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21 UNITED STATES DISTRICT COURT

22 EASTERN DISTRICT OF CALIFORNIA

23 JENNIFER MODICA, individually and
24 on behalf of other similarly situated
25 current and former employees and as
26 proxy for the LWDA,

27 Plaintiff,

28 v.

IRON MOUNTAIN INFORMATION
MANAGEMENT SERVICES, INC., a
Delaware corporation; and DOES 1-100,
inclusive,

Defendant.

Hon. Troy L. Nunley

Case No.: 2:19-cv-00370-TLN-EF

**JOINT STIPULATION OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT
AGREEMENT AND RELEASE OF CLAIMS**

Complaint Filed: January 25, 2019

Trial Date: None Set

1 This Joint Stipulation of Class And Representative Action Settlement Agreement and
2 Release of Claims (“Settlement Agreement” or “Settlement”), is made and entered into between
3 Plaintiff Jennifer Modica (“Plaintiff”), individually and on behalf of herself and on behalf of the
4 Class and Class Members (as defined below), and Defendant Iron Mountain Information Services,
5 Inc. (“Defendant”).

6 This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and
7 settle the Action (as defined below) and the Released Claims (as defined below), upon and subject to
8 the terms and conditions hereof, as follows:

9 **I. RECITALS.**

10 a. Procedural Posture

11 1. On October 27, 2018, Plaintiff provided written notice to the Labor and Workforce
12 Development Agency (“LWDA”) and Defendant claiming Defendant violated specific provisions of the
13 Labor Code alleged to have been violated, including the facts and theories to support those alleged
14 violations.

15 2. On January 25, 2019, Plaintiff Jennifer Modica filed her original class action Complaint
16 in the Superior Court of California for the County of San Joaquin, titled “*Jennifer Modica, individually*
17 *and on behalf of other similarly situated current and former employees and as proxy for the LWDA v.*
18 *IRON MOUNTAIN INFORMATION MANAGEMENT SERVICES, INC.*, a Delaware corporation; and
19 DOES 1-100, inclusive,” Case No. STK-CV-UOE-2019-1140 (“Complaint”).

20 3. On February 28, 2019, Defendant timely filed its Answer to Plaintiff’s Complaint in San
21 Joaquin Superior Court, wherein it generally denied the allegations in the Complaint

22 4. On March 1, 2019, Defendant timely removed this case to the United States District Court
23 for the Eastern District of California, Case No. 2:19-cv-00370-TLN-EF based on the Class Action
24 Fairness Act of 2005 (“CAFA”) diversity jurisdiction (Dkt. No. 1).

25 5. Prior to mediation on November 14, 2019, Defendant stipulated to the filing of Plaintiff’s
26 First Amended Complaint. The First Amended Complaint states class and representative causes of action
27 for (1) Failure to Properly Calculate and Pay Doubletime; (2) Failure to Properly Calculate and Pay Sick
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1 Pay; (3) Failure to Furnish Accurate Itemized Wage Statements; (4) Failure to Pay All Wages Due Upon
2 Cessation of Employment; (5) Violation of Business and Professions Code Section 17200; and (6)
3 violation of the California Private Attorneys General Act (“PAGA”). Plaintiff also states individual
4 causes of action for failure to provide personnel and payroll records. (Dkt. No. 13). The Parties agree
5 that Defendant does not need to file an Answer to the First Amended Complaint, as set forth in the
6 separately filed Stipulation (Dkt. No. 11).

7 b. The Parties Have Engaged In Extensive Discovery

8 6. Between June, 2019 and November, 2019, as part of the Parties’ formal and informal
9 discovery and settlement negotiations, Defendant provided Plaintiff’s counsel with thousands of pages of
10 documents. Specifically, Defendant produced all of Plaintiff’s time records and payroll records, and her
11 personnel file. Defendant also produced extensive pay period data for non-exempt employees in
12 California who worked overtime and/or shift differentials, and written policies applicable to the claims in
13 this action. Additionally, Defendant produced a sampling of time and payroll data for current and former
14 potential Class Members amounting to tens of thousands of lines of data. Counsel for the Parties have
15 further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s claims, the
16 defenses thereto, and the damages and penalties potentially available to Plaintiff in the Class Action. In
17 conjunction with those same negotiations, the Parties have spoken at length about the strengths and
18 weaknesses of each sides’ claims and defenses, the certifiability of the class, and the scope of
19 Defendant’s potential liability. Both Plaintiff and Defendant retained experts to examine the data and
20 determine the extent of the Class’s potential damages.

