

1 Attorneys General Act (PAGA).

2 1.2 **Administration Expenses.** “Administration Expenses” shall mean the amount that
3 will be paid to the Settlement Administrator for the administration of this Settlement in an amount
4 not to exceed \$17,000.00.

5 1.3 **Class Counsel.** “Class Counsel” shall mean Arby Aiwazian, Joanna Ghosh, Brian J.
6 St. John, and Erica Stepanian of Lawyers *for* Justice, PC, 450 North Brand Blvd., Suite 900,
7 Glendale, CA 91203.

8 1.4 **Class Counsel’s Attorneys’ Fees and Expenses.** “Class Counsel’s Attorneys’ Fees
9 and Expenses” shall mean Class Counsel’s attorneys’ fees and expenses to be requested and subject
10 to approval by the Court at the time of the Final Approval and Fairness Hearing (as defined below).

11 1.5 **Class List and Data.** “Class List and Data” shall mean the information for each
12 Settlement Class Member that Defendant shall compile from their business records and provide to
13 the Administrator for purposes of providing notice of the Settlement to the Settlement Class. The
14 Class List and Data shall be in a readable, ready to use, Microsoft Excel spreadsheet, which will
15 provide the following information for each Settlement Class Member: (a) full name; (b) last-known
16 mailing address; (c) telephone numbers; (d) Social Security Number; (e) number of pay periods
17 worked during the PAGA Period; and (f) number of workweeks worked during the Class Period.
18 The Class List and Data shall be provided to the Settlement Administrator no later than twenty-one
19 (21) calendar days after the date on which the Court enters the order preliminarily approving the
20 settlement.

21 1.6 **Class Period.** “Class Period” shall mean the period from November 15, 2019 through
22 December 31, 2024.

23 1.7 **Class Representative.** “Class Representative” shall mean Plaintiff.

24 1.8 **Court.** “Court” shall mean the Superior Court of California, County of Monterey.

25 1.9 **Defense Counsel.** “Defense Counsel” shall mean Brent M. Giddens, Joel Van Parys
26 and Tashayla Billington of CDF Labor Law, LLP, 900 University Avenue, Suite 200, Sacramento,
27 CA 95825.

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1 1.15 **Gross Settlement Amount.** “Gross Settlement Amount” means the agreed upon
2 settlement amount totaling One Million Three Hundred Fifteen Thousand Dollars (\$1,315,000.00),
3 to be paid by Defendant in full settlement of the Released Class Claims and Released PAGA Claims
4 asserted in this case, which includes the Administration Expenses to the Settlement Administrator,
5 Employee’s Taxes and Required Withholdings, Class Counsel’s Attorneys’ Fees and Expenses, the
6 Enhancement Payment to Plaintiff, PAGA Payment to the LWDA and PAGA Members. The Gross
7 Settlement Amount is non-reversionary, meaning no amount will revert to Defendant. In no event
8 shall Defendant be required to pay more than the Gross Settlement Amount (excluding the
9 employer’s share of payroll taxes on the “wages” portion of the settlement for Participating
10 Settlement Class Members). The Parties agree that Code of Civil Procedure section 384 does not
11 apply to this Settlement and the amount of any uncashed checks will be deposited to the California
12 State Controller in the Unclaimed Property Fund in the name of the employee.

13 1.16 **Individual Class Payment.** “Individual Class Payment” means the proportionate
14 share of the Net Settlement Amount to be distributed to each Participating Class Member based on
15 the number of his or her Workweeks worked during the Class Period in relation to the aggregate
16 number of Workweeks worked by all Participating Settlement Class Members, less any Employee’s
17 Taxes and Required Withholdings.

18 1.17 **Individual PAGA Payment.** “Individual PAGA Payment” means the proportionate
19 share of the 25% of the PAGA Payment allocated to PAGA Members to be distributed to each PAGA
20 Member based on the number of his or her Pay Periods worked during the PAGA Period in relation
21 to the aggregate number of Pay Periods worked by all PAGA Members.

22 1.18 **Individual Settlement Payment.** “Individual Settlement Payment” refers
23 collectively to a Participating Class Member’s Individual Class Payment and/or Individual PAGA
24 Payment. An “Individual Settlement Payment” will not include payment to the Class Member for the
25 Class Period if they opt out, but will include payment for the PAGA Period.

26 1.19 **Judgment.** “Judgment” means the judgment and order entered by the Court upon
27 Final Approval of the Agreement, which will be a judgment for purposes of California Rules of Court
28 (“CRC”), Rule 3.771(a) and will constitute approval pursuant to CRC, Rule 3.769(a).

1 1.27 **PAGA Period.** “PAGA Period” means the period from September 8, 2022 through
2 December 31, 2024.

3 1.28 **Participating Settlement Class Member(s).** “Participating Settlement Class
4 Members” shall mean Settlement Class Members who do not timely and validly opt-out of the
5 Settlement Class in the manner set forth in this Agreement and described in the Notice Packet.

6 1.29 **Parties.** “Parties” shall mean Plaintiff (as defined below) and Defendant.

7 1.30 **Pay Periods.** “Pay Periods” means the number of pay periods a PAGA Member
8 worked during the PAGA Period.

9 1.31 **Plaintiff.** “Plaintiff” shall mean Plaintiff Rafael Lira Cupa.

10 1.32 **Preliminary Approval Date.** “Preliminary Approval Date” shall mean the date upon
11 which the Court enters an order preliminarily approving this Agreement, conditionally certifying the
12 Class, approving the Notice Packet, appointing Plaintiff as the Class Representative, Plaintiff’s
13 Counsel as Class Counsel, and Apex Class Action Administration, LLC as the Settlement
14 Administrator, and setting a Final Approval Hearing date.

15 1.33 **Released Class Claims.** “Released Class Claims” shall mean all claims, rights,
16 demands, liabilities, damages, penalties, attorneys’ fees, costs, and causes of action of every nature
17 and description, arising from any and all claims which were asserted in the Action or reasonably
18 could have been asserted based on the facts alleged in the Action, including statutory, constitutional
19 or common law claims for wages, damages, unpaid costs, liquidated damages, penalties, interest,
20 attorneys’ fees, litigation costs, restitution, equitable relief, or other relief based on the following
21 claims: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation
22 of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of
23 California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor
24 Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code
25 §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages
26 Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-
27 Compliant Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure to Keep
28 Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed

1 Business Expenses); (10) Violation of California Business and Professions Code §§ 17200, et seq.
2 (Unfair and Unlawful Business Practices); and (11) Violation of California Labor Code 2698, et seq.
3 (PAGA).

4 1.34 **Released PAGA Claims.** “Released PAGA Claims” or “PAGA Released Claims”
5 shall mean all claims, theories, and causes of action alleged or that could have been alleged or
6 otherwise raised based on the factual allegations set forth in Plaintiff’s Complaint, letter to LWDA
7 dated September 8, 2023. This includes theories under Labor Code sections 201-, 202, 204, 210,
8 226, 226(a), 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2698, et seq., 2800, 2802
9 and corresponding Wage Orders. The PAGA Released Claims will bind the PAGA Members even if
10 they timely and validly opt out of the Settlement Class.

