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15 **SUPERIOR COURT OF CALIFORNIA**

16 **COUNTY OF SAN DIEGO**

17 **CENTRAL DIVISION**

18 MARIA ORTIZ NIETO, as an individual and  
19 on behalf of all others similarly situated,

20 Plaintiffs,

21 v.

22 ROYAL HOSPITALITY, INC. a California  
23 corporation d/b/a RAMADA INN; and DOES  
1 through 100,

24 Defendants.  
25  
26  
27  
28

CASE NO. 37-2018-00046611-CU-OE-CTL

**STIPULATION AND SETTLEMENT OF  
CLASS ACTION CLAIMS**

**[IMAGED FILE]**

Complaint Filed: September 14, 2018

Honorable Eddie C. Sturgeon  
Dept. C-67

1           **A.     Parties.** This Stipulation and Settlement of Class Action Claims (“Settlement,”  
2 “Stipulation,” or “Agreement”) is made by Plaintiff Maria Ortiz Nieto (“Plaintiff” or “Class  
3 Representative”) on behalf of herself and each of the other “Class Members” as defined in this  
4 Agreement, on the one hand, and Defendant ROYAL HOSPITALITY, INC. a California  
5 corporation d/b/a RAMADA INN (“Defendant” or the “Company”) on the other hand, in the  
6 action pending in the San Diego Superior Court (“Court”) Case No. 37-2018-00046611-CU-OE-  
7 CTL (“Class Action” or “Action”), and subject to the approval of the Court. The “Settlement Class  
8 Members” (also referred to as the “Class”) consist of all Class Members who do not properly elect  
9 to exclude themselves from the terms of this Agreement.

10           **B.     Class Certification.** Solely for purposes of this Settlement, the Settlement Class  
11 Members and the Company (collectively referred to as the “Parties”) stipulate and agree to define  
12 the “Class Members” as consisting of all persons who are or have been employed by the Company  
13 as hourly non-exempt employees in the State of California at any time from September 14, 2014,  
14 through May 3, 2019 (“Class Period”). The Parties stipulate and agree to the certification of the  
15 Class Action for purposes of this Settlement only.

16           Should the Settlement not become final for whatever reason, the fact that the Parties were  
17 willing to stipulate to class certification as part of the Settlement shall have no bearing on, and  
18 shall not be admissible in connection with, the issue of whether a class should be certified in a  
19 non-settlement context in this Action and shall have no bearing on, and shall not be admissible in  
20 connection with, the issue of whether a class should be certified in any other lawsuit. The  
21 Company expressly reserves its right to continue to oppose class certification should this  
22 Settlement not become final.

23           **C.     Procedural History.** On September 14, 2018, Plaintiff filed a Complaint against  
24 Defendant in San Diego County Superior Court, in the matter entitled *Maria Ortiz Nieto v. Royal*  
25 *Hospitality, Inc., a California corporation d/b/a Ramada Inn, et al.*, Case No. 37-2018-00046611-  
26 CU-OE-CTL (the “Action”). On November 19, 2018, Plaintiff filed the operative First Amended  
27 Complaint alleging that Defendant: (i) failed to pay all minimum wages; (ii) failed to pay all  
28 overtime wages; (iii) failed to provide all meal periods in accordance with California law; (iv)

1 failed to authorize and permit all rest periods in accordance with California law; (v) failed to pay  
2 all wages owed upon termination; and (vi) failed to issue accurate, itemized wage statements. As  
3 a result of the foregoing alleged violations, Plaintiff contends that Defendant is further liable to  
4 Plaintiff and the Settlement Class (defined below) because it engaged in unlawful business  
5 practices. Plaintiff further alleges that Defendant is liable for civil penalties pursuant to the Labor  
6 Code Private Attorneys General Act, Cal. Labor Code § 2698 *et seq.* (“PAGA”) as a result of the  
7 alleged violations of the California Labor Code.

8         **D. Investigation in the Class Action.** The Parties have conducted significant  
9 investigation of the facts and law during the prosecution of this Action. The Parties have also  
10 investigated the Company’s finances and the Company’s ability or inability to pay any judgment  
11 that could be entered in this case. Such investigations have included, among other things, the  
12 exchange of information and documents, conferences between representatives of the Parties,  
13 interviewing putative class members and potential witnesses, obtaining informal responses to  
14 mediation information/document requests, reviewing and analyzing documents and data, and  
15 participating in mediation on January 28, 2019 with the Honorable Steven Denton (Ret.). Counsel  
16 for the Parties have further investigated the applicable law as applied to the facts discovered  
17 regarding the alleged claims of the Class Representative on behalf of the Class Members and  
18 potential defenses, and the damages claimed by the Class Representative on behalf of the Class  
19 Members. In pertinent part, the investigation has yielded the following: The principal claims in the  
20 Action are the allegations that the Company failed to provide compliant meal and rest breaks  
21 to/for its California non-exempt employees, failed to compensate such non-exempt employees in  
22 lieu thereof by paying meal and rest break premiums under Labor Code §§ 226.7 and/or IWC  
23 Wage Order No. 1-2001, and that the Company unlawfully shaved the work time of Plaintiff and  
24 putative class members and also required Plaintiff and putative class members to work “off-the-  
25 clock.” The Class Representative believes she has meritorious claims based on alleged violations  
26 of the California Labor Code, and the California Business and Professions Code, and that class  
27 certification is appropriate because the prerequisites for class certification can be satisfied for the  
28 Action. The Class Representative is demanding various amounts for wages, penalties, interest,

1 attorneys' fees, and other damages on behalf of the Class Members. The Company contends the  
2 Class Members were provided meal periods as required by California law, were compensated for  
3 all hours worked, were paid in full in a timely manner on termination of employment, and were  
4 provided with compliant paystubs or wage statements. After investigation, counsel for Plaintiff  
5 ("Class Counsel" or "Plaintiff's Counsel") appreciates the defenses and position of the Company,  
6 but believes the Class Members would ultimately succeed in the Action. The Company, on the  
7 other hand, continues to believe it complied with, and remains in compliance with, California law.

8       **E. Benefits of Settlement to Class Members.** Class Representative recognizes the  
9 expense and length of continued proceedings necessary to continue the litigation against the  
10 Company through trial and through any possible appeals. Class Representative has also taken into  
11 account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays  
12 inherent in such litigation. Class Representative is also aware of the burdens of proof necessary to  
13 establish liability for the claims asserted in the Action (the "Claims" or "Class Action Claims"),  
14 the Company's defenses, and the difficulties in establishing damages for the Class Members. Class  
15 Representative has also taken into account the extensive settlement negotiations conducted.

16       In addition, the Company has provided counsel for the Class Representative with a  
17 significant volume of financial information. In consultation with economic experts retained by the  
18 Class Representative's counsel, Class Representative and Class Counsel have concerns whether  
19 the Company would have the financial ability to pay the damages they believe could be proven in  
20 this case at trial if the Class were able to obtain a judgment in its favor.

21       Based on those considerations, Class Representative and Class Counsel have determined  
22 that the Settlement set forth in this Agreement is a fair, adequate and reasonable settlement, and is  
23 in the best interests of the Class Members.

24       **F. The Company's Denials of Wrongdoing.** The Company has denied and continues  
25 to deny each of the claims and contentions alleged by the Class Representative in the Action. The  
26 Company has repeatedly asserted and continues to assert defenses, and has expressly denied and  
27 continues to deny any wrongdoing or legal liability arising out of any of the facts or conduct  
28 alleged in the Action. The Company also has denied and continues to deny, among other things,

1 the allegations that the Class Members have suffered damage; that the Company failed to provide  
2 any of the Class Members meal periods and/or rest breaks as required by California law; that the  
3 Company failed to compensate the Class Members for all hours worked; that the Company failed  
4 to pay any earned “premium pay;” that the Company failed to provide accurate and itemized wage  
5 statements; that the Company failed to fully compensate employees in a timely manner upon  
6 termination of employment; that the Company engaged in any unlawful, unfair or fraudulent  
7 business practices; that the Company engaged in any wrongful conduct as alleged in the Action; or  
8 that the Class Members were harmed by the conduct alleged in the Action. Neither this  
9 Agreement, nor any document referred to or contemplated in this Agreement, nor any action taken  
10 to carry out this Agreement, is, may be construed as, or may be used as an admission, concession  
11 or indication by or against the Company of any fault, wrongdoing or liability whatsoever.

12           **G. Plaintiff’s Claims.** The Class Representative has claimed and continues to claim  
13 that the Released Claims (as defined below) have merit and give rise to liability on the part of the  
14 Company.

15           NOW, THEREFORE, IT IS HEREBY STIPULATED, by and among the Class  
16 Representative on behalf of the Class Members on the one hand, and the Company on the other  
17 hand, and subject to the approval of the Court, that the Class Action is hereby being compromised  
18 and settled pursuant to the terms and conditions set forth in this Agreement and that upon the  
19 Effective Date (as defined below) judgment shall be entered, subject to the recitals set forth above  
20 which by this reference become an integral part of this Agreement and subject to the following  
21 terms and conditions:

22           **1. “Effective Date.”** As used in this Settlement, “Effective Date” means the  
23 date by which this Settlement is finally approved as provided in this Agreement and the Court’s  
24 Final Judgment in both cases (“Final Judgment” or “Judgment”) become final. For purposes of  
25 this paragraph, the Final Judgment “becomes final” upon the latter of:

26                           (a) if there are no objections to the Settlement by Class Members, the  
27 Effective Date shall be the date of the trial Court’s order finally approving the Settlement; or

28                           (b) if an objection is timely made/asserted by a Class Member; and in

1 addition, (1) the date affirmance of an appeal of the Judgment becomes final or the expiration of  
2 the time for filing a petition for review or certiorari of or as to the Final Judgment or of any Court  
3 of Appeals' decision relating to the Final Judgment and, if review is granted, the date of final  
4 affirmance of the Final Judgment following review pursuant to that grant; (2) the date of final  
5 dismissal of any writ of certiorari as to or appeal from the Judgment or the final dismissal of any  
6 proceeding on review of any Court of Appeals' decision relating to the Judgment; or (3) if no  
7 appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the  
8 Judgment.

9                   2.       **Full Investigation.** Class Representative has fully investigated the factual  
10 and legal bases for the causes of action asserted in the Class Action. The Company has denied that  
11 it failed to provide the Class Members meal periods and/or rest breaks in accordance with  
12 California law or failed to pay the Class Members for any earned premium pay. As a result of her  
13 investigation, Class Representative continues to believe that the Company failed to pay all wages  
14 due and failed to provide compliant meal periods and/or rest breaks, and that the Class Members  
15 were not paid in full for any premium pay due. Given the disagreement between the Parties as to  
16 the viability of the claims raised by the Class Representative in the Class Action, the Parties  
17 believe the Settlement provided for in this Agreement is a fair, adequate, and reasonable  
18 settlement.

19                   3.       **Release Of Claims.**

20                   Release As To All Settlement Class Members. As of the Effective Date, the Settlement  
21 Class Members, including the Class Representative, release the Company and its assignees, and  
22 each of their past or present officers, directors, shareholders, employees, agents, principals, heirs,  
23 representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective  
24 successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys and all of  
25 their respective officers, directors, employees, administrators, fiduciaries, trustees and agents (the  
26 "Released Parties"), from the "Released Claims." For purposes of this Agreement, the "Released  
27 Claims" include all claims that were or could have been pled based on the factual allegations in  
28 the operative complaint, including without limitation, those having all of the characteristics below:

1 (a) all claims, demands, rights, liabilities, and causes of action of every  
2 nature and description whatsoever that arose from September 14, 2014 through the May 3, 2019;

3 (b) whether in tort, contract, or for violation of any state constitution,  
4 statute, rule or regulation, including state wage and hour laws;

5 (c) whether for economic damages, non-economic damages, restitution,  
6 premium pay, penalties or liquidated damages;

7 (d) arising out of, relating to, or in connection with:

8 (1) any and all facts, transactions, events, policies, occurrences, acts,  
9 disclosures, statements, omissions or failures to act, which are or could be the basis of claims: (a)  
10 that the Company failed to pay all straight time wages; (b) that the Company failed to pay all  
11 overtime pay; (c) that the Company failed to provide Plaintiffs with meal periods and/or rest  
12 breaks, or failed to compensate Plaintiffs for all hours worked in connection with meal periods  
13 and/or rest breaks, in accordance with California law, including any claims for waiting time  
14 penalties, premium pay, or inaccurate wage statements based on the factual allegations contained  
15 in the Class Action; (d) that the Company failed to compensate plaintiffs for all hours worked,  
16 including any claims for waiting time penalties, or inaccurate wage statements based on the factual  
17 allegations contained in the Class Action; (e) that the Company failed to compensate plaintiffs for  
18 all wages due upon termination in a timely fashion; (f) that the Company failed to provide the  
19 paystubs required by California law; (g) that the Company failed to comply with any California  
20 state wage and hour laws, based on the factual allegations contained in the Class Action; including  
21 any claims for waiting time penalties, premium pay, or inaccurate wage statements based on the  
22 factual allegations contained in the Class Action; (h) that the Company failed to keep any and all  
23 records required by California law based on the factual allegations contained in the Class Action;  
24 (i) that the Company failed to comply with Labor Code Sections 201-203, 206, 206.5, 226, 226.7,  
25 510, 512, California Business & Professions Code Section 17200, and/or Wage Order 1-2001  
26 based on the factual allegations contained in the Class Action; (j) any claims brought under  
27 California Labor Code Section 2699, the “Private Attorney General Act” based on the factual  
28 allegations contained in the Class Action; or (k) that the Company owes wages, premium pay,

1 penalties, interest, attorneys' fees or other damages of any kind based on a failure to comply with  
2 these state wage and hour laws and record keeping laws based on the factual allegations contained  
3 in the Class Action, at any times on or before the last day of the Class Period (whether based on  
4 California state wage and hour law, contract, or otherwise);

5 (e) the causes of action asserted in the Class Action, including any and  
6 all claims for alleged failure to provide meal periods and/or rest breaks, or alleged failure to pay  
7 all wages and/or premium pay on termination of employment, or alleged failure to provide  
8 accurate wage statements, or for waiting time penalties or for premium pay and, as related to the  
9 foregoing, for alleged unlawful, unfair and/or fraudulent business practices under California  
10 Business and Professions Code § 17200, et seq.;

11 (f) any other claims based on any factual allegations pled in this Class  
12 Action; and/or

13 (g) This Release is based on the factual and legal claims asserted in  
14 Plaintiff's Complaint, filed on or about September 14, 2018, and only applies to those persons  
15 identified by the Released Parties as being a member of the Class in connection with the  
16 administration of this proposed settlement. Any person *not* identified by the Released Parties as  
17 being a member of the Class shall not and will not be affected by this Release. Further, this  
18 Release does not apply to any claim that as a matter of law cannot be released, including but not  
19 limited to claims for indemnification pursuant to California Labor Code section 2802,  
20 unemployment insurance benefits, and workers' compensation claims.