21 c. The Parties Successful Settlement Efforts

22 7. On November 14, 2019, the Parties participated in good faith in arms' length settlement
23 discussions at a mediation with renowned employment class action mediator David Rotman, Esq. in San
24 Francisco. Although the mediation did not end in a settlement, the Parties agreed to a Memorandum Of
25 Understanding from which Defendant had one week to withdraw.

26 8. On November 20, 2019, Defendant confirmed its agreement to the Memorandum Of
27 Understanding.
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1 9. After several weeks of further negotiations, the Parties executed this Settlement
2 Agreement. The Parties believe and agree that this Settlement is a fair, adequate, and reasonable
3 resolution of the Class Action and have arrived at this Settlement in arms-length negotiations, taking into
4 account all relevant factors, present and potential, each side recognizing the risks of an adverse result.

5 10. As a result of the Class Action and efforts of Plaintiff and Class Counsel, Defendant

6 a. Revised its wage statements as of its November 29, 2019 payroll distribution;

7 b. Revised its policies, practices, and procedures associated with the calculation and
8 payment of its employees' doubletime; and

9 c. Revised its policies, practices, and procedures associated with the calculation and
10 payment of its employees' sick pay.

11 d. The Parties' Agreed To Terms

12 11. For purposes of this Settlement only, Plaintiff contends and Defendant does not dispute
13 that there is sufficient evidence to support the requisites for certification of the Class for settlement
14 purposes, specifically:

15 a. There are approximately 1,119 Class Members (277 Doubletime Subclass
16 Members, 330 Sick Pay, 51 Former Employee Subclass Members, and 1,119 Wage
17 Statement Subclass members), which is so numerous as to make it impractical to join all
18 Class Members;

19 b. The Class is ascertainable from Defendant's records;

20 c. Common questions of law and fact exist;

21 d. The claims of the Plaintiff are typical of the claims of the Class Members and
22 Plaintiff is an adequate representative and should be appointed as such;

23 e. Mayall Hurley, P.C. is adequate to represent the Class and should be appointed as
24 Class Counsel;

25 f. The prosecution of separate actions by individual members of the Class would
26 create the risk of inconsistent or varying adjudications, which could establish
27 incompatible standards of conduct; and
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1 g. Questions of law and fact common to the members of the Class predominate over
2 questions affecting individual members of the Class and a class action is superior to other
3 available means for the fair and efficient adjudication of the controversy.

4 e. Defendant's Denials

5 By entering into this Settlement, Defendant denies and continues to deny: (a) all of the allegations
6 made by Plaintiff or the Class in the Action; (b) that it violated any applicable laws; (c) that it is liable or
7 owes damages, penalties, or other compensation or remedies to anyone with respect to the alleged facts
8 or laws asserted in the Act; and (d) that class certification or representative treatment of the Action or
9 any alleged claim is proper. Defendant emphasizes that the Court has not made any findings of liability
10 as to Defendant and the Court has not determined that Class certification is warranted in this Action.
11 Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever and without
12 admitting or conceding that Class certification or representative treatment is appropriate for any purpose
13 other than settlement purposes alone, Defendant has agreed to settle the Action on the terms and
14 conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing the
15 Action. Any stipulations or statements by Defendant contained in this Agreement are made for
16 settlement purposes only.

17 **II. DEFINITIONS.**

18 12. "Action" or "Class Action" refers to the civil action entitled: *Modica v. Iron Mountain*
19 *Information Management Services, Inc.*, pending in the United States District Court for the Eastern
20 District of California, Case No. 2:19-cv-00370-TLN-EFB.

21 13. "Agreement," "Settlement Agreement," or "Settlement" refers to this Joint Stipulation of
22 Class Action Settlement Agreement and Release of Claims, which includes all of the Recitals and the
23 Exhibits attached hereto.