11 1.35 **Released Parties.** “Released Parties” shall mean Defendant and its past, present
12 and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents,
13 representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent
14 companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

15 1.36 **Response Deadline.** “Response Deadline” shall mean sixty (60) calendar days
16 following the date on which the Settlement Administrator first mails the Notice Packet to all
17 Settlement Class Members. The Response Deadline will be extended by fifteen (15) calendar days
18 for any Settlement Class Member who is re-mailed a Notice by the Settlement Administrator, unless
19 the 15th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be
20 extended to the next day on which the U.S. Postal Service is open.

21 1.37 **Settlement.** “Settlement” shall mean the settlement, which is memorialized in this
22 Agreement, including any attached exhibits, and subject to Court approval.

23 1.38 **Settlement Administrator.** “Settlement Administrator” shall mean Apex Class
24 Action Administration, LLC, the third-party settlement administrator selected by the Parties and to
25 be approved by the Court, which the Parties have agreed will be responsible for administration of the
26 Settlement and related matters. The qualifications and experience of the Settlement Administrator
27 will be provided pursuant to a declaration submitted by the Settlement Administrator that will be
28 filed concurrently with Plaintiff’s motion for preliminary approval. The Administration Expenses are

1 estimated to not exceed \$17,000.00.

2 1.39 **Settlement Class**. “Settlement Class” shall mean all current and former hourly-paid
3 employees who worked for Defendant within the State of California at any time during the Class
4 Period.

5 1.40 **Settlement Class Member**. “Settlement Class Member” means a member of the
6 Settlement Class. If the Settlement Class Member is incompetent or deceased, the individual’s legal
7 guardian, executor, heir, or successor-in-interest, may submit the proper documentation to the
8 Administrator to claim such Settlement Class Member’s Individual Settlement Payment.

9 1.41 **Workweek**. “Workweek” means any workweek during the Class Period in which a
10 Settlement Class Member worked at least one day in that workweek starting Sunday at 12:00 a.m.
11 to Saturday 11:59 p.m.

12 **2. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

13 2.1 On or about November 15, 2023, Plaintiff filed the Action titled *Rafael Lira Cupa v.*
14 *organicgirl, LLC*, Case No. 23CV003744, in the Superior Court of California, County of Monterey.

15 2.2 On or about September 8, 2023, Plaintiff submitted a letter to the California Labor
16 and Workforce Development Agency (“LWDA”) alleging violations of the Private Attorneys
17 General Act, California Labor Code section 2698, *et seq.* (“PAGA”), alleging similar violations to
18 those alleged in the Action, including but not limited to alleged violations of Labor Code sections
19 201-, 202, 204, 210, 226, 226(a), 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800,
20 2802 and corresponding Wage Orders.

21 2.3 Following initiation of the Action, the Parties met and conferred with respect to
22 potential resolution of the Action and agreed to explore the possibility of a private mediation. Upon
23 agreement to attend mediation and to prepare for a meaningful and informed session, Class Counsel
24 requested, and Defense Counsel produced, relevant documents and information for Class Counsel to
25 diligently investigate the claims against Defendant, including any and all applicable defenses and the
26 applicable law. This investigation included, inter alia, the exchange of informal discovery, review
27 and analysis of a representative sampling of time and payroll records, review of several relevant
28 corporate policies and practices, review of financial information, and other information regarding the

1 Settlement Class and PAGA Members. Class Counsel's investigation was sufficient to satisfy the
2 criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801
3 (1998) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-130 (2008).

4 2.4 With sufficient discovery conducted to evaluate the viability of the claims and
5 theories alleged, and Defendant's potential liability on class wide and PAGA bases and its defenses,
6 on August 16, 2024, the Parties participated in an all-day mediation with Dan Turner, Esq., an
7 experienced and respected mediator of wage and hour class and PAGA actions. Mr. Turner's
8 supervision of the mediation and negotiations was critical in managing the expectations of the Parties,
9 and in providing a useful and neutral analysis of the case to both Parties. The Parties engaged in a
10 full day of negotiations during the mediation, but were unable to reach an agreement to resolve the
11 Action at the mediation. Following mediation, Mr. Turner continued to facilitate ongoing
12 negotiations between the Parties, which ultimately resulted in the acceptance of a mediator's proposal
13 on November 19, 2024. On or about November 26, 2024, the Parties executed a Memorandum of
14 Understanding, the material terms of which are now fully memorialized in this Agreement.

15 2.5 The Parties and their respective counsel believe this Agreement reflects a fair,
16 adequate, and reasonable settlement of the Action and have arrived at this Agreement because of
17 arm's-length negotiations, facilitated by an experienced and neutral mediator, considering all
18 relevant factors, present and potential.

19 **3. ALLEGATIONS OF THE CLASS REPRESENTATIVE AND BENEFITS OF CLASS**
20 **SETTLEMENT**

21 3.1 The investigation and extensive exchange of information in this matter, as well as
22 discussions between counsel have been adequate to give Class Counsel an understanding of the
23 merits of the Parties' respective positions and to evaluate the worth of the claims of the Settlement
24 Class. The information and data exchanged by the Parties prior to and during mediation and
25 settlement negotiations are sufficient to reliably assess the merits of the Parties' respective positions
26 and to compromise the issues on a fair and equitable basis.

27 3.2 The Parties recognize and acknowledge the expense and delay of continued lengthy
28 proceedings necessary to prosecute the Action against Defendant through trial and through appeals.

1 Class Counsel have considered the uncertain outcome of the litigation, the risk of continued litigation
 2 in complex actions such as this, including Defendant’s financial condition, as well as difficulties and
 3 delays inherent in such litigation, the potential difficulty of obtaining certification of the Action, as
 4 well as trying the claims of the Settlement Class. Class Counsel believe that the Settlement set forth
 5 in this Agreement confers substantial benefits upon Plaintiff and the Settlement Class Members and
 6 that an independent review of this Agreement by the Court in the approval process will confirm this
 7 conclusion. Based on their own independent investigation and evaluation, Class Counsel have
 8 determined that the Settlement set forth in the Agreement is in the best interests of Plaintiff and the
 9 Settlement Class Members.

10 **4. NO ADMISSION OF ANY LIABILITY AND CONDITIONAL CERTIFICATION.**

11 4.1 This Agreement represents a compromise and settlement of highly disputed claims.
 12 This Agreement does not constitute, is not intended to constitute, and will not be deemed to
 13 constitute, an admission of liability by Defendant as to the merits, validity, or accuracy of any of the
 14 allegations or claims made against Defendant in the Action or the appropriateness of class or
 15 conditional certification. Defendant denies each and all of Plaintiff’s allegations in their entirety and
 16 allege that Plaintiff and all other Settlement Class Members were paid all wages owed, including
 17 straight time, minimum and overtime wages, were properly paid all for hours worked, received
 18 proper rest and meal breaks, received accurate itemized wage statements, were timely paid all wages
 19 due, timely received all pay due at termination, were reimbursed for all necessary business expenses,
 20 that Defendant did not engage in unfair or unlawful business practices, that Defendant kept accurate
 21 records, and otherwise complied with the law regarding Plaintiff’s allegations.

22 4.2 Nothing in this Agreement nor any action taken or made in implementation thereof,
 23 nor any statements, discussions, or communications, nor any materials prepared, exchanged, issued,
 24 or used during the course of the negotiations leading to the Agreement, is intended by the Parties to,
 25 nor will any of the foregoing constitute, be introduced, be used, or be admissible in any way in this
 26 case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as
 27 evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or
 28 executive order, or any obligation or duty at law or in equity. The Agreement may be used in any

1 proceeding in the Court for the interpretation, implementation, or enforcement of the Agreement or
2 any orders or judgments of the Court entered in connection therewith.

