholdings and Taxes to the appropriate authorities, and to file all necessary information and
25 other tax returns. Payments to Settlement Class Members, PAGA Group Members, Plaintiff, and
26 Class Counsel pursuant to this Agreement shall be reported on IRS Forms W-2 and/or 1099-MISC,
27 as applicable, and shall be provided to the respective Settlement Class Members, PAGA Group
28 Members, Plaintiff, Class Counsel, and all applicable governmental entities as required by law. All

1 Withholdings and Taxes deposited with the applicable government entities in accordance with this
2 Agreement shall be part of, and paid out of, the Class Settlement Award of each Settlement Class
3 Member of the Class.

4 **4.6.5 Tax Expenses Resulting from Settlement Administration.** All reasonable
5 and direct expenses and costs incurred by or at the direction of the Settlement Administrator in
6 connection with the administration of the Settlement (including, without limitation, expenses of tax
7 attorneys and/or accountants incurred in providing advice to the Settlement Administrator, and
8 mailing and distribution costs and expenses relating to the filing, or failure to file, the informational
9 and other tax returns described above) shall be considered a cost of administration of the Settlement
10 and shall be part of the Settlement Administration Costs, to be paid out of the Gross Settlement
11 Amount.

12 **4.6.6 No Claims.** No person shall have any claim against Defendants,
13 Defendants' Counsel, Plaintiff, the Class Members, Class Counsel, or the Settlement Administrator
14 based on mailings, distributions, and payments made in accordance with or pursuant to this
15 Agreement.

16 **4.7 Final Approval and Entry of Judgment in the Action.** Following the Notice
17 Response Deadline and before the Fairness Hearing, on or before the date set by the Court, Plaintiff
18 shall move for Final Approval of the Settlement in the Action. Class Counsel shall draft the final
19 approval papers and give Defendants' Counsel a draft of the papers to review at least three (3) court
20 days prior, or as soon as practicable, before they are filed.

21 **4.8 Distribution of Settlement Payments.** After the Effective Date, the Class
22 Settlement Award and PAGA Settlement Award shall be distributed to Settlement Class Members
23 and PAGA Group Members in accordance with the procedures set forth below:

24 **4.8.1 Remittance of Gross Settlement Amount.** Within fourteen (14) calendar
25 days from the Effective Date, Defendants will remit the Gross Settlement Amount to the Settlement
26 Administrator for the establishment of the Settlement Fund.

27 **4.8.2 Delivery of Payments.** Within five (5) calendar days from Defendants'
28 remittance to the Settlement Administrator of the Gross Settlement Amount, the Settlement

1 Administrator shall establish the Settlement Fund and distribute (a) the Fee and Expense Award to
2 Class Counsel, (b) the Class Settlement Award and PAGA Settlement Award checks to Settlement
3 Class Members and PAGA Group Members, (c) the portion of the PAGA Settlement Amount
4 payable to the LWDA, (d) the Enhancement Payment to Plaintiff, (e) the Withholdings and Taxes
5 arising from the Class Settlement Award to the appropriate government entities, and (f) the
6 Settlement Administration Costs to itself. Also within five (5) calendar days from Defendants'
7 remittance of the Gross Settlement Amount, the Settlement Administrator shall provide Class
8 Counsel and Defendants' Counsel an anonymized written report listing each Settlement Class
9 Member and PAGA Group Member and the amount of the Class Settlement Award and PAGA
10 Settlement Award to be paid to each such person. Class Counsel shall hold the information
11 contained in this report in strictest confidence and not use or disclose it for any purpose, except on
12 the written authorization of Defendants or by order of the Court. No payments shall be made or
13 distributed unless and until the orders and Judgment described in this Agreement are final (meaning
14 that the right to appeal or otherwise seek review of such orders or the Judgment has expired) and
15 on the condition that no appeals from the orders and the Judgment have been filed. Additionally,
16 by no later than the date set by the Court in its Final Approval order, the Settlement Administrator
17 shall file a report with the Court setting forth (1) the total amount of money paid to the Settlement
18 Class Members as the Class Settlement Award, (2) the total amount of money paid to PAGA Group
19 Members as the PAGA Settlement Award, (3) the portion of the PAGA Settlement Amount paid
20 to the LWDA, (4) the Fee and Expense Award paid to Class Counsel, and (5) the total amount of
21 uncashed funds to be distributed to the *cy pres* beneficiary designated by the Parties in Section
22 4.8.3, below.