24 14. "Class" and "Class Members" refers to all current and former California non-exempt
25 employees of Defendant who (i) worked double time or used paid sick leave during a workweek when
26 he/she also earned shift differentials, non-discretionary bonuses, or other remuneration on at least one
27 occasion between October 1, 2017 and the earlier of preliminary approval or March 13, 2020; and/or (ii)

1 received a wage statement during a pay period when he/she either (i) earned shift differentials and/or (ii)
2 worked overtime between January 22, 2018 and the earlier of preliminary approval or March 13, 2020.

3 To allow for orderly distribution of the Net Settlement Amount and releases that properly track the
4 claims advanced, the Parties have agreed to the following subclasses:

- 5 a. All current and former California non-exempt employees of Defendant who worked
6 more than twelve (12) hours in a workday and/or more than eight (8) hours on the 7th
7 consecutive day worked in the workweek during a workweek when he/she also earned
8 shift differentials, non-discretionary bonuses, or other remuneration on at least one
9 occasion between October 1, 2017 and the earlier of preliminary approval or March
10 13, 2020 (the “DoubleTime Subclass”);
- 11 b. All current and former California non-exempt employees of Defendant who were
12 eligible for and used paid sick leave during a workweek when he/she also earned shift
13 differentials, non-discretionary bonuses, or other remuneration on at least one
14 occasion between October 1, 2017 and the earlier of preliminary approval or March
15 13, 2020 (the “Sick Pay Subclass”);
- 16 c. All individuals who are members of the Double Time Class and/or the Sick Pay Class
17 and separated from employment at any time between October 1, 2017 and the earlier
18 of preliminary approval or March 13, 2020 (the “Former Employee Subclass”); and
- 19 d. All current and former California employees of Defendant who received a wage
20 statement during a pay period when he/she either (i) earned shift differentials and/or
21 (ii) worked overtime between January 22, 2018 and the earlier of preliminary approval
22 or March 13, 2020 (the “Wage Statement Subclass”).

23 15. “Class Counsel” refers Mayall Hurley P.C., by and through Lead Counsel Robert J.
24 Wasserman and Jenny D. Baysinger. For purposes of providing any notices required under this
25 Agreement, Class Counsel shall refer to Robert J. Wasserman (rwasserman@mayallaw.com) and Jenny
26 D. Baysinger (jbasinger@mayallaw.com), Mayall Hurley P.C. 2453 Grand Canal Boulevard, Stockton,
27 California 95207

1 16. “Class List” refers to the list of Class Member information to be provided to the
2 Settlement Administrator by Defendant.

3 17. “Class Notice” refers to the Notice of Pendency of Class Action, Preliminary Approval of
4 Settlement, and Hearing for Final Approval, substantially in the form attached here to as Exhibit 1, as it
5 may be modified by agreement of the Parties or upon order of the Court, which will be sent to the Class
6 Members.

7 18. “Class Representative” refers to the named Plaintiff in the Action, Jennifer Modica.

8 19. “*Cy Pres*” refers to the Court Appointed Special Advocates for Children of San Joaquin
9 (serving San Joaquin County), 127 N Sutter St, Stockton, CA 95202.

10 20. “Defendant” refers to the named Defendant in the Action, Iron Mountain Information
11 Management Services, Inc.

12 21. “Defense Counsel” refers to Seyfarth Shaw LLP. For purposes of providing any notices
13 required under this Agreement, Defense Counsel shall refer to Jon D. Meer
14 (jmeer@seyfarth.com), Jonathan L. Brophy (jbrophy@seyfarth.com) and Catherine Feldman
15 (cfeldman@seyfarth.com); Seyfarth Shaw LLP, 2029 Century Park East, Suite 3500, Los Angeles,
16 California 90067.

17 22. “Doubletime Subclass Members” refers to all current and former California non-exempt
18 employees of Defendant who worked more than twelve (12) hours in a workday and/or more than eight
19 (8) hours on the 7th consecutive day worked in the workweek during a workweek when he/she also
20 earned shift differentials, non-discretionary bonuses, or other remuneration on at least one occasion
21 between October 1, 2017 and the earlier of preliminary approval or March 13, 2020.