3 4.3 The Parties agree that Plaintiff's motion for preliminary approval of the Settlement
4 seeking certification of a class action and Defendant's agreement thereto is for purposes of the
5 Settlement only. Solely for the purpose of this Agreement, including effectuating its terms, the
6 Parties stipulate to conditional certification of the Settlement Class, and to the designation of Lawyers
7 *for Justice*, PC as counsel for the Settlement Class. If, for any reason, the Settlement is not approved,
8 the stipulation for certification will have no force or effect. The Parties agree that certification for
9 purposes of the Settlement is in no way an admission that class certification or conditional
10 certification of a collective action is proper under the standard applied to contested certification
11 motions and that this Agreement will not be admissible in this or any other proceeding as evidence
12 that: (a) a class or representative action should be certified as Plaintiff proposed; and/or (b) Defendant
13 is liable to Plaintiff or the Settlement Class Members as Plaintiff alleged. Further, neither this
14 Agreement nor the Court's actions regarding this Agreement will be admissible in any court or other
15 tribunal regarding the propriety of class certification for purposes other than the settlement of this
16 Action. If this Agreement is not approved by the Court or any appellate court, is terminated, or
17 otherwise fails to be enforceable, Defendant will not be deemed to have waived, limited, or affected
18 in any way any of their objections or defenses in the Action, including, but not limited to, its ability
19 to move to compel arbitration, raise defenses in opposition to certification, contest the merits of the
20 claims and theories alleged, etc.

21 **5. CLASS SETTLEMENT CONSIDERATION**

22 5.1 **Gross Settlement and Net Settlement Amounts and Distribution**. Subject to terms
23 and conditions of this Agreement, and subject to Court approval, the claims of all Settlement Class
24 Members are settled for a Gross Settlement Amount of One Million Three Hundred Fifteen Thousand
25 Dollars (\$1,315,000.00). The Gross Settlement Amount and other actions and forbearances taken by
26 Defendant shall constitute adequate consideration for the Settlement and will be made in full and
27 final settlement of: (a) the Released Class Claims and Released PAGA Claims, (b) Class Counsel's
28 Attorneys' Fees and Expenses, (c) Administration Expenses, (d) Enhancement Payment to Plaintiff,

1 (e) PAGA Payment, and (f) the Individual Settlement Payments to Participating Settlement Class
2 Members, and any other obligation of Defendant under this Agreement (other than the Employer's
3 Taxes).

4 The Gross Settlement Amount is based on Defendant's representation that Settlement Class
5 Members worked a total of approximately 100,000 Workweeks as of August 16, 2024 ("Certified
6 Workweek Amount"). If the final total number of Workweeks worked by Settlement Class Members
7 during the Class Period ultimately exceeds the Certified Workweek Amount by more than 10% (i.e.,
8 an increase of more than 10,000 Workweeks), Defendant will have the option of: (1) increasing the
9 Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of
10 workweeks worked by the Class Members above 10% (e.g., if the number of workweeks increases
11 by 11%, the GSA will increase by 1%) or (ii) shorten the release period to an earlier date at which
12 only the represented number of workweeks plus 10% are covered by the Class Period.

13 **5.2 Payments to Participating Settlement Class Members.** Each Participating
14 Settlement Class Member shall be eligible to receive an Individual Class Payment based on their
15 tenure with Defendant, i.e., the number of Workweeks worked during the Class Period, in relation to
16 the number of Workweeks worked by all Participating Settlement Class Members. The Individual
17 Class Payment will be subject to the Employee Taxes and Required Withholdings. Plaintiff and
18 Participating Settlement Class Members who receive an Individual Class Payment pursuant to this
19 Agreement shall be solely responsible for any and all other individual tax obligations associated with
20 the payment.

21 **5.3 Payments to PAGA Members.** Each PAGA Member shall be eligible to receive an
22 Individual PAGA Payment based on their tenure with Defendant, i.e., the Pay Period Total, in relation
23 to the number of PAGA Periods worked by all PAGA Members. Plaintiff and Participating
24 Settlement Class Members who receive an Individual PAGA Payment pursuant to this Agreement
25 shall be solely responsible for any and all other individual tax obligations associated the payment.

26 **5.4 Allocation of Individual Settlement Payment.** The Parties agree that the Individual
27 Class Payment shall be allocated as follows: (a) twenty percent (20%) to wages and reported on an
28 IRS W-2 basis; (b) forty percent (40%) to interest to be reported on an IRS form 1099; and (c) forty

1 percent (40%) to penalties to be reported on an IRS form 1099. The Individual PAGA Payment will
2 be allocated one hundred percent (100%) penalties to be reported on an IRS form 1099. Defendant
3 agrees to pay the Employer's Taxes on that portion of Individual Class Payments allocated to W-2
4 wages, which will be computed and paid by the Administrator, but funded by Defendant separately
5 and in addition to the Gross Settlement Amount.

6 5.5 **No Effect on Employee Benefits.** Neither the Settlement nor any amounts paid under
7 the Settlement will modify any previously credited hours, days, or weeks or service under any
8 employee benefit plan, policy or bonus program sponsored by Defendant (or their affiliates). Such
9 amounts will not form the basis for additional contributions to, benefit under, or any other monetary
10 entitlement under Defendant's sponsored benefit plans, policies, or bonus programs, if any. The
11 payments made under the terms of this Settlement shall not be applied retroactively, currently, or on
12 a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes
13 of any of Defendant's benefit plans, policies or bonus programs, if any. Defendant retains the right
14 to modify the language of their benefits plans, policies and bonus programs to effect this intent and
15 to make clear that any amounts paid pursuant to this Agreement are not for "weeks worked," "weeks
16 paid," "weeks of service," or any similar measuring term as defined by applicable plans, policies and
17 bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that
18 additional contributions or benefits are not required by this Agreement. Defendant does not consider
19 the Individual Settlement Payments "compensation" for purposes of determining eligibility for, or
20 benefit accrual within, any benefits plan, policy, or bonus program, or any other plan or program
21 sponsored by Defendant (or their affiliates), if any.

22 5.6 **Class Counsel's Attorneys' Fees and Expenses.** As part of the motion for final
23 approval of the Settlement, Class Counsel shall submit an application for an award of Class Counsel's
24 Attorneys' Fees and Expenses with the fee portion not to exceed 33.33% of the Gross Settlement
25 Amount (i.e., Four Hundred Thirty Eight Thousand Three Hundred and Thirty Three Dollars and
26 Thirty-Three Cents) (\$438,333.33) and the award of reasonable, actual costs or expenses of up to
27 Sixteen Thousand Dollars (\$16,000.00). Defendant agrees not to object to any such fee, cost, or
28 expense application up to these amounts. As a condition of this Settlement, Class Counsel has agreed

1 mailing of the Notice Packets; (c) performing skip-traces to locate and update Settlement Class
2 Members' address on the return of undelivered Notice Packets; (d) establishing a toll-free number
3 and post office box for the receipt of Class Member communications; (e) processing Opt-Out requests
4 (and sending those to counsel for Defendant), objections, and disputes; (f) calculating and
5 distributing Individual Class Payments to Participating Settlement Class Members and the Individual
6 PAGA Payments to PAGA Members; (g) tax reporting; (h) providing the Parties' counsel weekly
7 status reports and declarations as needed and requested by the Parties or by the Court; and (i) posting
8 copies of the operative complaint, Agreement, Notice Packet, Preliminary Approval Order, and
9 Judgment online at the website established by the Settlement Administrator; and (j) performing any
10 other tasks that are reflected within this Agreement shall be paid from the Gross Settlement Amount.
11 Settlement Administration Costs are currently estimated not to exceed \$17,000.00. The Parties
12 acknowledge that Settlement Administration Costs may increase above the current estimate of
13 \$17,000.00 and that any such additional Settlement Administration Costs will be taken out of the
14 Gross Settlement Amount. Any portion of the requested Settlement Administration Costs that are
15 not awarded to the Settlement Administrator or which are not ultimately required to complete
16 administration of the Settlement shall revert to the Net Settlement Amount.