21 The Class Members may later discover facts in addition to or different from those they  
22 now know or believe to be true with respect to the subject matter of the Released Claims, but upon  
23 the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have,  
24 fully, finally, and forever settled and released any and all of the Released Claims, whether  
25 contingent or non-contingent, which now exist, or have existed, upon any theory of law or equity  
26 now existing or coming into existence in the future, including, but not limited to, conduct that is  
27 negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule,  
28 without regard to the subsequent discovery or existence of such different or additional facts.



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**4. Federal Release As To All Settlement Class Members.**

In addition to releasing the Released Parties from the Released Claims as outlined in subsection (a), Settlement Class Members, including Named Plaintiff, also release the Released Parties from the “Released Federal Law Claims.” For purposes of this Agreement, the “Released Federal Law Claims” include all claims that were or could have been pled based on the factual allegations in the operative complaint, including without limitation:

(1) any and all applicable federal law claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted; and

(2) whether in tort, contract, or for violation of any federal constitution, statute, rule or regulation, including federal wage and hour laws, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, arising out of, relating to, or in connection with:

(i) all federal law causes of action alleged in or that could have been alleged in the Complaint based upon the facts pleaded in the Complaint under any theory of law, including but not limited to: failure to pay wages, including straight time and overtime wages under the federal Fair Labor Standards Act (“FLSA”); failure to provide rest periods; failure to timely pay wages owed; and/or

(ii) any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, alleged in or that could have been alleged in the Complaint, based upon the facts pleaded in the Complaint under any theory of law, which are or could be the basis of claims related to the Company’s alleged failure to failure to pay wages, including straight time and overtime under the FLSA; failure to provide rest periods; failure to timely pay wages owed; or other damages of any kind based on a failure to comply with any federal wage and hour laws, at any time during the Class Period (whether based on federal wage and hour law, contract, or otherwise).

The Settlement Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released

1 Federal Law Claims, but upon the Effective Date, shall be deemed to have, and by operation of the  
2 Final Judgment shall have, fully, finally, and forever settled and released any and all of the  
3 Released Federal Law Claims, whether known or unknown, suspected or unsuspected, contingent  
4 or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity  
5 now existing or coming into existence in the future, including, but not limited to, conduct that is  
6 negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard  
7 to the subsequent discovery or existence of such different or additional facts.

8 The Settlement Class Members agree not to sue or otherwise make a claim against any of  
9 the Released Parties that is related to the Released Federal Law Claims.

10 The Parties agree that this release shall have full res judicata effect as to FLSA claims for  
11 all Class Members as described in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d  
12 1106 (9th Cir. 2018), regardless of whether that Class Member endorses and cashes his or her  
13 settlement check. However, in addition, the Settlement Administrator shall include the following  
14 language on each settlement check issued to Class Members: “By endorsing and cashing this  
15 check, I consent to join the FLSA settlement class and release any claims under the Fair Labor  
16 Standards Act that were pleaded or that could have been pleaded based upon the facts alleged in  
17 this action,” and copies of these signed endorsements shall be provided to the Company and shall  
18 be filed with the Court as additional proof of consent, with confidential information redacted, if  
19 filing the consents is requested by the Court.

20 **5. General Release Of Any And All Claims By Class Representative.** In  
21 addition to the releases made by the Settlement Class Members set forth in Paragraphs 3 and 4 of  
22 this Agreement, the Class Representative, as of the Effective Date, makes the additional following  
23 general release of all claims, known or unknown. The Class Representative releases the Released  
24 Parties from all claims, demands, rights, liabilities and causes of action of every nature and  
25 description whatsoever, known or unknown, asserted or that might have been asserted, whether in  
26 tort, contract, or for violation of any state or federal statute, rule or regulation arising out of,  
27 relating to, or in connection with any act or omission by or on the part of any of the Released  
28 Parties committed or omitted prior to the execution of this Agreement. Class Representative also

1 specifically agrees and acknowledges that she is waiving any right to recovery based on state or  
2 federal age, sex, pregnancy, race, color, national origin, marital status, religion, veteran status,  
3 disability, sexual orientation, medical condition or other anti-discrimination laws, including,  
4 without limitation, Title VII of the Civil Rights Act of 1964, the Age Discrimination in  
5 Employment Act, the Equal Pay Act, the Americans with Disabilities Act and the California Fair  
6 Employment and Housing Act, California Labor Code section 970, the Family and Medical Leave  
7 Act, the Employee Retirement Income Security Act, the Worker Adjustment and Retraining Act,  
8 the Fair Labor Standards Act, California Labor Code Section 2699, et. seq., the “Private Attorney  
9 General Act, and any other section of the California Labor Code, all as amended, whether such  
10 claim be filed by Class Representative or by a governmental agency, as well as the laws of any  
11 other country in the world. (The release set forth in this Paragraph 5 shall be referred to as the  
12 “General Release”).

13         The Class Representative agrees not to sue or otherwise make a claim against any of the  
14 Released Parties that is in any way related to the Released Claims. The General Release does not  
15 apply to any claim that as a matter of law cannot be released, including but not limited to claims  
16 for indemnification pursuant to California Labor Code Section 2802, unemployment insurance  
17 benefits, and workers’ compensation claims, nor does it preclude filing suit to challenge the  
18 Company’s compliance with the waiver requirements of the ADEA as amended by the Older  
19 Worker Benefit Protection Act, or filing a charge with the Equal Employment Opportunity  
20 Commission.

21         The General Release includes any unknown claims the Class Representative does not  
22 know or suspect to exist in her favor at the time of the General Release, which, if known by her,  
23 might have affected her settlement with, and release of, the Released Parties by the Class  
24 Representative or might have affected her decision not to object to this Settlement or the General  
25 Release.

26         With respect to the General Release, the Class Representative stipulates and agrees that,  
27 upon the Effective Date, the Class Representative shall be deemed to have, and by operation of the  
28 Final Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by

1 law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other  
2 similar provision under federal or state law, which provides:

3  
4 “A general release does not extend to claims that the creditor or  
5 releasing party does not know or suspect to exist in his or her favor  
6 at the time of executing the release and that, if known by him or her,  
7 would have materially affected his or her settlement with the debtor  
8 or released party.”

9 The Class Representative may later discover facts in addition to or different from those she  
10 now knows or believes to be true with respect to the subject matter of the General Release, but the  
11 Class Representative upon the Effective Date, shall be deemed to have, and by operation of the  
12 Final Judgment shall have, fully, finally, and forever settled and released any and all of the claims  
13 released pursuant to the General Release, whether known or unknown, suspected or unsuspected,  
14 contingent or non-contingent, which now exist, or previously existed upon any theory of law or  
15 equity now existing or coming into existence in the future, including, but not limited to, conduct  
16 that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule,  
17 without regard to the subsequent discovery or existence of such different or additional facts.

18 **6. Final Judgment.** In connection with seeking Final Approval of this  
19 Settlement, Class Representative will seek final entry of judgment of this Action and all claims  
20 stated in this Action, and upon the Effective Date the Final Judgment will constitute a binding and  
21 final resolution of any and all claims by the Class Representative and all Class Members as set  
22 forth in this Agreement.

23 **7. Gross Settlement Fund.** The term “Gross Settlement Fund” shall refer to  
24 the funds that the Company has agreed to pay to settle the Class Action. The Settlement Fund has  
25 a maximum possible value of One Hundred Seventy Thousand Dollars (\$170,000). The Gross  
26 Settlement Fund is the maximum payment under this Settlement Agreement, and includes but is  
27 not limited to all attorneys’ fees and costs, the payment to the Labor Workforce Development  
28 Agency (“LWDA”), employer-owed taxes, incentive payment to the Class Representative, the  
29 costs of settlement and claim administration, any post-settlement costs, and pre and post-judgment  
30 interest. Under no circumstances shall the Company be required to spend more than \$170,000 for

1 any reason under this Settlement Agreement.

2           **8.       The Net Settlement Fund.** The “Net Settlement Fund” is the balance of the  
3 Gross Settlement Fund remaining after payments from the Gross Settlement Fund for: payment to  
4 the LWDA, employer-owed taxes, attorneys’ fees, legal costs, administration costs, and the class  
5 representative general release. Settlement Class Members shall be paid individual settlement  
6 shares out of the Net Settlement Fund.

7           **9.       Allocation of Gross Settlement Fund.** Within seven (7) days after the  
8 Effective Date, and solely for purposes of this Settlement, the Company shall pay the Gross  
9 Settlement Fund to the Settlement Administrator, to be held in an interest-bearing account. If for  
10 any reason this Settlement does not become effective or final for any of the reasons set forth in this  
11 Agreement, then the Settlement Administrator shall return the entire Settlement Fund, plus any  
12 accrued interest, to the Company within fourteen (14) days of being notified in writing that the  
13 Settlement will not be effective or final as provided in this Agreement.

14           Within twenty-one (21) days after the Effective Date, the Settlement Administrator shall  
15 pay the applicable settlement payments to the Settlement Class Members, the LWDA, Class  
16 Counsel, and the Class Representative.

17           The Gross Settlement Fund is comprised of: (i) the settlement shares to Plaintiff and Class  
18 Members of the Gross Settlement Fund less deductions as explained in Paragraph H.8 below (ii)  
19 the Fees Award (as defined below) to Class Counsel in an amount not to exceed Fifty-Six  
20 Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$56,666.67); (iii) reimbursement  
21 of Litigation Costs (as defined below) incurred by Class Counsel in a total amount estimated at no  
22 more than Twenty Thousand Dollars (\$20,000.00); (iv) the Incentive/General Release Payment  
23 Award (as defined below) to the Class Representative, in a total amount not to exceed Five  
24 Thousand Dollars (\$5,000.00); (v) Claims Administration expenses, estimated to be Eight  
25 Thousand Seven Hundred Fifty Dollars (\$8,750.00); (vi) employer-owed taxes; and (vii) payment  
26 to the LWDA for Class Representative’s Private Attorney General Act (“PAGA”) claims under  
27 California Labor Code Section 2699 et seq. in an amount not to exceed Five Thousand Dollars  
28 (\$5,000.00) (“PAGA Payment”).

1                   **10.    Plan of Allocation for Payment to Settlement Class Members.** Within  
2 fourteen (14) days after the Effective Date, and solely for purposes of this Settlement, Defendant  
3 shall wire the amount of the Gross Settlement Fund into an account set up by the Settlement  
4 Administrator for distribution in accordance with the following eligibility and settlement formula  
5 requirements:

6                   (a)    Excluded from becoming Class Members are those individuals who  
7 submit valid and timely requests for exclusion pursuant to the terms and procedures of the Notice  
8 of Pendency and Settlement of Class Action; and

9                   (b)    Settlement Administrator. The Gross Settlement Amounts of these  
10 two categories of Settlement Awards will be calculated as follows:

11                   (i)    After deducting the amount of Fees Award, the Costs Award,  
12 the Service Award/General Release Payment, the LWDA portion of the PAGA Payment, and  
13 Claims Administration Expenses that are all finally approved by the Court, the remaining Payout  
14 Fund will be allocated to Settlement Class Members;

15                   (ii)   Settlement Class Members will automatically receive their  
16 pro rata settlement share from the Payout Fund. Individual Settlement Shares from the Payout  
17 Fund will be distributed based on the number of weeks each Class Member worked for the  
18 Company during the Class Period. The number of workweeks for each Class Member will be  
19 determined by adding all the calendar days within the inclusive dates of employment and dividing  
20 that number by seven. Any partial workweek will be rounded up to the nearest full workweek.  
21 This shall be considered each Class Member's "Workweek Figure." Class Members' Individual  
22 Settlement Shares will be calculated by dividing the Payout Fund by the total of all Class  
23 Members' Workweek Figures to arrive at a Per-Workweek Amount. This would be the Settlement  
24 Class Member's Individual Settlement Share from the Payout Fund. All Settlement Class  
25 Members will automatically receive an Individual Settlement Share from the Payout Fund of his  
26 or her Workweek Figure multiplied by the calculated Per-Workweek Amount;

27                   (iii)   The Company shall provide each Class Member's workweek  
28 information to the Settlement Administrator no later than thirty (30) days after the Court grants

1 Preliminary Approval of this Settlement so that the Settlement Administrator may estimate  
2 individual Class Member Award payments;

3 (iv) Thirty-three and a third percent (33.3%) of all Individual  
4 Settlement Payments to Settlement Class Members will be called the "Gross Wage Portion." The  
5 remaining sixty-six and two thirds percent (66.6%) of payments to Settlement Class Members  
6 represents the "Non-Wage Portion" of the Individual Settlement Payment and includes interest and  
7 penalties sought in the Class Action. Settlement Class Members will be issued W2s for the Wage  
8 Portions of their Individual Settlement Payment and IRS Form 1099s for the Non-Wage Portions.  
9 From each Settlement Class Member's Gross Wage Portion, deductions will be made for state and  
10 federal taxes owed by the Company as a result of the payment and for any applicable payroll  
11 deductions required to be made by the Company as a result of the payment. The resulting amount  
12 will be each individual Settlement Class Member's "Gross Wage Component." From each  
13 Settlement Class Member's Gross Wage Component that is characterized as wages, payroll  
14 deductions will be made for state and federal withholding taxes and any other applicable payroll  
15 deductions owed by the Class Member or the Settlement Class Member as a result of the payment,  
16 resulting in a "Net Wage Component." The total of the Net Wage Component and the Non-Wage  
17 Portion shall be the Class Member or Settlement Class Member's "Net Individual Settlement  
18 Share"; and

19 (vii) The Settlement Administrator shall be responsible for issuing  
20 the payments and calculating and withholding all required state and federal taxes owed by  
21 Settlement Class Members and the Company.