23 **4.8.3 Negotiation of Settlement Checks.** Any checks tendered to Settlement
24 Class Members and PAGA Group Members shall remain valid and negotiable for one hundred and
25 eighty (180) calendar days from the date of their issuance and shall thereafter be automatically
26 cancelled if not cashed by the Settlement Class Member or PAGA Group Member within that time,
27 after which the Settlement Class Member's and/or PAGA Group Member's right to participate in
28 the Settlement shall be extinguished, although the individual shall remain a Settlement Class

1 Member and/or PAGA Group Member bound by the Judgment entered in the Action. After one
2 hundred and eighty (180) calendar days, any amounts from uncashed checks shall be transmitted
3 the Legal Aid Society of San Diego, leaving no unpaid residue in accordance with Code of Civil
4 Procedure section 384.

5 4.8.4 **Non-Reversionary Settlement.** No portion of the Gross Settlement
6 Amount will revert to Defendants.

7 4.8.5 **Discharge of Obligations.** Defendants shall fully discharge their
8 obligations to Plaintiff, the Settlement Class Members, the PAGA Group Members, and the State
9 of California through the remittance of the Gross Settlement Amount to the Settlement
10 Administrator as set forth in Section 4.8.1, above, regardless of whether checks representing the
11 Class Settlement Award and/or PAGA Settlement Award are actually received and/or negotiated
12 by the payee. Once Defendants have complied with their obligation set forth in Section 4.8.1,
13 above, they will be deemed to have satisfied all terms and conditions under this Agreement, shall
14 be entitled to all protections afforded to them under this Agreement, and shall have no further
15 obligations under the terms of the Agreement, regardless of what occurs with respect to the further
16 administration of the Settlement. Without prejudice to any other remedies, the Settlement
17 Administrator shall hold Defendants harmless from and against all liabilities, claims, causes of
18 action, costs, and expenses (including legal fees and expenses) arising out of any failure to timely
19 or properly compensate Class Members and PAGA Group Members as provided for in this
20 Agreement.

21 4.9 **Questions and Disputes.** In the event that questions or disputes arise regarding the
22 entitlement of any Class Member or PAGA Group Member under this Agreement, counsel for each
23 Party shall cooperate to provide to counsel for the other Party and the Settlement Administrator all
24 available information reasonably necessary to resolve them. Such information shall be provided in
25 either electronic form or hard copy, as the Settlement Administrator may reasonably request. If the
26 Parties cannot resolve any dispute concerning the entitlement of any Class Member or PAGA
27 Group Member under this Agreement, the dispute(s) shall be submitted to the Settlement
28

1 Administrator, who shall resolve the dispute(s) and whose decision shall be final and binding. In
2 such a dispute, the information provided by Defendants will be presumed accurate.

3 **4.10 Notification and Certification by Settlement Administrator.** The Settlement
4 Administrator shall keep Class Counsel and Defendants' Counsel apprised of the status of the
5 administration process and its distribution of all sums pursuant to this Agreement. Upon
6 completion of administration of the Settlement, the Settlement Administrator shall provide a
7 detailed, written certification of such completion to the Court and counsel for the Parties.

8 **4.11 Nullification of Settlement Agreement if Settlement Not Approved.** In the event
9 (a) the Court does not preliminarily approve the Settlement as provided herein; (b) the Court does
10 not finally approve the Settlement as provided herein or in the event said approval is reversed on
11 appeal; (c) the Court does not enter the Judgment in the action as provided herein; or (d) the
12 Settlement does not become final for any other reason, including the exercise of Defendants' right
13 to rescind the Settlement under Section 4.3.7, above, this Agreement shall be null and void *ab initio*
14 (with the exception of this Section, Section 3.3, and Section 4.3.7) and any order or Judgment
15 entered by the Court in furtherance of this Settlement shall be treated as withdrawn or vacated by
16 stipulation of the Parties. In such case, the Parties shall be returned to their respective statuses as
17 of December 11, 2024. In the event an appeal is filed from the Judgment, or any other appellate
18 review is sought before the Effective Date, administration of the Settlement shall be stayed pending
19 final resolution of the appeal or other appellate review.