17 **7. NOTICE TO CLASS MEMBERS**

18 7.1 **Notice to Class Members.** Within twenty-one (21) calendar days of Defendant
19 receiving notice that the Court granted Preliminary Approval of the Settlement, Defendant shall
20 electronically transmit the Class List and Data to the Settlement Administrator. This information
21 will not be shared with and/or provided to Class Counsel. This confidentiality provision is in the
22 best interest of the Settlement Class because it will reduce the likelihood of Settlement Class
23 Members' personal information being leaked, thereby exposing them to identity theft. This
24 confidentiality provision will not impede Class Counsel's ability to discharge their fiduciary duties.
25 Prior to mailing the Notice, the Settlement Administrator shall provide Class Counsel and Defense
26 Counsel with an anonymized version of the Class List and Data that shall only disclose an
27 identification number attributed to each Class Member and their respective Workweeks during the
28 Class Period and PAGA Period.

1 Within ten (10) calendar days of receipt of the Class List and Data from Defendant and after
2 the Settlement Administrator performs an NCOA search to update Settlement Class Members'
3 addresses, the Settlement Administrator will mail the Notice Packet by first-class U.S. Mail to all
4 Settlement Class Members. The exterior of the mailing envelope shall include the following words
5 below the Administrator's address:

6 **IMPORTANT LEGAL DOCUMENT:**
7 **You may get money from a Class Action**
8 **Settlement; your prompt reply to correct a**
 outdated address may be required.

9 The Notice Packet will inform Settlement Class Members of the nature of the Action, the
10 allegations made, the claims being settled, and releases to be given, their estimated Individual Class
11 Payment and Individual PAGA Payment, the employment information on which their Individual
12 Class Payment and Individual PAGA Payment will be calculated, and of their right to request
13 exclusion, to object, and to dispute the information on which their payments will be paid and the
14 deadline for doing any of these acts. The Notice Packet will also inform Settlement Class Members
15 of the date, time, and place set for the Final Approval and Fairness Hearing and will advise them that
16 they may appear at the Final Approval and Fairness Hearing without first submitting a written
17 objection.

18 7.2 **Returned Notice Packet.** If a Notice Packet is returned to the Settlement
19 Administrator with a forwarding address affixed to the front, the Settlement Administrator will
20 resend the Notice Packet to the forwarding address affixed thereto. If a Notice Packet is returned
21 because of an incorrect mailing address, without a forwarding address affixed, the Settlement
22 Administrator will promptly, and no later than three (3) business days of receipt of the returned
23 Notice Packet, search for a more current address by way of skip-trace using the Settlement Class
24 Member's Social Security Number, and perform a single remailing of the Notice Packet to the
25 Settlement Class Member if an updated address is located. The Settlement Administrator will be
26 responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders,
27 and fee, as agreed to with the Parties to trace the mailing address of any Settlement Class Member
28 for whom a Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable

1 steps shall include, at a minimum: (a) the tracking of all undelivered mail; (b) performing address
2 searches for all mail returned without a forwarding address; and (c) promptly re-mailing to Settlement
3 Class Members for whom new addresses are found.

4 7.3 **Disputing Information.** Settlement Class Members may dispute the information on
5 which their Individual Settlement Payments are calculated by mailing, emailing, or faxing a written
6 statement to the Settlement Administrator postmarked or time stamped by the Response Deadline in
7 the manner described in the Notice Packet. To be valid, a dispute must be timely and must comply
8 with the instructions detailed in the Notice Packet, including providing: (a) Settlement Class
9 Member's name, address, telephone number, and the last four digits of the Settlement Class
10 Member's Social Security Number and/or the Employee ID number; (b) a statement explaining why
11 the Settlement Class Member believes the number of Workweeks or Pay Periods in the Notice is
12 inaccurate; and (c) any evidence showing that the number of Workweeks or Pay Periods credited to
13 them in the Notice is inaccurate.

14 Upon the timely receipt of a dispute, the Settlement Administrator will notify Defense
15 Counsel in writing (email constitutes a writing for this purpose) of the dispute. Absent evidence
16 rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a
17 Settlement Class Member produces evidence rebutting Defendant's records by the Response
18 Deadline, the Parties will evaluate the evidence submitted by the Settlement Class Member and the
19 Parties will make the final decision as to the number of eligible Workweeks that should be applied
20 and/or the Individual Class Payments to which the Settlement Class Member may be entitled. If the
21 Parties are unable to resolve the dispute, the Settlement Administrator will be the final arbiter of the
22 Workweeks for each Settlement Class Member during the Class Period, based on the information
23 provided to it. The Court retains authority to review the Settlement Administrator's decisions on any
24 such disputes.

25 7.4 **Opt-Out Requests.** Any Settlement Class Member who wishes to exclude himself
26 from the Settlement Class and Settlement Class portion of the Settlement must mail, e-mail, or fax
27 to the Settlement Administrator a written request for exclusion postmarked or time stamped by the
28 Response Deadline (i.e., an Opt-Out). The date of postmark or timestamp on the Opt-Out shall be

1 deemed the exclusive means for determining if a request for exclusion was timely received. The
2 Settlement Administrator will timely send any Opt-Out received to Defense Counsel and Class
3 Counsel.

4 (i) To be valid, an Opt-Out must be timely and must comply with the instructions
5 detailed in the Notice Packet, including providing: (1) the name and address of the Settlement Class
6 Member; (2) a statement expressing that the Settlement Class Member elects to be excluded from the
7 Settlement; (3) the last four (4) digits of their Social Security Number (for identity verification
8 purposes only) or their Employee ID Number; and (4) a signature by the Settlement Class Member.
9 If a question is raised about the authenticity of a signed request for exclusion, the Settlement
10 Administrator will have the right to demand additional proof of the Settlement Class Member's
11 identity. The Court retains authority to determine the validity and authenticity of all Opt-Outs
12 submitted by Settlement Class Members.

13 (ii) A Settlement Class Member who submits a valid and timely Opt-Out will not
14 participate in or be bound by the Released Class Claims and the Judgment as it relates to the Released
15 Class Claims. However, should this individual be a PAGA Member, they will still receive an
16 Individual PAGA Payment and will still be bound by the PAGA Released Claims regardless of
17 whether they submit a valid and timely Opt-Out.