22 **11. Prospective Employment Practices.** As noted above, after thorough  
23 investigation, the Parties disagree as to whether the Company provided the Class Members with  
24 compliant meal periods and rest breaks as required by California law, whether the Company paid  
25 all premium pay owed, whether the Company timely paid all wages due and owed upon  
26 termination, and whether the Company provided accurate wage statements. The Company believes  
27 its policies do comply, and have always complied, with the law. However, because the Parties  
28 desire to eliminate future disputes regarding the issues raised in this Action, the Company has

1 agreed to comply with California law regarding meal and rest periods, payment of wages,  
2 recording of hours worked, and paystubs.

3 The Company is not obligated by virtue of this Settlement Agreement to make any  
4 particular changes to its policies. To the extent the Company makes any changes to its policies, the  
5 Company may again change those policies based on any relevant changes to California or federal  
6 law or for any other reason.

7 **12. Fees Award, Litigation Costs, and Incentive Awards.**

8 (a) Plaintiff's Counsel will request, and the Company will not oppose,  
9 an award of attorneys' fees ("Fees Award") of up to Fifty-Six Thousand Six Hundred Sixty-Six  
10 Dollars and Sixty-Seven Cents (\$56,666.67). The Fees Award will cover all work performed and  
11 all fees incurred to date, and all work to be performed and all fees to be incurred in connection  
12 with the approval by the Court of this Settlement, the administration of the Settlement, and  
13 obtaining final approval of this Settlement and entry of judgment. Plaintiff's Counsel shall not be  
14 permitted to petition the Court for, or accept, any additional payments for attorneys' fees.  
15 Plaintiff's Counsel will be issued an IRS Form 1099 for the Fees Award. If the Court awards  
16 attorneys' fees in an amount less than specified above, the residual shall be distributed to the  
17 Settlement Class Members on a pro rata basis, using the formula laid out in Paragraph 9(b), *supra*.

18 The Fees Award shall be paid by the Settlement Administrator via wire transfer from the  
19 Settlement Fund to Plaintiff's Counsel within seven (7) calendar days after the deposit of the  
20 Gross Settlement Fund by the Company into the account set up by the Settlement Administrator.

21 The Settlement Administrator's payment of the Fees Award to Plaintiff's Counsel shall  
22 constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law  
23 firm for attorneys' fees in the Action incurred by any attorney on behalf of Class Representative,  
24 Settlement Class Members, and Settlement Class Members, and shall relieve the Company, the  
25 Settlement Administrator, the Settlement Fund, and the Company's Counsel of any other claims or  
26 liability to any other attorney or law firm for any attorneys' fees to which any of them may claim  
27 to be entitled on behalf of Class Representative and Settlement Class Members.

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1 (b) Plaintiff's Counsel will request, and the Company will not oppose,  
2 an award of costs ("Litigation Costs") in an amount of up to Twenty Thousand Dollars (\$20,000).  
3 The Litigation Costs will cover all work performed and all costs incurred to date, and all work to  
4 be performed and all costs to be incurred in connection with the approval by the Court of this  
5 Settlement, the administration of the Settlement, and final approval of this Settlement and entry of  
6 judgment. Plaintiff's Counsel shall not be permitted to petition the Court for, or accept, any  
7 additional payments for costs. If the Court awards costs in an amount less than specified above,  
8 the residual shall be distributed to the Settlement Class Members on a pro rata basis using the  
9 formula laid out in Paragraph 9(b), *supra*.

10 The Litigation Costs shall be paid by the Settlement Administrator via wire transfer from  
11 the Settlement Fund to Plaintiff's Counsel within seven (7) calendar days after the deposit of the  
12 Gross Settlement Fund by the Company into the account set up by the Settlement Administrator.

13 The Settlement Administrator's payment of the Litigation Costs to Plaintiff's Counsel shall  
14 constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law  
15 firm for Class Counsel's expenses or costs in the Action incurred by any attorney on behalf of  
16 Class Representative and Settlement Class Members, and shall relieve the Company, the  
17 Settlement Administrator, the Settlement Fund, and the Company's Counsel of any other claims or  
18 liability to any other attorney or law firm for any expenses and/or costs to which any of them may  
19 claim to be entitled on behalf of Class Representative and Settlement Class Members.

20 (c) Plaintiff's Counsel may request, and the Company will not oppose,  
21 an Incentive Award/General Release Payment to Class Representative in an amount not to exceed  
22 Five Thousand Dollars (\$5,000.00) total, to be paid to the Class Representative for her initiation of  
23 this Action, for a general release of all claims, and for her time, effort and risk spent pursuing the  
24 Action. The Company agrees not to oppose such an application, so long as it is consistent with the  
25 provisions of this Agreement. Any Incentive Award shall be sent to Class Counsel for distribution  
26 to the Class Representative within seven (7) days of the deposit of the Gross Settlement Fund by  
27 the Company into the account set up by the Settlement Administrator. The Class Representative  
28 will also receive a Settlement Award from the Company in addition to this Incentive Award. If the

1 Court awards an Incentive Award in an amount less than specified above, the residual shall be  
2 distributed to the Settlement Class Members on a pro rata basis using the formula laid out in  
3 Paragraph 9(b), *supra*.

4 The Class Representative's Incentive Award will not be taxed as wages. The Class  
5 Representative will receive IRS Forms 1099 for the Incentive Award. The Class Representative  
6 agrees to indemnify and hold harmless the Company for any tax liability.

7 **13. Responsibilities of The Company.**

8 The Company shall:

9 (a) Pay, or cause the Settlement Administrator to pay, the Fees Award,  
10 Litigation Costs, payment to the LWDA and Incentive Award within seven (7) banking days after  
11 the Effective Date;

12 (b) Provide, within thirty (30) days from the date the Court grants  
13 preliminary approval, the Settlement Administrator with "Database Reports" showing each Class  
14 Member's name, address, employee or social security number, Gross Settlement Amount, and  
15 workweek information, and provide Class Counsel the Database Reports showing each Class  
16 Member's last four digits of the employee or social security numbers, Gross Settlement Amounts,  
17 and workweek information;

18 (c) Pay, or cause the Settlement Administrator to pay, the Settlement  
19 Awards to the Settlement Class Members in accordance with the terms of this Agreement;

20 (d) Establish, or cause the Settlement Administrator to establish, a  
21 Settlement Account (either a separate checking account or separate ledger entry), and make  
22 appropriate arrangements to fund any checks written upon the Settlement Account; and

23 (e) If the Settlement Administrator's costs do not amount to the  
24 \$8,750.00 maximum, any residual amount shall be distributed to the Settlement Class Members  
25 using the formula laid out in Paragraph 9(b).

26 **14. Operation of the Settlement Fund.**

27 (a) The Settlement Administrator will calculate the net amounts to be  
28 paid to the Settlement Class Members from the Net Settlement Fund in accordance with the terms

1 and provisions of this Agreement;

2 (b) The Settlement Administrator shall have the authority and obligation  
3 to make payments, credits and disbursements, including payments and credits in the manner set  
4 forth in this Agreement, to Settlement Class Members from the Net Settlement Fund calculated in  
5 accordance with the methodology set out in this Agreement and orders of the Court;

6 (c) The Settlement Administrator shall make all proper payments,  
7 disbursements, and credits from the Settlement Fund;

8 (d) No person shall have any claim against the Company, the  
9 Company's Counsel, the Class Representative, Class Members, Plaintiff's Counsel or the  
10 Settlement Administrator based on distributions and payments made in accordance with this  
11 Agreement; and

12 (e) The maximum amount the Company can be required to pay under  
13 this Settlement for any purpose is the amount of the Gross Settlement Fund.

14 15. **No Injunctive Relief.** As part of this Settlement, the Company shall not be  
15 required to enter into any consent decree, nor shall the Company be required to agree to any  
16 provision for injunctive relief, or to modify or eliminate any of its personnel, compensation, or  
17 payroll practices, or adopt any new personnel, compensation, or payroll practices.

18 16. **Notice/Approval of Settlement and Settlement Implementation.** As part  
19 of this Settlement, the Parties agree to the following procedures for obtaining preliminary Court  
20 approval of the Settlement, certifying a Settlement Class, notifying the Class Members, obtaining  
21 final Court approval of the Settlement, and processing the settlement payments:

22 (a) **Preliminary Settlement Hearing.** A noticed hearing before the Court  
23 to request preliminary approval of the Settlement and to request the entry of the order for  
24 certification of the Class for settlement purposes only ("Preliminary Approval Order" or "Order")  
25 (attached as Exhibit 2) will be scheduled. In conjunction with this hearing, Plaintiff will submit  
26 this Agreement, which sets forth the terms of this Settlement, and will include proposed forms of  
27 all notices and other documents necessary to implement the Settlement;

28

1 (b) The Parties agree to take all steps as may be reasonably necessary to  
2 secure approval of this Agreement, to the extent not inconsistent with the terms of this Agreement,  
3 and will not take any action adverse to each other in obtaining Court approval, and, if necessary,  
4 appellate approval, of the Agreement in all respects. The parties and their counsel agree to  
5 cooperate fully with one another to expeditiously seek such approval;

6 (c) Simultaneous with the filing of the Stipulation of Settlement and  
7 solely for purposes of this Settlement, Plaintiff will request the Court to enter the Preliminary  
8 Approval Order substantially in the form of Exhibit 2, preliminarily approving the proposed  
9 Settlement, certifying the Class and the Class Period for settlement purposes only, and setting a  
10 date for a Settlement Hearing to determine final approval of the Settlement. The Order shall  
11 provide for notice of the Settlement and related matters to be sent to Plaintiff as specified in this  
12 Agreement;

13 (d) Notice to Plaintiff. Notice of the Settlement shall be provided to the  
14 Class Members in substantially the same form as Exhibit 1. The Class Notice shall notify Class  
15 Members of how to participate in the settlement, exclude themselves from the settlement, or object  
16 to the settlement and the timeframes in which to do each;

17 (e) Settlement Administrator. Phoenix Settlement Administrators, P.O.  
18 Box 7208, Orange, California, 92863, (800) 523-5733, info@phoenixclassaction.com, or such  
19 other entity upon whom the Parties mutually agree, shall be retained to serve as Settlement  
20 Administrator. The Settlement Administrator shall be responsible for preparing, printing, and  
21 mailing the Notice (Exhibit 1) as directed by the Court to the Class Members; calculating  
22 Settlement Awards to be paid to the Settlement Class Members in accordance with the terms and  
23 provisions of this Agreement; resolving any disputes regarding the calculation or application of  
24 the formula for determining Individual Settlement Shares; keeping track of those Class Members  
25 requesting to be excluded from the Settlement and providing information regarding the requests  
26 for exclusion to the Defendant's counsel; mailing the Individual Settlement Shares to the  
27 Settlement Class Members; issuing W-2 and 1099 Forms; and performing such other tasks  
28 necessary to effectuate the terms of this Agreement or as the Parties mutually agree or the Court

1 orders the Parties to perform. The Settlement Administrator shall also establish and maintain a  
2 website and timely post thereon (i.e., when filed/available) a complete copy of the Stipulation and  
3 Settlement Agreement of Class Action Claims, the Class Notice, Plaintiff's Motion for  
4 Preliminary Approval, the Preliminary Approval Order, Plaintiff's Motion for Final Approval,  
5 Plaintiff's Motion for An Award of Attorneys' Fees and Costs, and the Final Approval Order/Final  
6 Judgment. The Notice (Exhibit 1) shall be sent to each Class Members' last known address in a  
7 mailing envelope that shall include the words "the Company Class Settlement" as part of the  
8 return address associated with the Settlement Administrator, and shall also include the following  
9 language on the envelope: **"IMPORTANT LEGAL DOCUMENT – YOU MAY GET  
10 MONEY FROM A CLASS ACTION SETTLEMENT AS EXPLAINED IN THE  
11 ENCLOSED NOTICE"**;

12 (f) The Parties each represent they do not have any financial interest in  
13 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator  
14 that could create a conflict of interest. The Company shall be responsible for paying all agreed  
15 Settlement Administrator's Administration Fees upon presentation of invoices by the Settlement  
16 Administrator, up to the agreed-upon maximum amount of \$8,750.00;