22 23. “Doubletime Subclass Period” means October 1, 2017 through the earlier of October 1,
23 2017 through the earlier of preliminary approval or March 13, 2020

24 24. “Effective Date” as defined below is a condition of performance of the obligations under
25 this Settlement. The Effective Date is determined as follows: If no Class Member or any person
26 claiming to have standing submits an objection or otherwise purports to object to the Settlement
27 Agreement, then the Effective Date is the date of the Court’s entry of a final approval order and
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1 judgment finally approving the Settlement Agreement (“Order of Final Approval”). If any Class
2 Member or any person claiming to have standing submits an objection or otherwise purports to object to
3 the Settlement Agreement, then the Effective Date is the date after (a) the Court’s entry of a final
4 approval order and judgment finally approving the Settlement Agreement (“Order of Final Approval”),
5 and (b) the first to occur of the following: (1) the date for seeking appellate review of the Court’s Order
6 of Final Approval has passed without a timely appeal or request for review having been made (i.e., 31
7 days after entry of the trial court’s Order of Final Approval and Judgment); or (2) if an appeal, review, or
8 writ is sought from the Order of Final Approval, the day after the Order of Final Approval is affirmed or
9 the appeal, review or writ is dismissed or denied, and the Order of Final Approval is no longer subject to
10 further judicial review.

11 25. “Employee Taxes and Withholdings” shall mean the employee’s share of any and all
12 applicable federal, state or local payroll taxes on the portion of any Participating Class Member’s
13 Settlement Share that constitutes wages. The Employee Taxes and Withholdings will be withheld from
14 and paid out of the Net Settlement Amount, as appropriate.

15 26. “Employer Taxes” shall mean and refer to Defendant’s share of federal, state and/or local
16 payroll taxes that is owed on the portion of any Participating Class Member’s Settlement Share that
17 constitutes wages. The Employer-side Taxes shall be separately paid by Defendant and shall not be paid
18 from the Maximum Settlement Amount or Net Settlement Amount.

19 27. “Final Approval Hearing” means the hearing set by the Court for the purpose of
20 determining, inter alia, (1) the fairness, adequacy, and reasonableness of the Settlement, (2) the Service
21 Payment to Plaintiff, and (3) the fees and costs of Class Counsel.

22 28. “Final Approval Order” or “Order of Final Approval” refer to the order of the Court
23 granting final approval of this Settlement and entering a judgment approving this Settlement on
24 substantially the same terms provided herein or as may be modified by subsequent agreement of the
25 Parties.

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1 29. “Former Employee Subclass Members” refers to all individuals who are members of the
2 DoubleTime Subclass and/or the Sick Pay Subclass and separated from employment at any time between
3 October 1, 2017 the earlier of preliminary approval or March 13, 2020.

4 30. “Former Employee Subclass Period” means October 1, 2017 through the earlier of
5 preliminary approval or March 13, 2020.

6 31. “Maximum Settlement Amount” refers to the maximum amount which Defendant is
7 obliged to pay under this Agreement, i.e., One Million Five Hundred Thousand Dollars (\$1,500,000).
8 The Maximum Settlement Amount includes Employee-side Taxes and Withholdings, but does not
9 include Employer-side Taxes on the wage portion of the Settlement.

10 32. “Net Settlement Amount” refers to the Maximum Settlement Amount, less the Court-
11 approved (a) costs of the Settlement Administrator, (b) payment to the California Labor and Workforce
12 Development Agency (“LWDA”), (c) Service Payment of Plaintiff, and (d) Class Counsel’s Fees and
13 Costs.

14 33. “Order of Preliminary Approval” or “Preliminary Approval Order” refers to the order of
15 the Court granting preliminary approval of this Settlement and authorizing dissemination of the Class
16 Notice.

17 34. “Participating Class Members” refers to all Class Members who choose to participate in
18 this Settlement and who do not timely and validly exclude themselves from the Settlement in accordance
19 with the procedures set forth herein.

20 35. “Parties” refers collectively to the named Plaintiff and the named Defendant in the Action.

21 36. “Plaintiff” refers to the named Plaintiff in the Action, Jennifer Modica.