18 (iii) A Settlement Class Member who does not complete and mail a timely Opt-
19 Out request in the manner and by the Response Deadline will be deemed a Participating Settlement
20 Class Member, will receive an Individual Class Payment, and will be bound by all terms and
21 conditions of the Settlement, including the Released Class Claims, if the Settlement is approved by
22 the Court, and by the Judgment.

23 (iv) If a Settlement Class Member's Opt-Out request is defective as to the
24 requirements listed herein, that Settlement Class Member will be given an opportunity to cure the
25 defect(s). The Settlement Administrator will mail the Settlement Class Member a cure letter within
26 three (3) business days of receiving the defective submission to advise the Settlement Class Member
27 that his or her submission is defective and that the defect must be cured to render the Opt-Out request
28 valid. The Settlement Class Member will have until the later of (a) the Response Deadline or (b)

1 fourteen (14) calendar days from the date the cure letter is mailed, whichever date is later, to email,
2 fax, or postmark a revised Opt-Out request. If a Settlement Class Member responds to a cure letter
3 by filing a defective claim, then the Settlement Administrator will have no further obligation to give
4 notice of a need to cure. If the revised Opt-Out request is not emailed, faxed, or postmarked within
5 that period, it will be deemed untimely.

6 7.5 **Objections to Settlement.** The Notice Packet will provide instructions and the
7 manner for submitting written objections (i.e., Objections) to the Settlement Class portion of the
8 Settlement and will indicate that only Participating Settlement Class Members may object to the
9 Settlement. If a Settlement Class Member returns both a written Objection and an Opt-Out request,
10 the Opt-Out request will be accepted, and the written Objection will be invalidated. The Settlement
11 Administrator will timely send any Objections received to Defense Counsel and Class Counsel.

12 Written Objections must be postmarked and returned to the Settlement Administrator no later
13 than the Response Deadline. The date of mailing on the envelope shall be deemed the exclusive
14 means for determining if the written Objection was timely. Written Objections must be signed by the
15 Participating Settlement Class Member, state the last four (4) digits of their Social Security Number
16 [for identity verification purposes only] or their Employee ID Number, and should set forth: (a) the
17 full name and address of the objecting Participating Settlement Class Member; (b) the grounds for
18 each objection made; and (c) whether the Participating Settlement Class Member intends to appear
19 at the Final Approval Hearing. Either or both Parties may file a response to any Objection before the
20 Final Approval Hearing. Any attorney who will represent an individual objecting to this Settlement
21 who has not filed a written Objection must file a notice of appearance with the Court and serve Class
22 Counsel and Defense Counsel with this notice by the Response Deadline. Participating Settlement
23 Class Members who fail to object in the manner specified above will be foreclosed from making a
24 written Objection, but shall still have a right to appear at the Final Approval Hearing in order to have
25 their objections presented orally and heard by the Court. Any Settlement Class Member who fails to
26 submit a timely written Objection or to present an objection orally at the Final Approval Hearing
27 shall be deemed to have waived any objections and shall be foreclosed from making any objection
28 to the Settlement whether by appeal or otherwise.

1 **8. FUNDING AND DISTRIBUTION**

2 8.1 **Funding of the Gross Settlement Amount and the Employer’s Taxes.** Within
3 three (3) business days of the Court’s entry of the Judgment, the Settlement Administrator will: (a)
4 provide Defense Counsel and Class Counsel with a report on all disbursements to be made under the
5 Settlement, including the Employer’s Taxes due; and (b) provide Defendant with its bank wire
6 instructions to establish the Qualified Settlement Fund (“QSF”).

7 Within fourteen calendar (14) days (or the next available business day if the 14th day occurs
8 on a weekend) of the Effective Date, Defendant shall transmit the Gross Settlement Amount of One
9 Million Three Hundred Fifteen Thousand Dollars (\$1,315,000.00) and the Employer’s Taxes to the
10 Settlement Administrator to pay: (a) the Class Counsel’s Attorneys’ Fees and Expenses, as approved
11 by the Court; (b) the Administrative Expenses, as approved by the Court; (c) the PAGA Payment, as
12 approved by the Court; (d) the Enhancement Payment to Plaintiff, and (e) the remaining Net
13 Settlement Amount to be distributed entirely to Participating Settlement Class Members on a
14 proportionate basis. Defendant shall not be obligated to pay more than One Million Three Hundred
15 Fifteen Thousand Dollars (\$1,315,000.00) with the exception of the Employer’s Taxes and the
16 possibility of an increase to the Gross Settlement Amount as specified in Section 5.1 above.

17 8.2 **Distribution of the Gross Settlement Amount.** Within twenty-eight (28) calendar
18 days of the Effective Date, the Administrator will calculate and pay to Participating Settlement Class
19 Members their Individual Settlement Payments via first-class regular U.S. Mail. Within twenty-eight
20 (28) calendar days of the Effective Date, the Administrator will pay the Court-awarded Class
21 Counsel’s Attorneys’ Fees and Expenses, Plaintiff’s Enhancement Payment; the Court-approved
22 PAGA Payment to the PAGA Members and the LWDA; and the Court-awarded Administration
23 Expenses to the Administrator.

24 8.3 **Calculation of the Individual Settlement Payments.** Participating Settlement Class
25 Members will receive an Individual Class Payment based on the total number of Workweeks worked
26 as a Settlement Class Member any time during the Class Period, in relation to the aggregate number
27 of Workweeks worked by all Participating Settlement Class Members, based on the following
28 formula:

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Individual Settlement Payment = NSA x (Individual’s Workweeks worked ÷ Aggregate Workweeks worked by all Participating Settlement Class Members During the Class Period)

If a Settlement Class Member is also a PAGA Member, they will also receive an Individual PAGA Payment, in addition to the Individual Class Payment, based on the following formula:

Individual PAGA payment = \$ NSA x (Individual’s Pay Periods worked ÷ Aggregate Pay Periods worked by all PAGA Members During the PAGA Period)

The Pay Period Total (if applicable), Workweek Total, estimated Individual Class Payment and estimated Individual PAGA Payment (if applicable) will be inserted into each Settlement Class Member’s Notice Packet.

Defendant shall have no responsibility for deciding the accuracy of the Individual Settlement Payments or any other payments made pursuant to this Agreement. Furthermore, as the Settlement Administrator shall calculate the Employer’s Taxes and Required Withholdings, and reporting such amounts to the appropriate governmental authorities, Defendant shall have no responsibility for the determination or payment of Employee’s Taxes and Required Withholdings. The Notice Packet will inform Settlement Class Members that they will be solely responsible for any and all tax obligation associated with their respective Individual Settlement Payments.

8.4 Time for Payment of Taxes and Required Withholding and Individual Settlement Payments. The Settlement Administrator shall make every effort to pay the Employee’s Taxes and the Required Withholding associated with each Participating Settlement Class Member’s Individual Settlement Payment as required by law upon the mailing of the Participating Settlement Class Member’s Individual Settlement Payments. If the Settlement Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel and Defense Counsel and provide an approximate date by which Employee’s Taxes and Required Withholding shall be paid.