17 (g) The Settlement Administrator shall provide a weekly status report to  
18 the Parties. As part of its weekly status report, the Settlement Administrator will inform the Class  
19 Counsel and Defendant's Counsel of the number of Notices mailed, the number of Notices  
20 returned as undeliverable, the number of Notices re-mailed, the number of requests for exclusion  
21 received and the number of objections received. The Settlement Administrator will submit to the  
22 Court, in conjunction with the motion for Final Approval, a declaration providing, among other  
23 things, the number of Notices it mailed to the class, the number re-mailed, the number of Notices  
24 ultimately undeliverable, the number of requests for exclusion received, the number of objections  
25 received, the total of its charges for services rendered, and the anticipated future charges beyond  
26 the date of the Final Approval Order;

27 (h) Notice By First-Class Mail. Within thirty (30) days after the  
28 Settlement Administrator receives the data from the Company, the Settlement Administrator shall

1 send a copy of a Notice of Pendency and Settlement of Class Action to all Class Members via  
2 First Class regular U.S. mail, using the most current mailing address information for Class  
3 Members as provided by the Company to the Settlement Administrator from the Company's  
4 payroll data. Prior to mailing, the Settlement Administrator will perform one search on the  
5 National Change of Address Database to update or correct for any known or identifiable address  
6 changes. Any Notices returned to the Settlement Administrator as non-delivered before the Claim  
7 Deadline specified below, shall be sent to the forwarding address that will be provided. In the  
8 event there is no forwarding address, the Settlement Administrator will perform a skip trace. In the  
9 event the procedures in this paragraph are followed and the intended recipient of a Notice still  
10 does not receive the Notice, the intended recipient shall remain a Settlement Class Member and  
11 will be bound by all terms of the Settlement and any Final Judgment entered by the Court if the  
12 Settlement is approved by the Court. Class Members will have forty-five (45) days in which to  
13 submit a valid and timely Claim Form;

14 (i) Procedure for Objecting to or Requesting Exclusion From Class  
15 Action Settlement:

16 (i) Procedure for Objecting. The Notice shall provide  
17 that any Class Member may appear at the Settlement Hearing and may object or express the  
18 Member's views regarding the Settlement, and may present evidence and file briefs or other  
19 papers, that may be proper and relevant to the issues to be heard and determined by the Court as  
20 provided in the Notice. However, any Class Member that wishes to submit a written objection and  
21 have it considered by the Court must do so on or before 45 days after the Notice Date, and that  
22 person must serve by hand or by first class mail written objections and copies of any papers and  
23 briefs in support of their position and verification of their membership in the Class upon: (1) Scott  
24 Lidman, Esq., Lidman Law, APC, 222 N. Sepulveda Blvd., Suite 1550, El Segundo, California  
25 90245; and (2) William V. Whelan, Esq. Solomon Ward Seidenwurm & Smith, LLP, 401 B Street,  
26 Suite 1200, San Diego, CA 92101, and must file the objections, papers and briefs with the Clerk of  
27 this Court. In order to be valid, the papers must be filed with the Clerk of this Court and received  
28 by all of the above counsel on or before 45 days after the Notice Date. Any Class Member may

1 make oral objections at the Settlement Hearing; and

2 (ii) Procedure for Requesting Exclusion. The Notice shall  
3 provide that Class Members who wish to exclude themselves from the Class must submit a written  
4 statement requesting exclusion from the Class on or before the Objection/Exclusion Deadline  
5 Date. Such written request for exclusion must contain the name, address, telephone number, and  
6 last four digits of the Social Security number of the person requesting exclusion, and the location  
7 and years of his or her employment by the Company; must be signed by the Class Member  
8 requesting exclusion; must be returned by mail to the Settlement Administrator at a specified  
9 address; and must be postmarked on or before the Objection/Exclusion Deadline Date. The date of  
10 the postmark on the return mailing envelope shall be the exclusive means used to determine  
11 whether a request for exclusion has been timely submitted. Any Class Member who opts out of the  
12 Class will not be entitled to any recovery under the Settlement and will not be bound by the  
13 Settlement or have any right to object, appeal, or comment on the Settlement. Class Members who  
14 fail to submit a valid and timely request for exclusion on or before the Objection/Exclusion  
15 Deadline Date shall be bound by all terms of the Settlement and any Final Judgment entered in  
16 this Class Action if the Settlement is approved by the Court, regardless of whether they have  
17 requested exclusion from the Settlement. No later than ten (10) days after the exclusion deadline,  
18 the Settlement Administrator shall provide the Company's Counsel with a complete list of all  
19 Class Members who have timely requested exclusion from the Class, along with the number of  
20 valid Claim Forms received. The Request for Exclusion deadline shall be forty-five (45) days from  
21 the date the Notice is first mailed;

22 (j) No Solicitation of Settlement Objections or Exclusions. The Parties  
23 agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the  
24 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written  
25 objections to the Settlement or requests for exclusion from the Settlement Class, or appeal from  
26 the Court's Final Judgment; and

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(k) Option to Terminate Settlement.

1. The Company represents that there are an estimated 11,100 workweeks worked by Settlement Class members during the Class Period. If the number of workweeks working by Settlement Class members during the Class Period is more than 10% greater than this figure (*i.e.*, if there are more than 12, 210 workweeks worked by Settlement Class members), Plaintiff shall have, in her sole discretion, the option to terminate this Settlement, whereupon this Agreement will be null and void for all purposes and may not be used or introduced in further litigation. Provided, however, that Plaintiff may only exercise such termination within ten (10) business days of written notice from the Settlement Administrator as to the final total of workweeks at issue in this action after receipt from the Company of the class data after preliminary approval, by providing written notice to the Company’s Counsel.

2. If, after the Objection/Exclusion Deadline Date and before the Settlement Hearing referenced in Paragraph 17 below, persons who otherwise would be members of the Class have filed with the court timely requests for exclusion from the Class in accordance with Paragraph 16(i) above, and such persons total in number greater than 10% of all Class Members, the Company shall have, in its sole discretion, the option to terminate this Settlement, whereupon this Agreement will be null and void for all purposes and may not be used or introduced in further litigation. Provided, however, that the Company may only exercise such termination within ten (10) business days of the Objection/Exclusion Deadline Date, by providing written notice to Class Counsel.

**17. Final Settlement Approval Hearing and Entry of Final Judgment.** Upon expiration of the Objection/Exclusion Deadline Date, with the Court’s permission, a Settlement Hearing shall be conducted to determine final approval of the Settlement along with the amount properly payable for: (i) attorneys’ fees and costs; (ii) Class Representative’s Incentive Award/General Release Payment; and (iii) cost of administration. Upon final approval of the Settlement by the Court at or after the Settlement Hearing, the Parties shall present a Final Judgment (“Final Judgment”) (attached as Exhibit 3) to the Court for its approval. After entry of the Final Judgment, the Court shall have continuing jurisdiction with respect to the interpretation,



1 implementation, and enforcement of the terms of this Agreement and all orders and judgments  
2 entered in connection with this Agreement, and the parties and their counsel submit to the  
3 jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement  
4 embodied in this Agreement, and all orders and judgments entered in connection with this  
5 Agreement.

6 In the event: (i) more than 10% of the Class Members submit valid opt-out requests per  
7 Paragraph 16(j) and the Company elects to void this Agreement; (ii) the Court does not enter the  
8 Order specified in this Agreement; (iii) the Court does not finally approve the Settlement as  
9 provided in this Agreement; (iv) the Court does not enter a Final Judgment as provided in this  
10 Agreement which becomes final as a result of the occurrence of the Effective Date; or (v) the  
11 Settlement does not become final for any other reason, this Settlement Agreement shall be null  
12 and void and any order or judgment entered by the Court in furtherance of this Settlement shall be  
13 treated as void. In such a case, the Parties and any funds to be awarded under this Settlement shall  
14 be returned to their respective statuses as of the date and time immediately prior to the execution  
15 of this Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had  
16 not been executed, except that any fees already incurred by the Settlement Administrator shall be  
17 paid for by the Company and shall not be repaid to the Company.

18 In the event an appeal is filed from the Court's Final Judgment, or any other appellate  
19 review is sought prior to the Effective Date, administration of the Settlement shall be stayed  
20 pending final resolution of the appeal or other appellate review.

21 (a) Procedure for Payment of Settlement Awards. Except for Class  
22 Members who submit valid and timely requests for exclusion as provided in this Agreement, all  
23 Settlement Class Members will receive a Settlement Award from the Company, distributed by the  
24 Settlement Administrator.

25 (b) Settlement Awards for Settlement Class Members shall be paid  
26 pursuant to the settlement formula set forth in this Agreement within seven (7) days after the  
27 deposit of the Gross Settlement Fund by the Company into the account set up by the Settlement  
28 Administrator. Plaintiff's Counsel's, the Company's, Counsel's and the Settlement

1 Administrator's determination of eligibility for, and the amounts of, any Settlement Awards under  
2 the terms of this Agreement, shall be conclusive, final and binding on all Parties, including all  
3 Settlement Class Members. Any checks paid to Settlement Class Members shall remain valid and  
4 negotiable for one hundred eighty (180) days from the date of their issuance and may thereafter  
5 automatically be canceled if not cashed by a Settlement Class Member within that time, at which  
6 time the Settlement Class Member's claim will be deemed void and of no further force and effect.  
7 Any balance remaining in any bank account created by the Settlement Administrator will be  
8 transferred to the State Controller's Office in the name of the Settlement Class member under the  
9 unclaimed property statutes. Administration of the Settlement shall be completed on or before the  
10 date two hundred and ten (210) days after the Effective Date. Upon completion of the  
11 administration of the Settlement, the Settlement Administrator shall provide written certification  
12 of such completion to the Court and counsel for all Parties, as provided in this Agreement.

13 (c) Administration Costs. All of the Company's own legal fees, costs,  
14 and expenses incurred in this Action shall be borne by the Company. The Parties agree to  
15 cooperate in the Settlement administration process and to make all reasonable efforts to control  
16 and minimize the costs and expenses incurred in administration of the Settlement.

17 **18. No Impact on Employee Benefits**. The Settlement Awards paid to the  
18 Class Representative or other Settlement Class Members shall be deemed not to be pensionable  
19 earnings and shall not have any effect on the eligibility for, or the calculation of, any of the  
20 employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the respective Class  
21 Representative or Settlement Class Members. The Parties agree that any Settlement Awards to  
22 Class Representative or other Settlement Class Members under the terms of this Agreement do not  
23 represent any modification of their previously credited hours of service or other eligibility criteria  
24 under any employee pension benefit plan or employee welfare benefit plan sponsored by the  
25 Company. Further, any Settlement Awards or Incentive Award shall not be considered  
26 "compensation" in any year for purposes of determining eligibility for, or benefit accrual within,  
27 an employee pension benefit plan or employee welfare benefit plan sponsored by the Company.

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1                   **19.    Taxation.** The Class Representative and Settlement Class Members  
2 represent and warrant that they understand that it is their sole obligation to pay appropriate federal,  
3 state, and local income taxes, if any, on any amounts they receive under this Agreement that  
4 lawfully qualify as taxable income.

5                   Neither the Parties nor their respective counsel provide or purport to provide any tax  
6 advice to the Class Representative or Settlement Class Members in connection with this  
7 Agreement or otherwise. The Parties agree they shall not rely upon any terms of this Agreement  
8 for the purpose of determining or avoiding federal, state, or local tax obligations.

9                   To the extent any tax returns must be filed, the Settlement Administrator shall also cause to  
10 be timely and properly filed all informational and other tax returns, if any, necessary with respect  
11 to the Settlement Fund. Such returns shall be consistent with this paragraph. The Parties do not  
12 believe that the Settlement Fund will generate any taxable income, as no segregated Settlement  
13 Fund will be created. However, if any taxable income is generated by the Settlement Fund, in all  
14 events the tax returns filed shall reflect that all taxes payable on the taxable income of the  
15 Settlement Fund, if any, shall be paid by the Company. Any expenses consisting of the expenses  
16 and costs incurred in connection with the operation and implementation of this paragraph  
17 (including, without limitation, reasonable expenses of tax attorneys, accountants or other  
18 designees retained by the Company and/or the Settlement Administrator as required for the  
19 preparation and filing of tax returns described in this paragraph) shall be treated as, and considered  
20 to be, a cost of administration of the Settlement and paid by the Company.

21                   **20.    Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR  
22 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY  
23 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER  
24 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
25 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR  
26 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS  
27 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE  
28 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN

1 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31  
2 C.F.R. PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED  
3 EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX  
4 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS  
5 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE  
6 RECOMMENDATION OF ANY OTHER PARTY, OR ANY ATTORNEY OR ADVISOR TO  
7 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY  
8 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY  
9 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE  
10 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER  
11 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY  
12 OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF  
13 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE  
14 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY  
15 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS  
16 AGREEMENT.

17           **21. Privacy of Documents and Information.** The Class Representative and  
18 her counsel agree that none of the documents and information provided to them by the Company  
19 shall be used for any purpose other than prosecution of this Class Action. The Company agrees  
20 that the identities of those Class Members who submit Claim Forms will only be disclosed to  
21 legal/executive level personnel, human resources personnel, finance personnel and independent  
22 auditors on a “need to know” basis, and in no event will be disclosed to the direct supervisor of  
23 any Class Member.

24           **22. Publicity.** The Parties agree that, prior to Preliminary Approval of the  
25 Settlement, the terms of this Settlement will be kept confidential.