20 **4.12 Escalator Clause.** In advance of the mediation resulting in the Settlement,
21 Defendants represented that based on Inova's records from December 21, 2019 through September
22 30, 2024, there were approximately 38,269 work weeks for the putative class members. The Parties
23 extrapolated the data for purposes of mediation and estimated the number of work weeks to be
24 approximately 39,000 from December 21, 2019 through December 11, 2024. The Parties agree
25 that if the number of Class Work Weeks exceeds 39,000 by greater than 10% (i.e., there are more
26 than 42,900 Class Work Weeks), then the Gross Settlement Amount shall be proportionally
27 increased for each Class Work Week that exceeds 42,900 Class Work Weeks. For example, if the
28

1 number of Class Work Weeks is 11% greater than 39,000, then the Gross Settlement Amount would
2 increase by \$30,895, as a 1% increase from \$3,089,500.

3 **5. ENTRY OF JUDGMENT AND RELEASES**

4 **5.1 Obtaining Approval.** As soon as practicable after execution of this Agreement,
5 Class Counsel shall, with the cooperation of Defendants' Counsel as reasonably requested by Class
6 Counsel, take all necessary steps to secure Preliminary Approval and Final Approval of the
7 Agreement by the Court, including responding to any objectors, intervenors, or other persons or
8 entities seeking to preclude approval of this Agreement.

9 **5.2 Entry of Judgment.** The Final Judgment and Order Approving Settlement in the
10 Actions shall include a provision for entry of judgment in accordance with this Agreement, with
11 each Party to bear all of his, her, or its own costs and attorneys' fees, except as expressly set forth
12 herein.

13 **5.3 Notification to the LWDA.** Plaintiff shall submit to the LWDA a copy of the
14 Judgment within ten (10) calendar days after its entry, in accordance with Labor Code section 2699,
15 subdivision (s)(3).

16 **5.4 Settlement Class Release.** Upon the Effective Date, all Settlement Class Members
17 shall be deemed to have, and by operation of the Judgment shall have, expressly released, waived,
18 and relinquished the Released Claims. Settlement Class Members shall be subject to claim
19 preclusion with regard to the Released Claims or any other contemplated proceedings against any
20 of the Released Parties regarding any of the Released Claims. Settlement Class Members' release,
21 waiver, and relinquishment of the Released Claims shall preclude them from participating in any
22 judgment or settlement of claims that are the subject of the Released Claims in any other class,
23 collective, or representative action.

24 **5.5 PAGA Release.** Upon the Effective Date, all PAGA Group Members and the State
25 of California shall be deemed to have, and by operation of the Judgment shall have, expressly
26 released, waived, and relinquished the Released PAGA Claims. All PAGA Group Members shall
27 be subject to claim preclusion should they attempt to bring, join, or otherwise participate in a PAGA
28 representative action or otherwise make, join, or otherwise participate in a claim against any of the

1 Released Parties for any of the Released PAGA Claims. The State of California shall be barred
2 from pursuing recovery of any civil penalties from any of the Released Parties for any of the
3 Released PAGA Claims.

4 **5.6 Plaintiff's General Release.** In addition to his release of the Released Parties from
5 the Released Claims and Released PAGA Claims as set forth in Sections 5.4 and 5.5, above,
6 Plaintiff has entered into a separate confidential settlement agreement regarding his general release
7 and waiver of claims against the Released Parties, including a release of Civil Code section 1542.

8 **6. ADDITIONAL PROVISIONS**

9 **6.1 No Admission of Liability.** Defendants contend that all of their employment
10 practices comply and have complied with all applicable laws and regulations, and that Defendants
11 have not engaged in any unlawful conduct, whether willful or not, and whether knowing and
12 intentional or not, with respect to anything alleged in the Actions. Defendants deny any
13 wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Actions and
14 contend that all of Plaintiff's claims lack merit and Defendants have valid defenses to each of them.
15 This Agreement reflects the compromise and settlement of disputed claims between the Parties,
16 and its provisions and any and all drafts, communications, or discussions relating thereto do not
17 constitute, are not intended to constitute, and will not under any circumstances be deemed to
18 constitute an admission by Defendants as to the merits, validity, or accuracy of any of the
19 allegations or claims in the Actions, nor a waiver of any defense.