8.5 Non-Cashed Settlement Checks. Participating Settlement Class Members and PAGA Members shall have one hundred eighty days (180) to cash their checks. The checks sent to Participating Settlement Class Members and PAGA Members shall prominently state the expiration date or a statement that the check will expire in one hundred eighty (180) days, or alternatively, such

1 a statement may be made in a letter accompanying the checks. Expired checks for Individual Class
 2 Payments and Individual PAGA Payments will not be reissued, except for good cause and as
 3 mutually agreed by the Parties in writing. If a Participating Settlement Class Member or PAGA
 4 Member does not cash his or her check within 180 days, the uncashed funds, subject to Court
 5 approval, shall be distributed to the Controller of the State of California to be held pursuant to the
 6 Unclaimed Property Law, California Civil Code § 1500, *et. seq.* for the benefit of those Participating
 7 Settlement Class Members and PAGA Members who did not cash their checks until such time that
 8 they claim their property. The Parties agree that this disposition results in no “unpaid residue” under
 9 California Civil Procedure Code § 384.

10 8.6 **Final Accounting Report and Declaration by Settlement Administrator.** Within
 11 ten (10) calendar days after the Settlement Administrator disburses all funds in the Gross Settlement
 12 Amount, the Settlement Administrator will provide Class Counsel and Defense Counsel with a final
 13 report detailing its disbursements by employee identification number only of all payments made
 14 under this Agreement. At least fourteen (14) calendar days before any deadline set by the Court, the
 15 Settlement Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed
 16 declaration under oath suitable for filing in Court attesting to its disbursement of all payments
 17 required under this Agreement. Class Counsel is responsible for filing the Settlement Administrator’s
 18 Declaration with the Court.

19 **9. NULLIFICATION OF THIS AGREEMENT**

20 9.1 **Non-Approval of the Agreement.** If (a) the Court should for any reason fail to
 21 approve this Agreement in the form agreed to by the Parties, or (b) the Court should for any reason
 22 fail to enter the Judgment on this Action, or (c) the approval of the Settlement and Judgment is
 23 reversed, modified or declared or rendered void, then the Settlement and conditional class
 24 certification shall be considered null and void, and neither the Settlement, conditional class
 25 certification, nor any of the related negotiations or proceedings, including the Parties’ Confidential
 26 Memorandum of Understanding, shall be of any force or effect, and all Parties to the Settlement shall
 27 stand in the same position, without prejudice, as if the Settlement has been neither entered into nor
 28 filed with the Court. Notwithstanding the foregoing, the Parties may attempt in good faith to cure

1 any perceived defects in the Agreement to reach a Settlement that is approved by the Court.

2 9.2 **Right to Void Class Settlement.** If ten percent (10%) or more of the Settlement
3 Class Members opt out, Defendant may, at its election, rescind the Settlement and all actions taken
4 in its furtherance of it will be thereby null and void. Defendant must exercise this right of rescission,
5 in writing, to Class Counsel, within fourteen (14) calendar days after the Administrator notifies the
6 Parties of the total number of opt-outs. If the option to rescind is exercised, Defendant shall be
7 responsible for all costs of the administration accrued to that point.

8 Defendant also has the right to withdraw from the Settlement if the Court: (1) does not
9 approve the material terms set forth in this Agreement after efforts to satisfy the Court’s concerns
10 are made by the Parties; (2) does not conditionally certify the Settlement Class; (3) does not
11 conditionally certify a class releasing the Released Class Claims; or (4) does not grant final approval
12 of the Settlement or enter Judgment. If this occurs, the Parties will be restored to their positions as of
13 the date prior to the Parties’ Confidential Memorandum of Understanding and Agreement being fully
14 executed, and they shall be equally responsible for all costs of Administration accrued to that point.
15 If the Court fails to approve this Settlement for any reason, the Parties agree to meet and confer in
16 an effort to reach a settlement approved by the Court.

17 9.3 **Invalidation.** Invalidation of any material portion of the Settlement shall invalidate
18 the Settlement in its entirety, unless the Parties shall subsequently agree in writing that the
19 remaining provisions of the Settlement are to remain in full force and effect. Before declaring any
20 provision of this Agreement invalid, the Court will first attempt to construe the provision as valid
21 to the fullest extent possible consistent with applicable precedents so as to define all provisions of
22 this Agreement valid and enforceable.

23 9.4 **Stay Upon Appeal.** In the event of a timely appeal from the approval of the Class
24 Settlement and Judgment, the Judgment shall be stayed, and Defendant shall not be obligated to fund
25 the Gross Settlement Amount or take any other actions required by this Agreement until all appeal
26 rights have been exhausted by operation of law.

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1 **10. MOTIONS FOR COURT APPROVAL**

2 10.1 **Preliminary Approval.** Class Counsel will submit this Agreement to the Court along
3 with a Motion for Order Granting Preliminary Approval of the Settlement. Plaintiff will file the
4 Motion for Preliminary Approval of the Settlement within sixty (60) calendar days after the Joint
5 Stipulation of Class Action and PAGA Settlement is fully executed, and Plaintiff's counsel will
6 provide a draft of the approval papers to Defendant's Counsel five (5) calendar days before filing
7 and an opportunity to make revisions. Defendant agrees that it will not oppose Plaintiff's motion for
8 preliminary approval, provided that it requests approval of the Agreement as signed by the Parties,
9 and Class Counsel provides draft of its moving papers to Defendant's Counsel in compliance with
10 this provision. Defendant will work together with Plaintiff to address any requirements by the Court
11 in order to obtain preliminary and final approval of the Settlement.

12 10.2 **Final Approval.** Following the close of the Response Deadline, and upon a date set
13 by the Court as set forth in the Order Granting Preliminary Approval, Plaintiff shall move the Court
14 for the entry of the final order certifying the Class for settlement purposes only and approving the
15 Settlement as being fair, reasonable and adequate to the Participating Settlement Class Members
16 within the meaning of California Rules of Court, Rule 3.769(c), (d) and (e) and for the entry of a
17 final judgment of the Action consistent with the terms of the Class Settlement and California Rule of
18 Court 3.769(h). Class Counsel and/or Defense Counsel shall submit to the Court such pleadings
19 and/or evidence as may be required for the Court's consideration in ruling on the motion. Defendant
20 agrees that it will not oppose Plaintiff's motion for final approval and Class Counsel's Attorneys'
21 Fees and Expenses provided Plaintiff complies with Section 10.1.

22 **11. RELEASES AND WAIVERS**

23 11.1 **Release of Claims by Plaintiff and the Participating Settlement Class Members.**

24 Upon the full funding of the Gross Settlement Amount and Employer's Taxes, Plaintiff and
25 Participating Settlement Class Members will be bound by the Judgment entered and will release the
26 Released Parties, and each of them, of and from any and all Released Class Claims arising during the
27 Class Period. It is the desire of the Parties and the Participating Settlement Class Members to fully,
28 finally, and forever settle, compromise, and discharge the Released Class Claims arising during the

1 Class Period. Each Participating Settlement Class Member will be bound to the release of Released
2 Class Claims as a result of the Class Settlement and to the terms of the final judgment and the
3 satisfaction of such judgment.

4 Participating Settlement Class Members will be deemed to have acknowledged and agreed
5 that their claims for wages and/or penalties in the Action are disputed, and that their Individual Class
6 Payment constitutes payment of all sums allegedly due to them. Participating Settlement Class
7 Members will be deemed to have acknowledged and agreed that Labor Code Section 206.5 is not
8 applicable to the Individual Class Payment. That section provides in pertinent part as follows:

9 **“An employer shall not require the execution of a release of a**
10 **claim or right on account of wages due, or to become due, or**
11 **made as an advance on wages to be earned, unless payment of**
12 **those wages has been made.”**

12 11.2 **Release by the LWDA, Plaintiff, and PAGA Members.** Upon the full funding of
13 the Gross Settlement Amount and Employer’s Taxes, the LWDA, the State of California, Plaintiff,
14 and the PAGA Members shall be deemed to have released the Released Parties, and each of them, of
15 and from any and all PAGA Released Claims arising during the PAGA Period.