26           From and after Preliminary Approval of the Settlement, Class Counsel and Named Plaintiff  
27 may only comment regarding the specific terms of this Agreement: (1) as required by law; or (2)  
28 as required under the terms of this Agreement. In all other cases, Class Counsel and Named

1 Plaintiff agree to not publicize this Settlement. Neither Named Plaintiff nor Class Counsel shall  
2 hold any press conference, make any press release, make statements to the press, publish the  
3 settlement on the internet or social media, or in any way affirmatively publicize any information  
4 related in any way to the Settlement. For clarity, nothing in this Section restricts or limits the  
5 ability of Class Counsel to refer to this lawsuit in declarations filed by Class Counsel in other  
6 lawsuits (e.g. to show adequacy of class counsel, etc.).

7           **23. No Admission By the Parties.** The Company and the Released Parties  
8 deny any and all claims alleged in this Class Action and deny all wrongdoing whatsoever. This  
9 Agreement is not a concession or admission, and shall not be used against the Company or any of  
10 the Released Parties as an admission or indication with respect to any claim of any fault,  
11 concession, or omission by the Company or any of the Released Parties. Whether the Settlement is  
12 finally approved, neither the Settlement, nor any document, statement, proceeding or conduct  
13 related to this Agreement, nor any reports or accounts of this Agreement, shall in any event be:

14                           (a) construed as, offered, or admitted in evidence as, received as, or  
15 deemed to be evidence for any purpose adverse to the Released Parties, including, but not limited  
16 to, evidence of a presumption, concession, indication, or admission by any of the Released Parties  
17 of any liability, fault, wrongdoing, omission, concession, or damage; or

18                           (b) disclosed, referred to, or offered or received in evidence against any  
19 of the Released Parties, in any further proceeding in the Class Action, or any other civil, criminal,  
20 or administrative action or proceeding except for purposes of settling this Class Action pursuant to  
21 this Agreement.

22           **24. Exhibits and Headings.** The terms of this Agreement include the terms set  
23 forth in any attached Exhibits 1-3, which are incorporated by this reference as though fully set  
24 forth in this Agreement. Any Exhibits to this Agreement are an integral part of the Settlement. The  
25 descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience  
26 of reference only and do not constitute a part of this Agreement.

27           **25. Interim Stay of Proceedings.** The Parties agree to hold in abeyance all  
28 proceedings in the Class Action, except such proceedings necessary to implement and complete

1 the Settlement, pending the Settlement Hearing to be conducted by the Court.

2           **26. No Retaliation.** The Company will not take any retaliatory action against  
3 any Class Member who participated in the Settlement.

4           **27. Amendment or Modification.** This Agreement may be amended or  
5 modified only by a written instrument signed by counsel for all Parties or their successors-in-  
6 interest.

7           **28. Entire Agreement.** This Agreement and any attached Exhibits constitute  
8 the entire agreement among these Parties, and no oral or written representations, warranties or  
9 inducements have been made to any Party concerning this Agreement or its Exhibits other than the  
10 representations, warranties, and covenants contained and memorialized in such documents.

11           **29. Authorization to Enter Into Settlement Agreement.** Counsel for all  
12 Parties warrant and represent they are expressly authorized by the Parties whom they represent to  
13 negotiate this Agreement and to take all appropriate action required or permitted to be taken by  
14 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other  
15 documents required to effectuate the terms of this Agreement. The Parties and their counsel will  
16 cooperate with each other and use their best efforts to effect the implementation of the Settlement.  
17 In the event the Parties are unable to reach agreement on the form or content of any document  
18 needed to implement the Settlement, or on any supplemental provisions that may become  
19 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of first the  
20 mediator in this matter, and then, if necessary, the Court to resolve such disagreement. The person  
21 signing this Agreement on behalf of the Company represents and warrants that he or she is  
22 authorized to sign this Agreement on behalf of the Company.

23           **30. Binding on Successors and Assigns.** This Agreement shall be binding  
24 upon, and inure to the benefit of, the successors or assigns of the Parties, as previously defined.  
25 The Company may assign this Agreement and delegate all of its duties under this Agreement to  
26 any successor or assign including without limitation any person or entity acquiring more than fifty  
27 percent of its the Company's outstanding ownership interests, all or substantially all of its material  
28 business assets, or all or substantially all of the material business assets of any business unit or

1 division, effective immediately upon written notice to the Class Representative and her  
2 attorneys. The Company may assign this Agreement without the consent of the Class  
3 Representative or her attorneys. Upon such an assignment, this Agreement will be binding upon  
4 and will inure to the benefit of such assignee.

5           **31. California Law Governs.** All terms of this Agreement and the Exhibits  
6 shall be governed by and interpreted according to the laws of the State of California and the  
7 procedures of the Court.

8           **32. This Settlement is Fair, Adequate, and Reasonable.** The Parties believe  
9 this Settlement is a fair, adequate, and reasonable settlement of this Class Action and have arrived  
10 at this Settlement in arms-length negotiations, taking into account all relevant factors, present and  
11 potential. This Settlement was reached after extensive negotiations.

12           **33. Cooperation and Drafting.** Each of the Parties has cooperated in the  
13 drafting and preparation of this Agreement. Hence, in any construction made to this Agreement,  
14 the same shall not be construed against any of the Parties.

15           **34. Invalidity of Any Provision.** Before declaring any provision of this  
16 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest  
17 extent possible consistent with applicable precedents so as to define all provisions of this  
18 Agreement valid and enforceable. The provisions of this Agreement are severable. To the extent  
19 any provision is deemed unlawful, to the extent possible, such provision shall be severed and the  
20 remainder of the Agreement shall remain valid and enforceable.

21           **35. Defense.** To the extent permitted by law, this Agreement may be pleaded as  
22 a full and complete defense to, and may be used as the basis for an injunction against, any action,  
23 suit, or other proceedings that may be instituted, prosecuted, or attempted with respect to the  
24 Released Claims in breach of or contrary to this Settlement.

25           **36. Class Representative's Waiver of Right to be Excluded and Object.** The  
26 Class Representative agrees to sign this Agreement and by signing this Agreement is bound by its  
27 terms and further agrees not to request to be excluded from the Class and agrees not to object to  
28 any of the terms of this Agreement. Non-compliance by the Class Representative with this





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Dated: June 13, 2019

CLASS REPRESENTATIVE:

By: Maria Ortiz Nieto  
Maria Ortiz Nieto

Dated: June 24, 2019

NAMED DEFENDANT:

ROYAL HOSPITALITY, INC. a California corporation d/b/a RAMADA INN

By: [Signature]  
Name: MAURICE P. CORREIA  
Title: President

APPROVED AS TO FORM:

Dated: June 17, 2019

LIDMAN LAW, APC

By: [Signature]  
Scott M. Lidman, Esq.  
*Attorneys for Plaintiffs MARIA ORTIZ NIETO, as an individual and on behalf of all others similarly situated*

Dated: June 24, 2019

SOLOMON WARD SEIDENWURM & SMITH LLP

By: [Signature]  
William V. Whelan, Esq.  
*Attorneys for Defendant ROYAL HOSPITALITY, INC. a California corporation d/b/a RAMADA INN*

**LIST OF EXHIBITS**

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1. Class Notice
2. [Proposed] Preliminary Approval Order
3. [Proposed] Final Judgment

EXHIBIT 1

EXHIBIT 1

## LEGAL NOTICE

If you worked for Royal Hospitality, Inc. d/b/a Ramada Inn as an hourly, non-exempt employee in the state of California at any time between September 14, 2014 and May 3, 2019, a class action settlement will affect your rights.

*A court authorized this Notice as part of the following lawsuit:  
Maria Ortiz Nieto v. Royal Hospitality, Inc. d/b/a Ramada Inn, Case No. 37-2018-00046611-CU-OE-CTL*

Maria Ortiz Nieto filed a class action lawsuit against Royal Hospitality, Inc. d/b/a Ramada Inn (“Defendant”) with the San Diego County Superior Court, asserting that Defendant violated California law regarding the payment of wages and other wage and hour issues. Ms. Nieto is referred to as the “Plaintiff.”

The lawsuit is entitled Maria Ortiz Nieto, et al. v. Royal Hospitality, Inc., a California corporation d/b/a Ramada Inn, et al., San Diego County Superior Court Case No. 37-2018-00046611-CU-OE-CTL and alleges the following claims: (1) failure to pay all minimum wages; (2) failure to pay overtime wages; (3) failure to provide all meal periods; (4) failure to authorize and permit all rest periods; (5) failure to pay all wages upon termination; (6) failure to issue accurate, itemized wage statements; (7) waiting time penalties; (8) unfair competition; and (9) violation of California Labor Code § 2698, *et seq.* (PAGA).

Plaintiff, on behalf of the Class, and the Defendant have entered into a settlement agreement, which is subject to court approval. The Court in charge of this case has preliminarily approved the settlement.

The Court still has to decide whether to grant final approval of the settlement. Payments will be made only if the Court grants final approval of the settlement and after any appeals are resolved.

If you qualify as a Class Member, you could receive money from the settlement.

Your rights and options – and the deadlines to exercise them – are explained in this Notice.

Your legal rights are affected whether you act or don’t act. Read this Class Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>DO NOTHING</b>	You will be paid your Claim Amount <b>and</b> you will give up any rights to sue for the Released Claims (defined below).
<b>EXCLUDE YOURSELF</b>	Retain all rights you may have against Defendant. Waive the right to participate in the settlement and to receive any money from the settlement.
<b>OBJECT</b>	Write to the Court about why you don’t agree with the settlement. The Court may or may not agree with your objection. Receive a settlement share and give up any rights to sue for the Released Claims.

This is the information that we have for you:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Last 4 Digits of Social Security Number: \_\_\_\_\_

Estimated number of Qualifying Work Weeks you were employed by Defendant as an hourly, non-exempt employee in California between September 14, 2014 and May 3, 2019:       

**YOUR ESTIMATED GROSS INDIVIDUAL SETTLEMENT PAYMENT IS: \$ \_\_\_\_\_**

This is only an estimate based on the number of Qualifying Work Weeks set forth above. The actual amount may vary.

If your address changes, or is different from the address on the envelope enclosing this notice, please promptly notify Phoenix Settlement Administrators, the Settlement Administrator identified below.

## 1. Why Did I Get This Notice Package?

**You are not being sued.** Plaintiff sued Defendant in a class action on behalf of similar employees like you.

Defendant's records show that you worked for Defendant in California as an hourly, non-exempt employee at some point during the period from September 14, 2014 and May 3, 2019. This means you are a Class Member who is entitled to participate in the settlement of the Lawsuit.

You have received this Notice because, as a Class Member, you have a right to know about the proposed settlement of the Lawsuit and about your options before the Court decides whether to grant final approval of the settlement. If the Court approves the settlement, and after any objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the settlement payments to all Settlement Class Members who do not timely and properly exclude themselves from the Settlement (as explained below).

This Class Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

## 2. What Is This Lawsuit About?

Plaintiff Maria Ortiz Nieto filed this action on September 14, 2018. Plaintiff asserts claims against Defendant for: (1) failure to pay all minimum wages; (2) failure to pay overtime wages; (3) failure to provide all meal periods; (4) failure to authorize and permit all rest periods; (5) failure to pay all wages upon termination; (6) failure to issue accurate, itemized wage statements; (7) waiting time penalties; (8) unfair competition; and (9) violation of California Labor Code § 2698, *et seq.* (PAGA).

Plaintiff seeks recovery of unpaid wages, restitution, injunctive relief and statutory and civil penalties. Plaintiff also seeks an award of attorneys' fees, interest, and costs.

Defendant denies all allegations and all wrongdoing, and maintains that it has paid and provided meal and rest breaks to all of its hourly, non-exempt employees in compliance with applicable laws. Defendant notes that this Settlement was established specifically to avoid the cost of proceeding with litigation and does not constitute an admission of liability. The Court has not ruled on the merits of the claims.

## 3. Do I Need to Hire an Attorney?

You do not need to hire your own attorney. You are already represented by Class Counsel (see Section 17 for contact information). However, you may hire your own attorney at your own expense if you choose to do so.

## 4. What Is Defendant's Position?

Defendant denies and continues to deny the Plaintiff's allegations. Nevertheless, Defendant has concluded that any further defense of this litigation would be protracted and expensive. Substantial amounts of time, energy and resources of Defendant have been spent and will continue to be devoted to the defense of the claims asserted unless there is a settlement.

## 5. Why Is There A Settlement?

The Court did not decide in favor of Plaintiff or Defendant. After a thorough investigation into the facts of this lawsuit, both sides agreed to a settlement after using a neutral third-party mediator. The class claims were settled because Class Counsel and the Plaintiff believe that the amount of the settlement is fair and reasonable in light of the strengths and weaknesses of the claims and the risks associated with pursuing further litigation. Defendant believes the settlement is in its best interest to avoid further costs of litigation.

## 6. How Do I Know If I Am Part Of The Settlement?

You are a member of the Class if you fall within the class definition. The Class is defined as: all persons who are or have been employed by Defendant as an hourly, non-exempt employees in the State of California at any time from September 14, 2014, through May 3, 2019 ("Class Period").

## 7. What Does the Settlement Provide?

As part of the settlement, Defendant agrees to pay a maximum Gross Settlement Fund of \$170,000.00.

Within seven (7) calendar days from the Effective Date of the Settlement (as defined below), Defendant will deposit into a Qualified Settlement Account established by the Settlement Administrator the full amount of the Gross Settlement Fund.