22 37. “Qualified Settlement Fund” or “QSF” shall mean the Qualified Settlement Fund
23 established by the Settlement Administrator for the benefit of the Settlement Class members and from
24 which the Settlement Shares and all other payments under this Agreement shall be paid with the
25 exception of the employer’s share of payroll taxes, The an account that will qualify and be characterized
26 as a Qualified Settlement Fund under the provisions of the U.S. Treasury Regulations 1.486B-1 and
27 1.468B-5, to be set up as provided below, and into which the Maximum Settlement Amount is to be
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1 deposited as agreed herein, to be administered in a manner consistent with law and the terms of this
2 Settlement.

3 38. "Released Claims" refers collectively to the claims released by Participating Class
4 Members and as defined in Paragraph 71.

5 39. "Released PAGA Claims" means the PAGA claims released by Plaintiff on behalf of
6 herself and the other allegedly aggrieved employees and the LWDA, described in detail in Paragraph 72,
7 as against Defendant.

8 40. "Released Parties" means (i) Defendant Iron Mountain Information Management
9 Services, Inc.; (ii) each of Defendant's respective past, present and future parents, subsidiaries, and
10 affiliates including, without limitation, any corporation, limited liability company, partnership, trust,
11 foundation, and non-profit entity which controls, is controlled by, or is under common control with
12 Defendant; (iii) the past, present and future shareholders, directors, officers, agents, employees,
13 attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives,
14 administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the
15 foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing.

16 41. "Response Period" or "Response Deadline" means the final date, forty-five (45) days after
17 the Settlement Administrator mails the Class Notice to the Class Members, upon which Class Members
18 may submit a request for exclusion or objection to the Settlement.

19 42. "Settlement Administrator" refers to Phoenix Class Action Administration Solutions, the
20 third-party administrator whom the Parties have mutually selected to administer the Settlement in
21 accordance with the terms set forth herein and as approved by the Court.

22 43. "Settlement Share" refers to the payment to which a Participating Class Member is
23 entitled to receive pursuant to the Settlement.

24 44. "Sick Pay Subclass Members" refers to all current and former California non-exempt
25 employees of Defendant who were eligible for and used paid sick leave during a workweek when he/she
26 also earned shift differentials, non-discretionary bonuses, or other remuneration between October 1, 2017
27 and the earlier of preliminary approval or March 13, 2020.

1 45. "Sick Pay Subclass Period" means October 1, 2017 through the earlier of October 1, 2017
2 through the earlier of preliminary approval or March 13, 2020.

3 46. "Wage Statement Subclass Members" refers to all current and former non-exempt
4 California Employees of Defendant who received a wage statement during a pay period when he/she
5 either (i) earned shift differentials and/or (ii) worked overtime. from January 22, 2018 through the earlier
6 of preliminary approval or March 13, 2020.

7 47. "Wage Statement Subclass Period" means January 22, 2018 through the earlier of
8 October 1, 2017 through the earlier of preliminary approval or March 13, 2020

9 **III. APPLICATION FOR APPROVAL OF THE SETTLEMENT, CLASS CERTIFICATION,**
10 **DISSEMINATION OF NOTICE, AND SETTING OF FINAL APPROVAL HEARING.**

11 48. Promptly upon the full execution of this Agreement, Plaintiff shall apply to the Court for
12 approval of the Settlement, including an Order of Preliminary Approval that, amongst other things, (a)
13 preliminarily approves the Settlement under the legal standards relating to the approval of class action
14 settlements; (b) preliminarily certifies the Class for settlement purposes only; (c) approves the Class
15 Notice and authorizes dissemination of the same; (d) preliminarily approves Plaintiff as Class
16 Representative; (e) preliminarily approves Mayall Hurley as Class Counsel; (f) preliminarily approves
17 Simpluris, Inc. to serve as Settlement Administrator; and (g) sets a Final Approval Hearing and briefing
18 schedule. Should this Settlement not become effective for any reason, the fact that the Parties stipulated
19 to certification of a Class shall have no bearing on and shall not be admissible on the question of whether
20 a class action should be certified in a non-settlement context. Defendant does not waive, and instead
21 expressly reserves, its rights to challenge the propriety of class certification for any purpose should the
22 Court not approve the Settlement Agreement.