16 11.3 **Release of Claims by Plaintiff.** Upon the full funding of the Gross Settlement
17 Amount and Employer’s Taxes, Plaintiff, on behalf of himself and his heirs, executors,
18 administrators, and representatives, shall and does forever release, discharge and agrees to hold
19 harmless the Released Parties from any and all charges, complaints, claims, liabilities, obligations,
20 promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs,
21 losses, debt and expenses (including attorney fees and costs), known or unknown, at law or in equity,
22 which he may now have or may have after the signing of this Agreement, arising out of or in any
23 way connected with his employment or assignment with Defendant including, the Released Class
24 Claims and Released PAGA Claims, claims that were asserted or could have been asserted in the
25 Complaint, Action, and any and all transactions, occurrences, or matters between the Parties.
26 Without limiting the generality of the foregoing, this release shall include, but not be limited to, any
27 and all claims under the (a) Americans with Disabilities Act, as amended; (b) Title VII of the Civil
28 Rights Act of 1964, as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended;

1 (e) the Age Discrimination in Employment Act, as amended; (f) the Fair Standards Act, as amended;
 2 (g) the Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the
 3 Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family
 4 and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and
 5 Housing Act; (n) the California Constitution; (o) the California Labor Code; (p) the California
 6 Government Code; (q) the California Civil Code; and (r) any and all other federal, state and local
 7 statutes, ordinances, regulations, rules and other laws, and any and all claims based on constitutional,
 8 statutory, common law or regulatory grounds as well as any other claims based on the theories of
 9 wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation,
 10 promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under
 11 any other federal, state or local statutes, ordinances, regulations, rules or laws. This release is for
 12 any and all relief, no matter how denominated, including, but not limited to, overtime, wages, back
 13 pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages,
 14 punitive damages, damages for pain and suffering, and attorneys' fees and costs, and, except as
 15 provided in Section 13.2, Plaintiff hereby forever releases, discharges and agrees to hold harmless
 16 Defendant and the Released Parties from any and all claims for attorney fees and costs arising out of
 17 the matters released in this Agreement.

18 Plaintiff acknowledges that he is aware and familiar with the provisions of section 1542 of
 19 the Civil Code, or any other similar provision under federal or state law, which provides:

20 **A general release does not extend to claims which the creditor or**
 21 **releasing party does not know or suspect to exist in his or her**
 22 **favor at the time of executing the release and that, if known by**
 23 **him or her, would have materially affected his or her settlement**
 24 **with the debtor or released party.**

25 Plaintiff, being aware of section 1542, hereby expressly waives and relinquishes all rights
 26 and benefits he may have under section 1542 as well as any other statutes or common law principles
 27 of a similar effect. Plaintiff may hereafter discover facts in addition to or different from those which
 28 he now knows or believes to be true with respect to the subject matter of all the claims referenced
 herein, but stipulates and agrees that, upon the funding of the Gross Settlement Amount, Plaintiff
 shall and hereby does fully, and forever settle and release any and all claims against the Released

1 Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, that were
2 asserted or could have been asserted upon any theory of law or equity without regard to the
3 subsequent discovery existence of such different or additional facts.

4 Notwithstanding the foregoing, this release specifically excludes any claims Plaintiff has or
5 may have that are not waivable by law, including claims for unemployment insurance, disability,
6 social security, workers compensation, and the right to receive benefits under any retirement plan.

7 **12. DUTIES OF THE PARTIES**

8 12.1 **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
9 accomplish and implement the terms of this Agreement. Such cooperation shall include, but not be
10 limited to, execution of such other documents and the taking of such other actions as may reasonably
11 be necessary to fulfill the terms of this Settlement, and working cooperatively to address any
12 questions raised by the Court and making any amendments to the Agreement required by the Court.
13 The Parties shall use their best efforts, including all effects contemplated by this Agreement and any
14 other efforts that may become necessary by Court order or otherwise, to effectuate the terms of this
15 Agreement. As soon as practicable after execution of this Agreement, Class Counsel, with the
16 cooperation of Defendant and Defense Counsel, shall take all necessary and reasonable steps to
17 secure the Court’s final approval of this Agreement. The Parties and their counsel agree not to take
18 any action to encourage any Settlement Class Members to opt out of and/or object to the Agreement.
19 Defendant agrees not to obtain any settlement agreement waivers or release agreements from any
20 Settlement Class Member prior to the funding of the Gross Settlement Amount concerning claims
21 released via this Agreement. This does not limit Defendant’s ability to enter individual settlements
22 unrelated to the Action.

23 12.2 **Duty to Support and Defend the Settlement.** The Parties agree to abide by all the
24 terms of the Settlement in good faith and to support the Class Settlement fully and to use their best
25 efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

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1 **13. MISCELLANEOUS PROVISIONS**

2 13.1 **Different Facts.** The Parties hereto, and each of them, acknowledge that, except for
3 matters expressly represented herein, the facts in relation to the dispute and all claims released by the
4 terms of this Agreement may turn out to be other than or different from the facts now known by each
5 party and/or its counsel, or believed by such Party or counsel to be true, and each Party therefore
6 expressly assumes the risk of the existence of different or presently unknown facts, and agrees that
7 this Agreement shall be in all respects effective and binding despite such difference.

8 13.2 **No Prior Assignments.** The Parties represent, covenant, and warrant that they have
9 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
10 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action,
11 or right herein released and discharged except as set forth herein.

12 13.3 **Non-Admission.** Nothing in this Agreement shall be construed as or deemed to be
13 an admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other
14 Party, or any other person, and the Parties specifically disclaim any culpability, negligence, or
15 wrongdoing toward each other or any other person. Each of the Parties has entered into this
16 Agreement with the intention to avoid further disputes and litigation with the attendant
17 inconvenience, expenses, and contingencies. Nothing herein shall constitute any admissions by
18 Defendant of wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing
19 herein shall constitute any admission by Defendant regarding the merits of the Claims in this Action,
20 including but not limited to claims for unpaid wages under California and/or federal law. Nothing
21 herein shall constitute an admission by Defendant that the Action was properly brought as a class or
22 representative action other than for settlement purposes. To the contrary, Defendant has denied and
23 continue to deny each and every material factual allegation and all Claims. To this end, the Settlement
24 of the Action, the negotiation and execution of this Agreement, and all acts performed or documents
25 executed pursuant to or in furtherance of this Agreement or the Settlement are not, shall not be
26 deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on
27 the part of Defendant or of the truth of any of the factual allegations in the Complaint in the Action;
28 and are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault

1 or omission on the part of Defendant in any civil, criminal or administrative proceeding in any court,
2 administrative agency or other tribunal.