20 **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they have
21 been represented in negotiations for and in the preparation of this Agreement by independent
22 counsel of their own choosing, they have read this Agreement and have had it fully explained to
23 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal
24 effect.

25 **6.3 Voluntary Agreement.** This Agreement is executed voluntarily and without duress
26 or undue influence on the part of or on behalf of any Party, or of any other person, firm, or entity.
27 Each Party has made such investigation of the facts pertaining to this Agreement and of all other
28 matters pertaining hereto as he, she, or it deems necessary.

1 6.4 **Notices.** The Parties, Class Counsel, and Defendants acknowledge and agree that
2 for the purposes of any claims, actions, or proceedings arising out of this Agreement, notice
3 provided to Class Counsel shall be deemed notice to Plaintiff and to Class Members. All notices,
4 requests, demands, and other communications required to be given to counsel for the Parties under
5 this Agreement shall be in writing and shall be delivered personally, faxed, emailed or mailed,
6 postage prepaid, by first class United States mail, addressed as follows:

7 To Class Members or to Plaintiff:

8 Jonathan M. Genish (JGenish@blackstonepc.com)
9 Barbara DuVan-Clarke (BDC@blackstonepc.com)
10 Danielle L. GruppChang (DGruppChang@blackstonepc.com)
11 P.J. Van Ert (PJVanert@blackstonepc.com)
12 Annabel Blanchard (ABlanchard@blackstonepc.com)
13 BLACKSTONE LAW, APC
14 8383 Wilshire Boulevard, Suite 745
15 Beverly Hills, California 90211
16 Telephone: 310.622.4278
17 Facsimile: 855.786.6356

18 To Defendants:

19 Eric Akira Tate (ETate@mofocom)
20 William N. Lawther (WLawther@mofocom)
21 MORRISON & FOERSTER LLP
22 425 Market Street
23 San Francisco, California 94105-2482
24 Telephone: 415.268.7000
25 Facsimile: 415.268.7522

26 6.5 **No Press Releases/Public Comment.** Absent Defendants' express written consent,
27 Plaintiff and/or Class Counsel shall not (a) discuss, reveal, disclose, publicize, or promote the terms
28 of this Settlement, or the negotiations leading to this Settlement, to any third party (including but
not limited to the media, the legal community, or the public at large) and/or (b) issue any press
releases and/or initiate any contact with the media regarding the Settlement, and/or otherwise
advertise and/or publicize the Settlement. Nothing in this Agreement is intended to prevent
Plaintiff and/or Class Counsel from disclosing and/or discussing the terms of this Settlement
(i) with the Court, (ii) with any Class Member or PAGA Group Member, (iii) with the Settlement
Administrator, (iv) with the LWDA, or (v) as otherwise required by law to fulfill Plaintiff's and/or

1 Class Counsel's obligations to effectuate the Settlement, and/or in court filings in other cases by
2 Class Counsel in connection with a class action approval process, class certification, and/or class-
3 wide settlement approval.

4 6.6 **Authorization.** The Parties hereto represent and warrant that each signatory hereto
5 has the full right and authority to enter into this Agreement and bind the Party on whose behalf he,
6 she, or it has executed this Agreement.

7 6.7 **Agreement Binding on Successors in Interest.** This Agreement shall be binding
8 on and inure to the benefit of the respective successors, assigns, heirs, and personal representatives
9 of the Parties.

10 6.8 **Time Periods.** The time periods and dates set forth in this Agreement with respect
11 to the giving of notices and hearings are subject to approval and modification by the Court or the
12 written stipulation of counsel for the Parties.

13 6.9 **Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to
14 accomplish the terms of this Agreement, including but not limited to execution and delivery of any
15 and all additional papers, documents, and other assurances and taking such other action that may
16 be reasonably necessary to implement the terms of this Agreement. The Parties and their counsel
17 shall use their best efforts, including all efforts contemplated by this Agreement and any other
18 efforts that may become necessary by order of the Court, to effectuate this Agreement and the terms
19 set forth herein.