Within twenty-one (21) calendar days of Effective Date of the Settlement (as defined below), the Settlement Administrator will issue payments to: (a) Class Members; (b) the California Labor and Workforce Development Agency; (c) Plaintiff; and (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement. Defendant has no obligation to deposit such funds prior to the deadlines set forth herein.

As used in this Settlement, "Effective Date" means the date by which this Settlement is finally approved as provided in this Agreement and the Court's Final Judgment in both cases ("Final Judgment" or "Judgment") become final. For purposes of this paragraph, the Final Judgment "becomes final" upon the latter of: (a) if there are no objections to the Settlement by Class Members, the Effective Date shall be the date of the trial Court's order finally approving the Settlement; or (b) if an objection is timely made/asserted by a Class Member; and in addition, (1) the date affirmance of an appeal of the Judgment becomes final or the expiration of the time for filing a petition for review or certiorari of or as to the Final Judgment or of any Court of Appeals' decision relating to the Final Judgment and, if review is granted, the date of final affirmance of the Final Judgment following review pursuant to that grant; (2) the date of final dismissal of any writ of certiorari as to or appeal from the Judgment or the final dismissal of any proceeding on review of any Court of Appeals' decision relating to the Judgment; or (3) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the Judgment.

Class Counsel will ask the Court to order that the following payments be made from the Gross Settlement Fund: (1) attorneys' fees not to exceed \$56,666.67; (2) reimbursement of litigation costs not to exceed \$20,000.00; (3) the amount payable to the Plaintiff of up to \$5,000.00 as approved by the Court (this amount is in addition to whatever payment Plaintiff is otherwise entitled to as Class Member and is intended to compensate Plaintiff for the time and expense of her involvement in this lawsuit); (4) a \$3,750.00 payment to the California Labor & Workforce Development Agency ("LWDA"); (5) the costs of the Settlement Administrator estimated at \$8,750.00 for the expense of notifying the Class Members of the Settlement, processing claims and requests for exclusions submitted by Class Members, and distributing Individual Settlement Payments; (6) payments to the Class Members who do not request exclusion from the Settlement.

Settlement Class Members who do not request exclusion from the Settlement will receive payments from the Net Settlement Fund. The Net Settlement Fund is the portion of the Class Settlement Amount available for distribution to Settlement Class Members after deduction of the Court-approved attorneys' fees and litigation costs, incentive payment to Plaintiff, payment to the LWDA; and the Settlement Administration Costs. The estimated amount of the Net Settlement Fund is \$                     .

## 8. How Was My Share Of The Settlement Calculated?

Participating Settlement Class Members will be paid out of the Net Settlement Fund (the portion of the Class Settlement Amount remaining after deduction of the Court-approved attorneys' fees and litigation costs, incentive payment to Plaintiff, payment to the LWDA; and the Settlement Administration Costs) as follows:

The Settlement Administrator will calculate the total number of weeks worked by each Class Member ("Individual Workweeks") and the total number of weeks worked by all Class Members ("Class Workweeks") during the Class Period.

The number of Individual Workweeks for each Class Member will be determined by adding all the calendar days within the Class Period and dividing that number by seven. Any partial workweek will be rounded up to the nearest full workweek. To determine each Class Member's Individual Settlement Payment, the Settlement Administrator will use the following formula: Individual Settlement Payment = (Individual Workweeks ÷ Class Workweeks) × Net Settlement Fund.

Next, one-third of each Class Member's Gross Individual Settlement Payment will be designated for alleged unpaid wages, for which an IRS Form W-2 shall be issued, and two-thirds will be designated for alleged interest and penalties, for which an IRS Form 1099 shall be issued, as appropriate. The wage portion will be subject to deductions for employee portions of state and federal withholding taxes, including the employee FICA, FUTA and SDI contributions and any other applicable payroll deductions required by law. The resulting amount is the Class Member's Net Individual Settlement Payment.

## 9. What Do I Have To Do To Participate In The Settlement?

You do not need to take any action to receive an Individual Settlement Payment. You will receive your Individual Settlement Payment after the Court approves the settlement unless you submit a timely request for exclusion by the Notice Response Deadline - [REDACTED].

If the Court grants final approval of the settlement, all Class Members who do not request exclusion from the settlement will be bound by the terms of the settlement regardless of whether they cash their Individual Settlement Payment.

California law protects Class Members from retaliation based on their decision to participate in a class action settlement. If you are still employed by Defendant, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant's policies strictly prohibit unlawful retaliation. Defendant will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member's decision to either participate or not participate in the Settlement.

## 11. When Would I Get My Payment?

The Court will hold the Final Approval Hearing on or about [REDACTED], or such other, later date as the Court may authorize, to determine whether the settlement is fair, reasonable, and adequate; and if there are objections, the Court will consider them. The Court will also be asked to approve Class Counsel's request for attorneys' fees and litigation costs, Plaintiff's incentive payment, and the Settlement Administration Costs. The hearing will be held in Department C-67 of the California Superior Court for the County of San Diego, Hall of Justice, FOURTH FLOOR, 330 W. Broadway, San Diego, California 92101.

**The Final Approval Hearing may be postponed without further notice to Settlement Class members. You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

If the Court grants final approval of the settlement, your Individual Settlement Payment will be mailed to you within approximately 21 days from the date of final judgment, unless there are objections, appeals, or other challenges to the final judgment. It is always uncertain when these issues can be resolved, and resolving them can take time.

## 12. What Rights Do I Give Up If I Participate Or Do Nothing?

Unless you exclude yourself, you will be deemed a Settlement Class Member, and you will be bound by the terms of the settlement, including releasing the Released Claims described below. That means that you will be unable to sue, or to continue to sue, or be part of any other lawsuit about the Released Claims. It also means that all of the Court's orders will apply to you and legally bind you.

### Released Claims

As defined in the Stipulation and Settlement of Class Action Claims, the Released Claims are:

The Released Claims include, but are not limited to, all claims that were or could have been pled based on the factual allegations in the operative complaint, including without limitation, those having all of the characteristics below:

(a) all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever that arose from September 14, 2014 through the May 3, 2019;

(b) whether in tort, contract, or for violation of any state constitution, statute, rule or regulation, including state wage and hour laws;

(c) whether for economic damages, non-economic damages, restitution, premium pay, penalties or liquidated damages;

(d) arising out of, relating to, or in connection with: any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, which are or could be the basis of claims: (a) that the Defendant failed to pay all straight time wages; (b) that the Defendant failed to pay all overtime pay; (c) that the Defendant failed to provide Plaintiffs with meal periods and/or rest breaks, or failed to compensate Plaintiffs for all hours worked in connection with meal periods and/or rest breaks, in accordance with California law, including any claims for waiting time penalties, premium pay, or inaccurate wage statements based on the factual allegations contained in the Class Action; (d) that the Defendant failed to compensate plaintiffs for all hours worked, including any claims for waiting time penalties, or inaccurate wage statements based on the factual allegations contained in the Class Action; (e) that the Defendant failed to compensate plaintiffs for all wages due upon termination in a timely fashion; (f) that the Defendant failed to provide the paystubs required by California law; (g) that the Defendant failed to comply with any California state wage and hour laws, based on the factual allegations contained in the Class Action; including any claims for waiting time penalties, premium pay, or inaccurate wage statements based on the factual allegations contained in the Class Action; (h) that the Defendant failed to keep any and all records required by California law based on the factual allegations contained in the Class Action; (i) that the Defendant failed to comply with Labor Code Sections 201-203, 206, 206.5, 226, 226.7, 510, 512, California Business & Professions Code Section 17200, and/or Wage Order 1-2001 based on the factual allegations contained in the Class Action; (j) any claims brought under California Labor Code Section 2699, the "Private Attorney General Act" based on the factual allegations contained in the Class Action; or (k) that the Defendant owes wages, premium pay, penalties, interest, attorneys' fees or other damages of any kind based on a failure to comply with these state wage and hour laws and record keeping laws based on the factual allegations contained in the Class Action, at any times on or before the last day of the Class Period (whether based on California state wage and hour law, contract, or otherwise);

(e) the causes of action asserted in the lawsuit, including any and all claims for alleged failure to provide meal periods and/or rest breaks, or alleged failure to pay all wages and/or premium pay on termination



of employment, or alleged failure to provide accurate wage statements, or for waiting time penalties or for premium pay and, as related to the foregoing, for alleged unlawful, unfair and/or fraudulent business practices under California Business and Professions Code § 17200, et seq.;

(f) any other claims based on any factual allegations pled in this lawsuit; and/or

(g) This Release is based on the factual and legal claims asserted in Plaintiff's Complaint, filed on or about September 14, 2018, and only applies to those persons identified by the Released Parties as being a member of the Class in connection with the administration of this proposed settlement. Any person not identified by the Released Parties as being a member of the Class shall not and will not be affected by this Release. Further, this Release does not apply to any claim that as a matter of law cannot be released, including but not limited to claims for indemnification pursuant to California Labor Code section 2802, unemployment insurance benefits, and workers' compensation claims.

In addition to releasing the Released Parties from the Released Claims as outlined above, Settlement Class Members also release the Released Parties from the "Released Federal Law Claims." For purposes of the Settlement, the "Released Federal Law Claims" include all claims that were or could have been pled based on the factual allegations in the operative complaint, including without limitation:

(a) any and all applicable federal law claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted; and

(b) whether in tort, contract, or for violation of any federal constitution, statute, rule or regulation, including federal wage and hour laws, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, arising out of, relating to, or in connection with:

(1) all federal law causes of action alleged in or that could have been alleged in the Complaint based upon the facts pleaded in the Complaint under any theory of law, including but not limited to: failure to pay wages, including straight time and overtime wages under the federal Fair Labor Standards Act ("FLSA"); failure to provide rest periods; failure to timely pay wages owed; and/or

(2) any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, alleged in or that could have been alleged in the Complaint, based upon the facts pleaded in the Complaint under any theory of law, which are or could be the basis of claims related to the Company's alleged failure to failure to pay wages, including straight time and overtime under the FLSA; failure to provide rest periods; failure to timely pay wages owed; or other damages of any kind based on a failure to comply with any federal wage and hour laws, at any time during the Class Period (whether based on federal wage and hour law, contract, or otherwise).

The Settlement Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Claims and/or the Released Federal Law Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the Released Claims and Released Federal Law Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

The Settlement Class Members agree not to sue or otherwise make a claim against any of the Released Parties that is related to the Released Claims or Released Federal Law Claims.

This release shall have full res judicata effect as to FLSA claims for all Class Members as described in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (9th Cir. 2018), regardless of whether that Class Member endorses and cashes his or her settlement check. However, in addition, the Settlement Administrator shall include the following language on each settlement check issued to Class Members: “By endorsing and cashing this check, I consent to join the FLSA settlement class and release any claims under the Fair Labor Standards Act that were pleaded or that could have been pleaded based upon the facts alleged in this action,” and copies of these signed endorsements shall be provided to the Company and shall be filed with the Court as additional proof of consent, with confidential information redacted, if filing the consents is requested by the Court

For purposes of this Settlement, “Released Parties” means:

Defendant and its assignees, and each of their past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys and all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents.

### 13. How Do I Exclude Myself from the Settlement?

If you do not wish to participate in the settlement, you may exclude yourself by submitting a written request to the Settlement Administrator.

In order to be excluded from the settlement, you must mail a written signed statement, which must include your full name, signature, address, telephone number, last 4 digits of your social security number and a written statement requesting to be excluded from this Settlement.

You must sign the request for exclusion personally and may not have someone sign for you, nor may you submit a request for exclusion on behalf of a group. Your request for exclusion must be signed and returned via United States first class mail postmarked no later than [REDACTED] to:

Phoenix Settlement Administrators  
P.O. Box 7208, Orange, California, 92863  
(800) 523-5733  
info@phoenixclassaction.com

If you submit a timely request for exclusion, then upon its receipt you shall no longer be a member of the Class, you shall be barred from participating in any portion of the settlement, you may not object and you shall receive no benefits from the settlement. If you do not submit a timely written request for exclusion, you will be deemed a Settlement Class Member and will be bound by the terms of the settlement (including the Released Claims and Released Federal Claims as described in Section 12 above).

Do not submit both an objection and request for exclusion. If you submit both, the request for exclusion will be valid, and you will be excluded from the settlement class.

### 14. What If The Information You Have For Me On Page One Is Incorrect?

If any of the information listed on page one of the Notice is incorrect, or if you wish to dispute the Individual Work Weeks figure set forth in this Notice, you must submit your corrections/dispute to the Settlement Administrator in writing. You must also include the details of your dispute and documentary evidence (for example, W-2s or paystubs) supporting the dispute. The deadline to submit a correction/dispute is [REDACTED]. The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Class Members. The Settlement Administrator’s decision regarding any dispute will be final.

If you do nothing, you will receive an Individual Settlement Payment based on the information set forth in this Notice and you will be bound by the terms of the settlement (including the Released Claims and Released Federal Claims as described in Section 12 above).

#### 15. When Is the Final Approval and Fairness Hearing?

The Court will hold a Final Approval Hearing in Department C-67 of the California Superior Court for the County of San Diego, Hall of Justice, FOURTH FLOOR, 330 W. Broadway, San Diego, California 92101, on [REDACTED] at [REDACTED], or such other later date as the Court may authorize, to determine whether the settlement is fair, reasonable, and adequate; and if there are objections, the Court will consider them. The Court will also be asked to approve Class Counsel's request for attorneys' fees and litigation costs, Plaintiff' incentive payment, and the Settlement Administration Costs.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing unless you have timely filed an objection or notice of intention to appear with the Court.