3 13.4 **Media or Press.** Plaintiff and Defendant, and their respective counsel, agree to limit
4 public comment on this Class Settlement, the Action, and claims in the Action, stating that the matter
5 has been resolved to the satisfaction of the Parties. Neither Plaintiff nor Defendant shall initiate public
6 comment and/or discuss with or present to the media or press. Nothing in this Settlement Agreement
7 shall limit Defendant’s ability to fulfill disclosure obligations reasonably required by law or in
8 furtherance of business purposes, including the fulfillment of obligations stated in this Agreement or
9 limit Class Counsel’s communications with the Settlement Class Members in furtherance of approval
10 of this Agreement. Furthermore, nothing in this provision shall be construed as preventing Class
11 Counsel from referring to the Settlement or the Action in support of their adequacy as counsel for a
12 putative class or to justify an award of attorneys’ fees.

13 13.5 **Non-Retaliation.** Defendant understands and acknowledges that it has a legal
14 obligation not to retaliate against any Settlement Class Member who elects to participate in the
15 Settlement or elects to Opt-Out of the Class. Defendant will refer any inquiries regarding this
16 Settlement to the Administrator or to Class Counsel and will not discourage, directly or indirectly,
17 Class Members from opting out or objecting to the Settlement.

18 13.6 **Construction.** The Parties hereto agree that the terms and conditions of this
19 Agreement are the result of lengthy, intensive, arms-length non-collusive negotiations between the
20 Parties and that this Agreement is not to be construed in favor of or against any party by reason of
21 the extent to which any Party or their counsel participated in the drafting of this Agreement. If any
22 of the dates in the Agreement fall on a weekend, bank or court holiday, the time to act shall be
23 extended to the next business day.

24 13.7 **Governing Law.** This Agreement is intended to and shall be governed by the laws
25 of the State of California, without regard to conflict of law principles, in all respects, including
26 execution, interpretation, performance, and enforcement.

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1 13.8 **Notices**. Except for the mailing of the Notice Packet to Settlement Class Members
2 by the Administrator, any and all notices or other communications required or permitted under this
3 Agreement shall be in writing and shall be sufficiently given if delivered in person to the Party or
4 their counsel by U.S. certified mail, postage pre-paid, e-mail, facsimile, or overnight delivery
5 addressed to the address of the Party appearing in this Agreement.

6 13.9 **Captions and Interpretations**. Section titles or captions contained herein are
7 inserted as a matter of convenience and for reference only and in no way define, limit, extend, or
8 describe the scope of this Agreement or any provision thereof.

9 13.10 **Modification**. This Agreement may not be changed, altered, or modified, except in
10 writing signed by the Parties and/or their counsel of record and approved by the Court. This
11 Agreement may not be discharged except by performance in accordance with its terms or by a writing
12 signed by the Parties.

13 13.11 **Integration Clause**. This Agreement contains the entire agreement between the
14 Parties relating to the Settlement of the Action and the transactions contemplated thereby, and all
15 prior or contemporaneous agreements, understandings, representations, and statements, whether oral
16 or written, and whether by a party or such party’s legal counsel, are hereby superseded. No rights
17 under this Agreement may be waived except in writing as provided above.

18 13.12 **Successors and Assigns**. This Agreement shall be binding upon and inure to the
19 benefit of the Parties and Settlement Class Members (excluding only persons who timely opt-out)
20 and their respective present and former heirs, trustees, executors, administrators, representatives,
21 officers, directors, shareholders, agents, employees, insurers, attorneys, accountants, auditors,
22 advisors, consultants, pension and welfare benefit plans, fiduciaries, parent companies, subsidiaries,
23 affiliates, related companies, joint ventures, predecessors, successors, and assigns.

24 13.13 **Corporate Signatories**. Any person executing this Agreement or any such related
25 document on behalf of a corporate signatory or on behalf of a partnership hereby warrants and
26 promises, for the benefit of all Parties hereto, that such person has been duly authorized by such
27 corporation or partnership to execute this Agreement or any such related document.

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1 13.14 **Execution in Counterparts.** This Agreement shall become effective upon its
2 execution by all the undersigned. The Parties may execute this Agreement in counterparts, and
3 execution of counterparts shall have the same force and effect as if all Parties had signed the same
4 instrument.

5 13.15 **Attorneys' Fees, Costs and Expenses.** Except as otherwise specifically provided for
6 herein, each Party shall bear their, his or its own attorneys' fees, costs, and expenses, taxable or
7 otherwise, incurred by them in or arising out of the Action and shall not seek reimbursement thereof
8 from any other Party to this Agreement.

9 13.16 **Exhibits Incorporated by Reference.** The terms of this Agreement include the terms
10 set forth in any attached exhibits, which are incorporated by this reference as though fully set forth
11 herein.

12 13.17 **Waiver.** No waiver of any condition or covenant contained in this Agreement or
13 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
14 constitute a further waiver by such party of the same or any other condition, covenant, right or
15 remedy.

16 13.18 **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe
17 this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
18 Agreement after arm's-length negotiations and in the context of adversarial litigation, taking into
19 account all relevant factors, present and potential. The Parties further acknowledge that they are each
20 represented by competent counsel and that they have had an opportunity to consult with their counsel
21 regarding the fairness and reasonableness of this Agreement.

22 13.19 **Judgment and Continued Jurisdiction.** Upon Final Approval of the Settlement by
23 the Court or after the Final Approval Fairness Hearing, Plaintiff will present the Judgment to the
24 Court for its approval. After entry of Judgment, the Court will have continuing jurisdiction pursuant
25 to California Rules of Court, Rule 3.769 and Code of Civil Procedure section 664.6 for purposes of
26 addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement
27 administration matters, and (c) such post-judgment matters as may be appropriate under court rules
28 or as set forth in this Settlement.

1 13.20 **Enforcement.** In the event that one or more of the Parties institutes any legal action
2 or other proceeding against any other Party or Parties to enforce the provisions of this Agreement or
3 to declare rights and/or obligations under this Agreement, the successful Party or Parties will be
4 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs,
5 including expert witness fees incurred in connection with any enforcement action or proceedings.

6 13.21 **Stay of Proceedings.** The Parties stipulate and agree that all proceedings and
7 deadlines in the Action, other than proceedings necessary to carry out and/or enforce the terms of the
8 Agreement and to obtain preliminary approval and final approval of the Agreement, shall be stayed
9 pending completion of the preliminary and final approval of the Agreement. The stay on the Action
10 shall include, without limitation, a stay on the five-year limitations period to bring the Action to trial
11 under Code of Civil Procedure section 583.310, as well as any and all class certification, discovery,
12 and motion deadlines.

13 IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on
14 the date below their signatures of their representatives. The date of the Agreement shall be the date
15 of the latest signature.

16
17 Dated: October __, 2025

ORGANICGIRL, LLC

18
19 By: _____
Randy Staehle

20 10/27/2025
21 Dated: October __, 2025

PLAINTIFF RAFAEL LIRA CUPA


22 By:

Electronically Signed	2025-10-28 00:59:28 UTC - 12.75.128.89
Rafael Lira Cupa	
Signature AssureSign®	0510070-2466-4255-0860-b282015018e

Rafael Lira Cupa

24 Dated: October 28, 2025

LAWYERS *for* JUSTICE, PC

25
26 By: 
27 Brian J. St. John
Erica Stepanian
28 Attorneys for Plaintiff

1 Dated: October 29, 2025

CDF LABOR LAW LLP

2

3

By: 

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Brent M. Giddens
Joel Van Parys
Tashayla Billington,
Attorneys for Defendant

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