23 **IV. CONSIDERATION FOR THE SETTLEMENT.**

24 49. Maximum Settlement Amount; Non-Reversionary.

25 The Parties agree to settle this Class Action for the Maximum Settlement Amount of \$1,500,000.
26 The settlement is being made on an all-in, non-reversionary basis, such that Defendant will pay the
27 entirety of the agreed-upon Maximum Settlement Amount. Subject to the terms and conditions of this
28 Agreement, the Maximum Settlement Amount is paid by Defendant in full and final settlement of (a) the

1 Released Claims, (b) the costs of the Settlement Administrator, (b) the payment to the LWDA, (c) the
2 Service Payment to Plaintiff, (d) Employee-side Taxes and Withholdings, and (e) Class Counsel's Fees
3 and Costs. The Maximum Settlement Amount shall be deposited into the QSF within seven (7) calendar
4 days of the Effective Date. The Maximum Settlement Amount does not include the Employer Taxes,
5 which also must be paid by Defendant.

6 50. Allocation of the Maximum Settlement Amount.

7 Subject to Court approval, the Maximum Settlement Amount of \$1,500,000 will be allocated as
8 follows:

- 9 (i) \$14,000.00 for the fees and costs of the Settlement Administrator;
10 (ii) \$7,500 for payment to LWDA under the PAGA;
11 (iii) \$15,000.00 for Service Payment to Plaintiff (and for CC 1542 release);
12 (iv) \$25,000.00 for payment to Class Counsel for reasonable costs; and
13 (v) \$500,000 for payment to Class Counsel for attorneys' fees (1/3 of the MSA).

14 The remainder constitutes the Net Settlement Amount: \$938,500.00.

15 51. Escalator Clause.

16 The Parties agree that there are approximately 1,119 Class Members. If this number increases by
17 15% or more, excluding acquisitions of other entities by Defendant, there shall be an equal increase in
18 the Maximum Settlement Amount (i.e., if the number of class members increases by 16%, the Maximum
19 Settlement Amount Shall increase by 1%, etc.).

20 52. Reasonable Fees and Costs of the Settlement Administrator.

21 All of the Settlement Administrator's costs, which are not to exceed \$14,000.00 unless otherwise
22 approved by the Court, will be paid out of the Maximum Settlement Amount from the QSF. If there are
23 any unused amounts of the allocated Settlement Administrator costs after the settlement distribution,
24 such amount shall be distributed to the *cy pres* beneficiary.

25 53. Payment to the LWDA under the PAGA.

26 The Settlement allocates \$10,000 to the PAGA claims. Defendant does not oppose the allocation.
27 Of that amount, 75% – or \$7,500 – will be paid to the LWDA, and 25% – or \$2,500 – will be returned to
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1 the portion of the Net Settlement Amount allocated to the Participating Class Members. The Settlement
2 Administrator shall make the payment to the LWDA within ten (10) calendar days after Defendant funds
3 the QSF.

4 54. Service Payment to Plaintiff.

5 Subject to Court approval, Plaintiff will apply for a Service Payment not to exceed \$15,000, or
6 1% of the Maximum Settlement Amount, in consideration for her efforts on behalf of the Class
7 including, but not limited to, assisting in the investigation of her claims and consulting with Class
8 Counsel, providing critical information and documents to Class Counsel, participating in discovery,
9 attending the mediation in San Francisco, and participating in post-mediation settlement negotiations.
10 Any Service Payment approved by the Court will be paid out of the Maximum Settlement Amount and
11 shall be in addition to Plaintiff's Settlement Share under the terms of the Settlement. In addition to the
12 claims released under the Settlement, and as set forth in greater detail below, Plaintiff will also provide a
13 general release which includes California Civil Code section 1542 waiver. The Settlement Administrator
14 will issue an IRS Form 1099 for any Service Payment approved by the Court. The Settlement
15 Administrator shall mail the Service Payment to Plaintiff within ten (10) calendar days after Defendant
16 funds the QSF. Defendant does not oppose the proposed Service Payment.

17 55. Reasonable Attorneys' Fees and Costs to Class Counsel.