#### 16. How Do I Object to the Settlement and Appear at the Final Approval and Fairness Hearing?

You may object to the terms of the settlement before the Final Approval Hearing. However, if the Court rejects your objection, you will still be bound by the terms of the settlement. To object, you must mail a written objection to the Settlement Administrator.

Any written objection must contain a statement of your objections to this Settlement, a statement advising whether you plan to address the Court at the Final Approval Hearing, and any legal briefs, papers or memoranda you propose to submit to the Court. Your objection must also state your full name, address, telephone number, and the approximate dates of your employment at Defendant. To be valid and effective, any objections to approval of the settlement must be postmarked no later than [REDACTED]. DO NOT TELEPHONE THE COURT.

You do not have to attend the hearing, but you may do so at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

If the court approves the settlement despite any objections, you will receive your settlement proceeds and will be bound by the terms of the settlement (including the Released Claims and Released Federal Claims as described in Section 12 above).

#### 17. How Do I Get Additional Information?

This Notice only summarizes the Lawsuit, the settlement and related matters. For more information, you may inspect the Court files at the Records Department, San Diego County Superior Court, located at the Hall of Justice, FOURTH FLOOR, 330 W. Broadway, San Diego, California 92101. Any questions regarding this notice or Lawsuit may be sent to the Settlement Administrator at [REDACTED]. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the address and telephone number set forth below.

You may also contact the attorneys for the parties as follows:

<b>CLASS COUNSEL</b>	<b>DEFENDANT'S ATTORNEYS</b>
LIDMAN LAW, APC SCOTT LIDMAN ELIZABETH NGUYEN MILAN MOORE 222 N. Sepulveda Blvd., Suite 1550 El Segundo, California 90245 Telephone: (424) 322-4772	SOLOMON WARD SEIDENWURM & SMITH, LLP WILLIAM V. WHELAN MEI-YING M. IMANAKA 401 B Street, Suite 1200 San Diego, California 92101 Telephone: (619) 231-0303

HAINES LAW GROUP, APC PAUL K. HAINES 222 N. Sepulveda Blvd., Suite 1550 El Segundo, California 90245 Telephone: (424) 292-2350	
--------------------------------------------------------------------------------------------------------------------------------------------	--

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

**BY ORDER OF THE CALIFORNIA SUPERIOR COURT**

EXHIBIT 2

EXHIBIT 2

1 **LIDMAN LAW, APC**  
2 Scott M. Lidman (SBN 199433)  
3 slidman@lidmanlaw.com  
4 Elizabeth Nguyen (SBN 238571)  
5 enguyen@lidmanlaw.com  
6 Milan Moore (SBN 308095)  
7 mmoore@lidmanlaw.com  
8 222 N. Sepulveda Blvd., Suite 1550  
9 El Segundo, California 90245  
10 Tel: (424) 322-4772  
11 Fax: (424) 322-4775

12 Attorneys for Plaintiff  
13 MARIA ORTIZ NIETO

8 **HAINES LAW GROUP, APC**  
9 Paul K. Haines (SBN 248226)  
10 phaines@haineslawgroup.com  
11 222 N. Sepulveda Blvd., Suite 1550  
12 El Segundo, California 90245  
13 Tel: (424) 292-2350  
14 Fax: (424) 292-2355

15 Attorneys for Plaintiff  
16 MARIA ORTIZ NIETO

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
18 **FOR THE COUNTY OF SAN DIEGO**  
19 **CENTRAL DIVISION**

20 MARIA ORTIZ NIETO, as an individual and on  
21 behalf of all others similarly situated,

22 Plaintiff,

23 vs.

24 ROYAL HOSPITALITY, INC. a California  
25 corporation d/b/a RAMADA INN; and DOES 1  
26 through 100,

27 Defendants.

Case No. 37-2018-00046611-CU-OE-CTL

*[Assigned for all purposes to the Hon. Eddie  
C. Sturgeon, Dept. C-67]*

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

Date:                       
Time:                       
Dept.: C-67

Complaint Filed: September 14, 2018

1 The Motion of Plaintiff Maria Ortiz Nieto (“Plaintiff”) for Preliminary Approval of  
2 Class Action Settlement (“Motion”) came on regularly for hearing before this Court on  
3 [REDACTED] at [REDACTED] a.m. in Department C-67. The Court, having considered the  
4 proposed Stipulation And Settlement of Class Action Claims (the “Settlement”), attached as  
5 Exhibit A to the Declaration of Scott M. Lidman filed concurrently with the Motion; having  
6 considered Plaintiff’s Motion, Memorandum of Points and Authorities in support thereof, and  
7 supporting declarations filed therewith; and good cause appearing, **HEREBY ORDERS THE**  
8 **FOLLOWING:**

9 1. The Court GRANTS preliminary approval of the class action settlement as set  
10 forth in the Settlement and finds its terms to be within the range of reasonableness of a  
11 settlement that ultimately could be granted approval by the Court at a Final Fairness Hearing.  
12 For purposes of the Settlement, the Court finds that the proposed Settlement Class is  
13 ascertainable and that there is a sufficiently well-defined community of interest among the  
14 members of the Settlement Class in questions of law and fact. Therefore, for settlement  
15 purposes only, the Court grants conditional certification of the following Settlement Class:

16  
17 Any and all persons who are or have been employed by Defendant Royal  
18 Hospitality, Inc. d/b/a Ramada Inn (“Defendant”) as hourly non-exempt  
19 employees in the State of California at any time from September 14,  
20 2014, through May 3, 2019 (“Class Period”).

21 2. For purposes of the Settlement, the Court designates named Plaintiff Maria Ortiz  
22 Nieto as Class Representative, and designates Scott M. Lidman, Elizabeth Nguyen, and Milan  
23 Moore of Lidman Law, APC and Paul K. Haines of Haines Law Group, APC as Class Counsel.

24 3. The Court designates Phoenix Settlement Administrators, as the third-party  
25 Settlement Administrator for mailing notices.

26 4. The Court approves, as to form and content, the Class Notice attached to the  
27 Settlement as Exhibit 1.  
28

1           5.       The Court finds that the form of notice to the Settlement Class regarding the  
2 pendency of the action and of the Settlement, and the methods of giving notice to Settlement  
3 Class Members, constitutes the best notice practicable under the circumstances, and constitute  
4 valid, due, and sufficient notice to all members of the Settlement Class. The form and method of  
5 giving notice complies fully with the requirements of California Code of Civil Procedure section  
6 382, California Civil Code section 1781, California Rules of Court 3.766 and 3.769, the  
7 California and United States Constitutions, and other applicable law.

8           6.       The Court further approves the procedures for Settlement Class members to opt  
9 out of or object to the Settlement, as set forth in the Class Notice.

10          7.       The procedures and requirements for filing objections in connection with the  
11 Final Fairness Hearing are intended to ensure the efficient administration of justice and the  
12 orderly presentation of any Settlement Class Member's objection to the Settlement, in  
13 accordance with the due process rights of all Settlement Class members.

14          9.       The Court directs the Settlement Administrator to mail the Class Notice and  
15 Notice of Settlement Award to all of the Class Members in accordance with the terms of the  
16 Settlement.

17          10.      The Class Notice shall provide at least 45 calendar days' notice for Class  
18 Members to opt out of, or object to, the Settlement.

19          11.      The Final Fairness Hearing on the question of whether the Settlement should be  
20 finally approved as fair, reasonable, and adequate is scheduled in Department C-67 of this Court,  
21 located at the Hall of Justice, FOURTH FLOOR, 330 W. Broadway, San Diego, California  
22 92101, on [REDACTED], 2020 at [REDACTED] a.m. / p.m.

23          12.      At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement  
24 should be finally approved as fair, reasonable, and adequate for the Settlement Class; (b)  
25 whether a judgment granting final approval of the Settlement should be entered; and (c) whether  
26 Plaintiff's application for reasonable attorneys' fees, reimbursement of litigation expenses,  
27 incentive payment to Plaintiff, and payment to the Labor and Workforce Development Agency  
28





EXHIBIT 3

EXHIBIT 3

1 **LIDMAN LAW, APC**  
2 Scott M. Lidman (SBN 199433)  
3 slidman@lidmanlaw.com  
4 Elizabeth Nguyen (SBN 238571)  
5 enguyen@lidmanlaw.com  
6 Milan Moore (SBN 308095)  
7 mmoore@lidmanlaw.com  
8 222 N. Sepulveda Blvd., Suite 1550  
9 El Segundo, California 90245  
10 Tel: (424) 322-4772  
11 Fax: (424) 322-4775

12 Attorneys for Plaintiff  
13 MARIA ORTIZ NIETO

8 **HAINES LAW GROUP, APC**  
9 Paul K. Haines (SBN 248226)  
10 phaines@haineslawgroup.com  
11 222 N. Sepulveda Blvd., Suite 1550  
12 El Segundo, California 90245  
13 Tel: (424) 292-2350  
14 Fax: (424) 292-2355

15 Attorneys for Plaintiff  
16 MARIA ORTIZ NIETO

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
18 **FOR THE COUNTY OF SAN DIEGO**  
19 **CENTRAL DIVISION**

20 MARIA ORTIZ NIETO, as an individual and on  
21 behalf of all others similarly situated,

22 Plaintiff,

23 vs.

24 ROYAL HOSPITALITY, INC. a California  
25 corporation d/b/a RAMADA INN; and DOES 1  
26 through 100,

27 Defendants.

Case No. 37-2018-00046611-CU-OE-CTL

*[Assigned for all purposes to the Hon. Eddie  
C. Sturgeon, Dept. C-67]*

**[PROPOSED] FINAL JUDGMENT**

Complaint Filed: September 14, 2018

1           Having considered the Stipulation of Settlement of Class Action Claims (“Settlement”  
2 and the documents and evidence presented in support thereof, and the submissions of counsel,  
3 the Court hereby ORDERS and enters JUDGMENT as follows:

4           1.       The Settlement Class is defined as: Any and all persons who are or have been  
5 employed by Defendant Royal Hospitality, Inc. d/b/a Ramada Inn (“Defendant”) as hourly non-  
6 exempt employees in the State of California at any time from September 14, 2014, through May  
7 3, 2019 (“Class Period”).

8           2.       Plaintiff Maria Ortiz Nieto is hereby confirmed as Class Representative, and  
9 Scott M. Lidman and Elizabeth Nguyen of Lidman Law, APC and Paul K. Haines of Haines  
10 Law Group, APC are hereby confirmed as Class Counsel.

11          3.       Notice was provided to the Settlement Class as set forth in the Settlement, which  
12 was approved by the Court on                     , 2019, and the notice process has been  
13 completed in conformity with the Court’s Preliminary Approval Order. The Court finds that  
14 said notice was the best notice practicable under the circumstances. The Class Notice provided  
15 due and adequate notice of the proceedings and matters set forth therein, informed Settlement  
16 Class members of their rights, and fully satisfied the requirements of California Code of Civil  
17 Procedure § 1781(e), California Rule of Court 3.769, and due process.

18          4.       The Court finds that no Settlement Class member objected to the Settlement, no  
19 Settlement Class member opted out of the Settlement, and that the 100% participation rate in the  
20 Settlement supports final approval.

21          5.       The Court hereby approves the Settlement as set forth in the Settlement as fair,  
22 reasonable, and adequate, and directs the parties to effectuate the Settlement according to its  
23 terms.

24          6.       For purposes of settlement only, the Court finds that (a) the members of the  
25 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;  
26 (b) there are questions of law or fact common to the Settlement Class, and there is a well-  
27 defined community of interest among members of the Settlement Class with respect to the  
28

1 subject matter of the litigation; (c) the claims of the Class Representative are typical of the  
2 claims of the members of the Settlement Class; (d) the Class Representative has fairly and  
3 adequately protected the interests of the Settlement Class members; (e) a class action is superior  
4 to other available methods for an efficient adjudication of this controversy; and (f) Class  
5 Counsel are qualified to serve as counsel for the Class Representative and the Settlement Class.

6 7. The Court finds that given the absence of objections to the Settlement, and  
7 objections being a prerequisite to appeal, that this Order shall be considered final as of the date  
8 of notice of entry.

9 8. The Court orders that Defendant deliver the Gross Settlement Fund of  
10 \$170,000.00 to Phoenix Settlement Administrators, the Settlement Administrator, as provided  
11 for in the Settlement within twenty-one (21) calendar days of Effective Date of the Settlement.  
12 As used herein “Effective Date” means the date this Final Judgment becomes final. For  
13 purposes of this paragraph, the Final Judgment “becomes final” upon the latter of: (a) if there  
14 are no objections to the Settlement by Class Members, the Effective Date shall be the date of  
15 this Final Judgment; or (b) if an objection is timely made/asserted by a Class Member; and in  
16 addition, (1) the date affirmance of an appeal of the Final Judgment becomes final or the  
17 expiration of the time for filing a petition for review or certiorari of or as to the Final Judgment  
18 or of any Court of Appeals’ decision relating to the Final Judgment and, if review is granted, the  
19 date of final affirmance of the Final Judgment following review pursuant to that grant; (2) the  
20 date of final dismissal of any writ of certiorari as to or appeal from the Judgment or the final  
21 dismissal of any proceeding on review of any Court of Appeals’ decision relating to the  
22 Judgment; or (3) if no appeal is filed, the expiration date of the time for the filing or noticing of  
23 any appeal from this Final Judgment.

24 9. The Court finds that the settlement payments, as provided for in the Settlement,  
25 are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the  
26 individual payments in conformity with the terms of the Settlement.