20 6.10 **Entire Agreement.** The Exhibits to this Agreement are integral parts of this
21 Agreement and are hereby incorporated and made a part of the Agreement. This Agreement
22 contains the entire agreement between the Parties and constitutes the complete, final, and exclusive
23 embodiment of their agreement with respect to the subject matter hereof. This Agreement is
24 executed without reliance upon any promise, representation, or warranty by any Party or
25 representative of any Party, other than those expressly set forth herein. Any inconsistency between
26 this Agreement and the attached Exhibits will be resolved in favor of this Agreement.

27 6.11 **Headings.** The various headings used in this Agreement are solely for the
28 convenience of the Parties and shall not be used to interpret this Agreement.

1 6.12 **No Construction Against Drafter.** This Agreement shall be deemed to have been
2 drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter
3 shall not apply to this Agreement.

4 6.13 **Amendment and Modification.** Except as expressly provided in Section 6.8,
5 above, with respect to time periods and dates set forth herein, this Agreement may not be amended,
6 altered, or modified except in writing and signed by the Parties hereto, their successors in interest,
7 or their duly authorized representatives, and approved by the Court.

8 6.14 **Governing Law.** This Agreement is entered into in accordance with the laws of the
9 State of California and shall be governed by and interpreted in accordance with those laws.

10 6.15 **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or
11 otherwise arising out of this Agreement, or relating to the Action, the Released Claims, or the
12 Released PAGA Claims, shall be subject to the exclusive jurisdiction of the Court, and the Plaintiff,
13 Class Members, and Defendants agree to submit to the personal and exclusive jurisdiction of the
14 Court for the purpose of resolving any such dispute. Following the Effective Date, the Court shall
15 retain jurisdiction solely with respect to the interpretation, implementation, and enforcement of the
16 terms of this Agreement and all orders and judgments entered in connection therewith, and the
17 Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting,
18 implementing, and enforcing the Settlement embodied in this Agreement and all orders and
19 judgments entered in connection therewith.

20 6.16 **Agreement Constitutes a Complete Defense.** To the extent permitted by law, this
21 Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding
22 that may be instituted, prosecuted, or attempted in breach of or contrary to this Agreement.

23 6.17 **Signatures.** Signatures by facsimile or in Portable Document Format (PDF), such
24 as through DocuSign, shall have the same force and effect as original signatures.

25 6.18 **Execution Date and Execution in Counterparts.** This Agreement shall be deemed
26 executed upon the last date of signature of all of the undersigned. The Parties may execute this
27 Agreement in counterparts, each of which shall constitute an original, but all of which together
28

1 shall constitute one and the same instrument having the same force and effect as if all Parties had
2 signed the same instrument.

3 IN WITNESS WHEREOF, the Parties hereto have so agreed.

4
5 Dated: _____

BRYAN ZUNIGA

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On behalf of himself, the Settlement Class, the State
of California, and PAGA Group Members as a
private attorney general

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10 Dated: 7/17/2025

INOVA DIAGNOSTICS, INC.

11

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Signed by:
Diana Catalano
By: _____
Name: Diana Catalano
Title: vice President, Secretary and Asst
Treasurer

13

14 Dated: 7/17/2025

WERFEN USA LLC

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Signed by:
Diana Catalano
By: _____
Name: Diana Catalano
Title: vice President and Secretary

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1 shall constitute one and the same instrument having the same force and effect as if all Parties had
2 signed the same instrument.

3 IN WITNESS WHEREOF, the Parties hereto have so agreed.

4
5 Dated: 07/17/2025

BRYAN ZUNIGA

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7


On behalf of himself, the Settlement Class, the State
of California, and PAGA Group Members as a
private attorney general

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10 Dated: _____

INOVA DIAGNOSTICS, INC.

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By: _____

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Name: _____
Title: _____

14 Dated: _____

WERFEN USA LLC

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By: _____

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Name: _____
Title: _____

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APPROVED AS TO FORM:

Dated: _____

BLACKSTONE LAW, APC

By: _____
Barbara DuVan-Clarke

Attorneys for Plaintiff
BRYAN ZUNIGA

Dated: 7/16/2025

MORRISON & FOERSTER LLP

By: ^{DocuSigned by:}
Eric Akira Tate
Eric Akira Tate

Attorneys for Defendants
INOVA DIAGNOSTICS, INC. and
WERFEN USA LLC

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APPROVED AS TO FORM:

Dated: 07/17/2025

BLACKSTONE LAW, APC

By: 
Barbara DuVan-Clarke

Attorneys for Plaintiff
BRYAN ZUNIGA

Dated: _____

MORRISON & FOERSTER LLP

By: _____
Eric Akira Tate

Attorneys for Defendants
INOVA DIAGNOSTICS, INC. and
WERFEN USA LLC

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Bryan Zuniga v. Inova Diagnostics, Inc., et al.