18 Subject to Court approval, Class Counsel will apply to the Court for an award of attorneys' fees
19 and costs incurred in connection with the prosecution of this matter; all of the work remaining to be
20 performed including, but not limited to, preparing all of the motions and documents necessary to secure
21 Court approval of the Settlement Agreement (including all related appellate work); carrying out their
22 duties to see that the Settlement Agreement is fairly administered and implemented; responding to
23 questions from Class Members; and obtaining dismissal of the Class Action.

24 Class Counsel will apply to the Court for an award of attorneys' fees in an amount not to exceed
25 \$500,000, or one-third, of the Maximum Settlement Amount, and declared costs of up to \$25,000.00.
26 Defendant does not oppose Class Counsel's request. The fees and costs awarded to Class Counsel by
27 the Court shall be paid out of the Maximum Settlement Amount from the QSF. The Settlement
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1 Administrator shall issue an IRS Form 1099 to Class Counsel in connection with this payment. The
2 Settlement Administrator shall distribute the attorneys' fees and costs awarded to Class Counsel within
3 10 days after Defendant funds the QSF.

4 Not less than 35 days following the mailing of the Class Notice, or such other time as the Court
5 may require, Class Counsel will file a motion for attorneys' fees, costs, and Service Payments with the
6 Court.

7 In the event that a lesser sum is awarded for the attorneys' fees and costs referenced above, or for
8 the Service Payment referenced in Paragraph 54, the approval by the Court of any such lesser sum(s)
9 shall not be grounds for Plaintiff and/or Class Counsel to terminate the Settlement, but such an order
10 shall be appealable by them. In the event that such an appeal is filed, administration of the portion of the
11 attorneys' fees and/or costs award and/or service payment in dispute will be segregated and stayed
12 pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review,
13 additional amounts are distributable to the Participating Class Members, the cost of administration of the
14 payments to them will be paid out of such additional amounts and not by Defendant. In the event that
15 appellate review is not sought regarding Class Counsel's attorneys' fees and costs, any amount not
16 awarded in attorneys' fees, costs and Service Payment shall be added to the Maximum Settlement
17 Amount and distributed to the Participating Class Members in accordance with the terms of the
18 Settlement.

19 56. Tax Treatment of Settlement Shares.

20 For the purpose of taxes and required withholdings, the Parties agree to the following: (1) 100%
21 of the amount distributed to each Participating Wage Statement Subclass Member who is not a member
22 of any other subclass shall constitute penalties (for which an IRS Form 1099 shall be issued); (2) 100%
23 of the \$500 paid to each and Former Employee Subclass Member shall constitute penalties (for which an
24 IRS Form 1099 shall be issued); (3) 1% of each Participating Doubltime and Sick Pay Subclass
25 Member's Settlement Share shall constitute wages (for which an IRS Form W-2 shall be issued),
26 49.5% shall constitute interest, and 49.5% shall constitute penalties (for which an IRS Form 1099 shall be
27 issued), and (2).

1 Prior to the distribution of Settlement Shares, the Settlement Administrator shall calculate the
2 total taxes and withholdings required as a result of the wage portion of the Settlement Share and such
3 actual amount will be deducted therefrom. Additionally, within ten (10) calendar days of the Effective
4 Date, or earlier upon Defendant's request, the Settlement Administrator shall calculate the Employer
5 Taxes due on the wage portion of the Settlement Shares and issue instructions to Defendant to separately
6 fund these obligations. Defendant, Defendant's counsel, the Settlement Administrator, and Plaintiff's
7 counsel make no representation as to the tax treatment or legal effect of the payments called for
8 hereunder, and Plaintiff and Participating Class Members are not relying on any statement,
9 representation, or calculation by Defendant, Defendant's counsel, Plaintiff's counsel, or the Settlement
10 Administrator in this regard. Plaintiff and Participating Class Members understand and agree that they
11 will be solely responsible for the payment of any taxes and penalties assessed on their respective
12 payments described herein and will defend, indemnify, and hold Defendant, Defendant's counsel,
13 Plaintiff's counsel and the Settlement Administrator free and harmless from and against any claims
14 resulting from treatment of such payments as non-taxable damages.

15 57. No Effect on Employee Benefit Plans.