1           10.     The Court finds that an enhancement payment in the amount of \$5,000.00 for  
2 Plaintiff Maria Ortiz Nieto is appropriate for her risks undertaken and service to the Settlement  
3 Class. The Court finds that this award is fair, reasonable, and adequate, and orders that the  
4 Settlement Administrator make this payment in conformity with the terms of the Settlement.

5           11.     The Court finds that attorneys' fees in the amount of \$56,666.67, and actual  
6 litigation costs of \$ [REDACTED] for Class Counsel, are fair, reasonable, and adequate, and orders  
7 that the Settlement Administrator distribute these payments from the Gross Settlement Fund to  
8 Class Counsel in conformity with the terms of the Settlement.

9           12.     The Court orders that the Settlement Administrator shall be paid \$8,750.00 from  
10 the Gross Settlement Fund for all of its work done and to be done until the completion of this  
11 matter, and finds that sum appropriate.

12           13.     The Court finds that the payment to the California Labor & Workforce  
13 Development Agency ("LWDA") in the amount of \$3,750.00 for its share of the settlement of  
14 Plaintiff's representative action under the California Labor Code Private Attorneys General Act  
15 ("PAGA") is fair, reasonable, and adequate, and orders the Settlement Administrator to  
16 distribute this payment to the LWDA in conformity with the terms of the Settlement and as  
17 otherwise set forth in this Judgment.

18           14.     Pursuant to the terms of the Settlement, the employer's share of payroll taxes for  
19 the portion of the individual settlement payments allocated to wages shall be paid from the  
20 Gross Settlement Fund.

21           15.     The Court finds and determines that upon satisfaction of all obligations under the  
22 Settlement and this Judgment, all Settlement Class members are bound by the Settlement, have  
23 released the Released Claims and Released Federal Claims as set forth in the Settlement and  
24 below, and are permanently barred from prosecuting against Defendant any individual or class  
25 claims pursuant to the Settlement.

26           16.     Upon satisfaction of all obligations under the Settlement and the Final Approval  
27 Order, by virtue of this Judgment, Plaintiff and each Settlement Class member will fully release  
28

1 and discharge Defendant and its assignees, and each of their past or present officers, directors,  
2 shareholders, employees, agents, principals, heirs, representatives, accountants, auditors,  
3 consultants, insurers and reinsurers, and their respective successors and predecessors in interest,  
4 subsidiaries, affiliates, parents and attorneys and all of their respective officers, directors,  
5 employees, administrators, fiduciaries, trustees and agents (“Released Parties”) from the  
6 following Released Claims, defined as all claims that were or could have been pled based on the  
7 factual allegations in the operative complaint, including without limitation, those having all of  
8 the characteristics below:

9 (a) all claims, demands, rights, liabilities, and causes of action of every  
10 nature and description whatsoever that arose from September 14, 2014 through the May 3,  
11 2019;

12 (b) whether in tort, contract, or for violation of any state constitution, statute,  
13 rule or regulation, including state wage and hour laws;

14 (c) whether for economic damages, non-economic damages, restitution,  
15 premium pay, penalties or liquidated damages;

16 (d) arising out of, relating to, or in connection with: any and all facts,  
17 transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to  
18 act, which are or could be the basis of claims: (a) that the Defendant failed to pay all straight  
19 time wages; (b) that the Defendant failed to pay all overtime pay; (c) that the Defendant failed to  
20 provide Plaintiffs with meal periods and/or rest breaks, or failed to compensate Plaintiffs for all  
21 hours worked in connection with meal periods and/or rest breaks, in accordance with California  
22 law, including any claims for waiting time penalties, premium pay, or inaccurate wage  
23 statements based on the factual allegations contained in the Class Action; (d) that the Defendant  
24 failed to compensate plaintiffs for all hours worked, including any claims for waiting time  
25 penalties, or inaccurate wage statements based on the factual allegations contained in the Class  
26 Action; (e) that the Defendant failed to compensate plaintiffs for all wages due upon termination  
27 in a timely fashion; (f) that the Defendant failed to provide the paystubs required by California  
28 law; (g) that the Defendant failed to comply with any California state wage and hour laws, based

1 on the factual allegations contained in the Class Action; including any claims for waiting time  
2 penalties, premium pay, or inaccurate wage statements based on the factual allegations  
3 contained in the Class Action; (h) that the Defendant failed to keep any and all records required  
4 by California law based on the factual allegations contained in the Class Action; (i) that the  
5 Defendant failed to comply with Labor Code Sections 201-203, 206, 206.5, 226, 226.7, 510,  
6 512, California Business & Professions Code Section 17200, and/or Wage Order 1-2001 based  
7 on the factual allegations contained in the Class Action; (j) any claims brought under California  
8 Labor Code Section 2699, the “Private Attorney General Act” based on the factual allegations  
9 contained in the Class Action; or (k) that the Defendant owes wages, premium pay, penalties,  
10 interest, attorneys’ fees or other damages of any kind based on a failure to comply with these  
11 state wage and hour laws and record keeping laws based on the factual allegations contained in  
12 the Class Action, at any times on or before the last day of the Class Period (whether based on  
13 California state wage and hour law, contract, or otherwise);

14 (e) the causes of action asserted in the lawsuit, including any and all claims  
15 for alleged failure to provide meal periods and/or rest breaks, or alleged failure to pay all wages  
16 and/or premium pay on termination of employment, or alleged failure to provide accurate wage  
17 statements, or for waiting time penalties or for premium pay and, as related to the foregoing, for  
18 alleged unlawful, unfair and/or fraudulent business practices under California Business and  
19 Professions Code § 17200, et seq.;

20 (f) any other claims based on any factual allegations pled in this lawsuit;  
21 and/or

22 (g) This Release is based on the factual and legal claims asserted in  
23 Plaintiff’s Complaint, filed on or about September 14, 2018, and only applies to those persons  
24 identified by the Released Parties as being a member of the Class in connection with the  
25 administration of this proposed settlement. Any person not identified by the Released Parties as  
26 being a member of the Class shall not and will not be affected by this Release. Further, this  
27 Release does not apply to any claim that as a matter of law cannot be released, including but not  
28



1 limited to claims for indemnification pursuant to California Labor Code section 2802,  
2 unemployment insurance benefits, and workers' compensation claims.

3         17. In addition to releasing the Released Parties from the Released Claims as  
4 outlined above, Settlement Class Members also release the Released Parties from the "Released  
5 Federal Law Claims." For purposes of the Settlement, the "Released Federal Law Claims"  
6 include all claims that were or could have been pled based on the factual allegations in the  
7 operative complaint, including without limitation:

8                 (a) any and all applicable federal law claims, demands, rights, liabilities, and  
9 causes of action of every nature and description whatsoever, known or unknown, asserted or  
10 that might have been asserted; and

11                 (b) whether in tort, contract, or for violation of any federal constitution,  
12 statute, rule or regulation, including federal wage and hour laws, whether for economic  
13 damages, non-economic damages, restitution, penalties or liquidated damages, arising out of,  
14 relating to, or in connection with:

15                         (1) all federal law causes of action alleged in or that could have been  
16 alleged in the Complaint based upon the facts pleaded in the Complaint under any theory of law,  
17 including but not limited to: failure to pay wages, including straight time and overtime wages  
18 under the federal Fair Labor Standards Act ("FLSA"); failure to provide rest periods; failure to  
19 timely pay wages owed; and/or

20                         (2) any and all facts, transactions, events, policies, occurrences, acts,  
21 disclosures, statements, omissions or failures to act, alleged in or that could have been alleged in  
22 the Complaint, based upon the facts pleaded in the Complaint under any theory of law, which  
23 are or could be the basis of claims related to the Company's alleged failure to failure to pay  
24 wages, including straight time and overtime under the FLSA; failure to provide rest periods;  
25 failure to timely pay wages owed; or other damages of any kind based on a failure to comply  
26 with any federal wage and hour laws, at any time during the Class Period (whether based on  
27 federal wage and hour law, contract, or otherwise)  
28

1           18.     The Settlement Class Members may hereafter discover facts in addition to or  
2 different from those they now know or believe to be true with respect to the subject matter of  
3 the Released Claims and/or the Released Federal Law Claims, but upon the Effective Date, shall  
4 be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever  
5 settled and released any and all of the Released Claims and Released Federal Law Claims,  
6 whether known or unknown, suspected or unsuspected, contingent or non-contingent, which  
7 now exist, or heretofore have existed, upon any theory of law or equity now existing or coming  
8 into existence in the future, including, but not limited to, conduct that is negligent, intentional,  
9 with or without malice, or a breach of any duty, law or rule, without regard to the subsequent  
10 discovery or existence of such different or additional facts.

11           19.     The Settlement Class Members agree not to sue or otherwise make a claim  
12 against any of the Released Parties that is related to the Released Claims or Released Federal  
13 Law Claims. This release shall have full res judicata effect as to FLSA claims for all Class  
14 Members as described in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (9th  
15 Cir. 2018), regardless of whether that Class Member endorses and cashes his or her settlement  
16 check. However, in addition, the Settlement Administrator shall include the following language  
17 on each settlement check issued to Class Members: “By endorsing and cashing this check, I  
18 consent to join the FLSA settlement class and release any claims under the Fair Labor Standards  
19 Act that were pleaded or that could have been pleaded based upon the facts alleged in this  
20 action,” and copies of these signed endorsements shall be provided to the Company and shall be  
21 filed with the Court as additional proof of consent, with confidential information redacted, if  
22 filing the consents is requested by the Court.

23           20.     Pursuant to the Settlement, and in consideration for his enhancement payment,  
24 Plaintiff and Settlement Class member Maria Ortiz Nieto, in addition to the Released Claims  
25 and Federal Released Claims described above, makes the additional following general release of  
26 all claims, known or unknown. The Class Representative releases the Released Parties from all  
27 claims, demands, rights, liabilities and causes of action of every nature and description  
28

1 whatsoever, known or unknown, asserted or that might have been asserted, whether in tort,  
2 contract, or for violation of any state or federal statute, rule or regulation arising out of, relating  
3 to, or in connection with any act or omission by or on the part of any of the Released Parties  
4 committed or omitted prior to the execution of this Agreement. Class Representative also  
5 specifically agrees and acknowledges that she is waiving any right to recovery based on state or  
6 federal age, sex, pregnancy, race, color, national origin, marital status, religion, veteran status,  
7 disability, sexual orientation, medical condition or other anti-discrimination laws, including,  
8 without limitation, Title VII of the Civil Rights Act of 1964, the Age Discrimination in  
9 Employment Act, the Equal Pay Act, the Americans with Disabilities Act and the California  
10 Fair Employment and Housing Act, California Labor Code section 970, the Family and Medical  
11 Leave Act, the Employee Retirement Income Security Act, the Worker Adjustment and  
12 Retraining Act, the Fair Labor Standards Act, California Labor Code Section 2699, et. seq., the  
13 “Private Attorney General Act, and any other section of the California Labor Code, all as  
14 amended, whether such claim be filed by Class Representative or by a governmental agency, as  
15 well as the laws of any other country in the world (the “General Release”).

16         21.     The Class Representative agrees not to sue or otherwise make a claim against  
17 any of the Released Parties that is in any way related to the Released Claims. The General  
18 Release does not apply to any claim that as a matter of law cannot be released, including but not  
19 limited to claims for indemnification pursuant to California Labor Code Section 2802,  
20 unemployment insurance benefits, and workers’ compensation claims, nor does it preclude  
21 filing suit to challenge the Company’s compliance with the waiver requirements of the ADEA  
22 as amended by the Older Worker Benefit Protection Act, or filing a charge with the Equal  
23 Employment Opportunity Commission. The General Release includes any unknown claims the  
24 Class Representative does not know or suspect to exist in her favor at the time of the General  
25 Release, which, if known by her, might have affected her settlement with, and release of, the  
26 Released Parties by the Class Representative or might have affected her decision not to object to  
27 this Settlement or the General Release. With respect to the General Release, the Class  
28

1 Representative stipulates and agrees that, upon the Effective Date, the Class Representative  
2 shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived  
3 and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of  
4 Section 1542 of the California Civil Code, or any other similar provision under federal or state  
5 law, which provides:

6 **“A general release does not extend to claims that the creditor or releasing party**  
7 **does not know or suspect to exist in his or her favor at the time of executing the**  
8 **release and that, if known by him or her, would have materially affected his or her**  
9 **settlement with the debtor or released party.”**

10 The Class Representative may later discover facts in addition to or different from those  
11 she now knows or believes to be true with respect to the subject matter of the General Release,  
12 but the Class Representative upon the Effective Date, shall be deemed to have, and by operation  
13 of the Final Judgment shall have, fully, finally, and forever settled and released any and all of  
14 the claims released pursuant to the General Release, whether known or unknown, suspected or  
15 unsuspected, contingent or non-contingent, which now exist, or previously existed upon any  
16 theory of law or equity now existing or coming into existence in the future, including, but not  
17 limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of  
18 any duty, law or rule, without regard to the subsequent discovery or existence of such different  
19 or additional facts

20 22. This document shall constitute a final judgment pursuant to California Rule of  
21 Court 3.769(h), which provides, “If the court approves the settlement agreement after the final  
22 approval hearing, the court must make and enter judgment. The judgment must include a  
23 provision for the retention of the court’s jurisdiction over the parties to enforce the terms of the  
24 judgment. The court may not enter an order dismissing the action at the same time as, or after,  
25 entry of judgment.”

26 23. The Court will retain jurisdiction to enforce the Settlement, and this Final  
27 Judgment.  
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**JUDGMENT IS SO ENTERED.**

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Honorable Eddie C. Sturgeon  
Judge of the Superior Court

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