Superior Court of California for the County of San Diego, Case No. 37-2023-00055201-CU-OE-CTL

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendant’s records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Class Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Class Work Weeks and/or PAGA Pay Periods that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Bryan Zuniga (“Plaintiff”) and Defendants Inova Diagnostics, Inc. and Werfen USA LLC (“Defendants”) (Plaintiff and Defendants are collectively referred to as the “Parties”) in the case entitled *Bryan Zuniga v. Inova Diagnostics, Inc., et al.*, San Diego County Superior Court, Case No. 37-2023-00055201-CU-OE-CTL (“Action”), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] (“Final Approval Hearing”) to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

“**Class**” or “**Class Member(s)**” means all current and former hourly-paid and/or non-exempt employees of Inova in the State of California at any time during the Settlement Period.

“**Settlement Period**” means the period from December 21, 2019, through April 15, 2025.

“**Class Settlement**” means the settlement and resolution of all Released Claims.

“**PAGA Group**” means all current and former hourly-paid and/or non-exempt employees of Inova in the State of California at any time during the PAGA Period.

“**PAGA Period**” means the period from December 13, 2022, through April 15, 2025.

“**PAGA Settlement**” means the settlement and resolution of all Released PAGA Claims.

II. BACKGROUND OF THE ACTION

On December 13, 2023, Plaintiff provided written notice to the California Labor and Workforce Development Agency (“LWDA”) and Defendants of the specific provisions of the California Labor Code that Plaintiff contends were violated (“PAGA Letter”). On December 21, 2023, Plaintiff commenced a putative class action lawsuit by filing a Class Action Complaint for Damages (“Class Action Complaint”) in the Action. On February 16, 2024, Plaintiff commenced an action pursuant to the Labor Code Private Attorneys General Act (“PAGA”) by filing a Complaint for Enforcement under PAGA (“PAGA Complaint”) (San Diego Superior Court Case No. 37-2024-00007407-CU-OE-CTL). On February 14, 2025, the class action and the PAGA action were consolidated, with the class action designated as the lead case.

Plaintiff contends that Defendants failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, and reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys’ fees and costs.

Defendants deny all of the allegations in the Action or that it violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Class and PAGA Settlement Agreement and Release (“Settlement” or “Settlement Agreement”).

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Apex Class Action as the administrator of the Settlement (“Settlement Administrator”), Plaintiff Bryan Zuniga as representative of the Class (“Class Representative”), and the following Plaintiff’s attorneys as counsel for the Class (“Class Counsel”):

Jonathan M. Genish
Barbara DuVan-Clarke
P.J. Van Ert
Annabel Blanchard
Blackstone Law, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

If you are a Class Member, you need not take any action to receive a Class Settlement Award, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive a Class Settlement Award), object to the Class Settlement, and/or dispute the Class Work Weeks and/or PAGA Pay Periods credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Group Member, you do not need to take any action to receive a PAGA Settlement Award; you will not have the opportunity to object or seek exclusion from the PAGA Settlement and all PAGA Group Members will be bound to the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendants that the claims in the Action have merit or that Defendants have any liability to Plaintiff, Class Members, or PAGA Group Members. Plaintiff and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, the State of California, and PAGA Group Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Three Million, Eighty-Nine Thousand, Five Hundred Dollars (\$3,089,500) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the “Net Settlement Sum.” The Net Settlement Sum will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees, in an amount not to exceed thirty-five (35%) of the Gross Settlement Amount (i.e., \$1,081,325), and reimbursement of litigation costs and expenses, in an amount not to exceed Thirty Thousand Dollars (\$30,000) to Class Counsel; (2) Enhancement Payment in an amount not to exceed Ten Thousand Dollars (\$10,000) to Plaintiff for his services in the Action; (3) the amount of One Hundred Thousand Dollars (\$100,000) allocated toward civil penalties under the Private Attorneys General Act (“PAGA Amount”), of which the LWDA will be paid 75% (\$75,000) (“LWDA Payment”) and the remaining 25% (\$25,000) will be distributed to PAGA Group Members (“PAGA Fund”); (4) Settlement Administration Costs in an amount not to exceed Nine Thousand Dollars (\$9,000) to the Settlement Administrator; and (5) Employer-side Withholdings and Taxes.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Sum (“Class Settlement Award”) based on the number of weeks during the Settlement Period that a Class Member was employed by Inova in California for at least one day as a non-exempt employee (“Class Work Weeks”). The Settlement Administrator has divided the Net Settlement Sum by the Class Work Weeks of all Class Members, arriving at a per Class Work Week value, and multiplied each Class Member’s individual Class Work Weeks by the Class Work Week value to yield the Class Settlement Award (plus their Withholdings and Taxes) that each Class Member may be entitled to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid

Request for Exclusion (“Settlement Class Members”) will be issued their final Class Settlement Awards.

The Class Settlement Awards shall be allocated 30% to wages, subject to Withholdings and Taxes, and 70% to interest, penalties, and non-wage damages. Each Class Settlement Award will be subject to reduction for the employee’s and employer’s share of payroll taxes and withholdings with respect to the wages portion of the Class Settlement Awards resulting in a net payment to the Settlement Class Member.

PAGA Group Members are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA Fund (“PAGA Settlement Award”) based on the number of pay periods during the PAGA Period that a PAGA Group Member was employed by Inova in California for at least one day as a non-exempt employee. (“PAGA Pay Periods”). The Settlement Administrator has divided the PAGA Fund, i.e., 25% of the PAGA Settlement Amount, by the Pay Periods of all PAGA Group Members to yield the “PAGA Pay Period Value,” and multiplied each PAGA Group Member’s individual Pay Periods by the Pay Period Value to yield each PAGA Group Member’s PAGA Settlement Award.

Each PAGA Settlement Award will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Class Settlement Awards will be mailed to Settlement Class Members and PAGA Settlement Award will be mailed to PAGA Group Members at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Work Weeks and Pay Periods (if applicable) Based on Defendant’s Records

According to Defendant’s records:

- **From December 21, 2019, through April 15, 2025 (i.e., the Settlement Period), you are credited as having worked [REDACTED] Class Work Weeks.**
- **From December 13, 2022, through April 15, 2025 (i.e., the PAGA Period), you are credited as having worked [REDACTED] PAGA Pay Periods.**

If you wish to dispute the Class Work Weeks and/or PAGA Pay Periods credited to you, you must submit your dispute in writing to the Settlement Administrator (“Work Weeks Dispute”). The Work Weeks Dispute must: (a) contain the case name and number of the Action (*Bryan Zuniga v. Inova Diagnostics, Inc., et al.*, Case No. 37-2023-00055201-CU-OE-CTL);

(b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) clearly state that you dispute the number of Class Work Weeks and/or PAGA Pay Periods credited to you and what you contend is the correct number; and (d) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before [Notice Response Deadline]**.

C. Your Estimated Class Settlement Award and PAGA Settlement Award (if applicable)

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment (if applicable) is based on the number of Class Work Weeks and PAGA Pay Periods (if applicable) credited to you.

Under the terms of the Settlement, your Class Settlement Award is estimated to be \$ [REDACTED]. The Class Settlement Award is subject to reduction for the employee’s and employer’s share of taxes and withholdings with respect to the wages portion of the Class Settlement Award and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your PAGA Settlement Award is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Class Settlement Award and PAGA Settlement Award (if applicable) reflected in this Class Notice are only estimates. Your actual Class Settlement Award and PAGA Settlement Award (if applicable) may be higher or lower.

D. Release of Claims

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims.

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff, the State of California with respect to all PAGA Group Members, and all PAGA Group Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

“Released Claims” means all claims, debts, liabilities, demands, obligations, damages, and actions or causes of action of any kind, including wage and hour claims related to allegations of failure to pay overtime wages, failure to pay minimum wages, failure to provide meal and rest periods, failure to pay meal and rest period premiums, failure to timely pay wages, failure to pay all wages at time of discharge, failure to provide accurate wage statements, failure to keep complete and accurate payroll records, and failure to reimburse necessary business-related expenses, arising during the Settlement Period and that were alleged in the Putative Class Complaint, the PAGA Complaint, or the PAGA Notice or could have reasonably been alleged against any of the Released Parties based on the facts alleged in any of the Complaints or the PAGA Notice. Specifically, for the Settlement Class Members, released claims include, without limitation, claims under Labor Code sections 201-204, 210, 226(a), 226.7, 510, 512(a), 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1198, 2800, 2802, and 2698 *et seq.*; Business and Professions Code section 17200 *et seq.*; and Code of Civil Procedure section 1021.5.

“Released PAGA Claims” means all claims that were or could have been asserted pursuant to PAGA arising out of or related to the Released Claims arising during the PAGA Period. Specifically, for the PAGA Group, released PAGA claims include those based on, without limitation, alleged violations of Labor Code sections 201-204, 210, 226(a), 226.7, 510, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and 2698 *et seq.*

“Released Parties” means Defendants; each of their respective present, former, or future parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and assigns; each of its respective present, past, or future officers, directors, employees, partners (both general and limited), shareholders, agents, attorneys, insurers, and any other successors, assigns, or legal representatives; and any other individual or entity which could be liable for any of the Released Claims or Released PAGA Claims.

E. Fee and Expense Award to Class Counsel

Class Counsel will seek attorneys’ fees in an amount not to exceed One Million Eighty-One Thousand Three Hundred Twenty-Five Dollars (\$1,081,325) of the Gross Settlement Amount (i.e., \$3,089,500) and reimbursement of litigation costs and expenses in an amount not to exceed Thirty Thousand Dollars (\$30,000) (collectively, “Fee and Expense Award”), subject to approval by the Court. The Fee and Expense Award granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and PAGA Group Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of Ten Thousand Dollars (\$10,000) (“Enhancement Payment”), in recognition of his services in connection with the Action. The Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to his Class Settlement Award and PAGA Settlement Award that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Nine Thousand Dollars (\$9,000) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Objections, and Work Weeks Disputes, calculating Allocations, Class Settlement Awards, and PAGA Settlement Awards, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Class Settlement Award unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement and if the Court grants final approval of the Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Claims against the Released Parties as described in Section III.D above.

If you are a PAGA Group Member and the Court grants final approval of the Settlement, you will automatically be included in the PAGA Settlement and issued your PAGA Settlement Award. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims against the Released Parties as described in Section III.D above.

As a Class Member and PAGA Group Member (if applicable), you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter (“Request for Exclusion”) to the Settlement Administrator, at the following address:

Apex Class Action
18 Technology Dr.
Irvine, CA 92618
(800) 355-0700
Fax (949) 878-3536

A Request for Exclusion must: (a) contain the case name and number of the Action (*Bryan Zuniga v. Inova Diagnostics, Inc., et al.*, Case No. 37-2023-00055201-CU-OE-CTL); (b) contain your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address above, postmarked **on or before [Notice Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued a Class Settlement Award, will not be bound by the Class Settlement (and the release of Released Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. PAGA Group Members will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued a PAGA Settlement Award, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement, as long as you have not submitted a Request for Exclusion, by submitting a written

objection (“Objection”) to the Settlement Administrator.

The Objection must: (a) contain the case name and number of the Action (*Bryan Zuniga v. Inova Diagnostics, Inc., et al.*, Case No. 37-2023-00055201-CU-OE-CTL); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before [Notice Response Deadline]**.

You may also appear at the Final Approval Hearing and present your objection orally, regardless of whether you have submitted a written Objection.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department C-63 of the San Diego County Superior Court, located at 330 West Broadway, San Diego, CA 92101, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Fee and Expense Award to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval Hearing may be continued without further notice to the Class Members and PAGA Group Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers, which are on file with the Court.

You may view the Settlement Agreement and other documents filed in the Action by consulting the Court’s Register of Actions website by going to <https://odyroa.sdcourt.ca.gov/>, and entering the case number for the Action, 37-2023-00055201-CU-OE-CTL. Documents filed in the Action can be previewed and purchased for a fee on the Court’s Register of Actions website. You may also review filed documents in person at the Superior Court of California, County of San Diego, Hall of Justice at 330 West Broadway, San Diego, CA 92101, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

You may also visit the Settlement Administrator’s website at [redacted] for key documents in the Action.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.