16 It is expressly understood and agreed that the receipt of Settlement Shares will not entitle any
17 Participating Class Member to additional or derivative compensation or benefits under any Defendant
18 bonus, contest or other compensation or benefit plan or agreement in place during the period covered by
19 the Settlement, nor will it entitle any Participating Class Member to any increased retirement, 401k
20 benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement that
21 the settlement awards provided for in this Agreement are the sole payments to be made by Defendant to
22 the Participating Class Members, and that the Participating Class Members are not entitled to any
23 additional or derivative compensation or benefits as a result of having received the Settlement Shares
24 (notwithstanding any contrary language or agreement in any benefit or compensation plan document that
25 might have been in effect during the period covered by this Settlement).

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1 58. Undistributed Funds.

2 In the event that any checks mailed to Participating Class Members remain uncashed after the
3 expiration of 180 days from mailing, or an envelope mailed to a Participating Class Member is returned
4 and no forwarding address can be located for the Participating Class Member after reasonable efforts
5 have been made (including but not limited to skip tracing), then any such funds shall be transmitted to
6 the Settlement Administrator and distributed as follows in accordance with California Code of Civil
7 Procedure section 384:

8 100% to Court Appointed Special Advocates for Children of San Joaquin (serving San
9 Joaquin County), 127 N Sutter St, Stockton, CA 95202.

10 The Settlement Administrator shall apply for and return to Defendant any Employer Taxes paid on the
11 funds from the returned checks.

12 **V. ADMINISTRATION OF THE SETTLEMENT.**

13 59. Duties of the Settlement Administrator.

14 The Settlement Administrator shall perform the duties required by this Settlement by, among
15 other things, and without limitation, (i) receiving and updating through normal and customary procedures
16 the Class List to be produced by Defendant, so that it is updated prior to the mailing of the Class Notice,
17 (ii) populating, printing, and mailing the Court-approved Class Notice, (iii) creating and maintaining an
18 informational website, (iv) responding to Class Member inquiries as appropriate, (v) performing
19 necessary additional skip traces on any notices and/or checks returned as undeliverable, (vi) tracking
20 exclusions and calculating the Settlement Shares of the Participating Class Members, (vii) resolving
21 disputes during the administration process in the manner described below, (viii) reporting to Class
22 Counsel and Defense Counsel regarding administration of the Settlement, (ix) establishing the QSF in
23 the manner described below, (x) preparing and mailing settlement checks to the Participating Class
24 Members, (xi) preparing and distributing the necessary CAFA notice documents required by 28 U.S.C. §
25 1715, (xii) preparing and distributing the Court-approved payments to the itself, the LWDA, the Class
26 Representatives, and Class Counsel, (xiii) preparing all appropriate tax forms required in connection with
27 the payments called for by this Settlement and remitting those forms and all required payments to the
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1 appropriate governmental agencies, providing any leftover funds to the designated *Cy Pres*; preparing
2 and filing with appropriate agencies all appropriate tax forms required and returning payment to
3 Defendant in connection with a return of Employer taxes owed on returned checks(xiv) preparing a final
4 report summarizing the administration of the Settlement, and (xv) generally performing all normal and
5 customary duties associated with the administration of such settlements.

6 60. Dispute Resolution.

7 The Settlement Administrator shall have the initial responsibility for resolving any disputes that
8 arise during the administration of the Settlement including, without limitation, disputes regarding
9 whether a Class Member is entitled to a Settlement Share and, if so, the amount thereof. In resolving
10 such disputes, Defendant's employment records shall be presumed accurate and correct, and shall be
11 final and binding unless the information submitted by the individual (e.g., time records, wage statements,
12 employment records, etc.) proves otherwise. In the event that the Settlement Administrator cannot
13 resolve a dispute based upon a review of Defendant's records, the Settlement Administrator will
14 schedule a call with Class Counsel and Defense Counsel to discuss and resolve the dispute. After such
15 call, the Settlement Administrator will resolve the dispute and such resolution will be final and binding
16 on the Class Member.

17 61. Establishing the Qualified Settlement Fund.

18 The Settlement Administrator shall establish for the benefit of the Settlement Class members and
19 from which the Settlement Shares and all other payments under this Agreement shall be paid with the
20 exception of the employer's share of payroll taxes. The Settlement Administrator shall have its own
21 Employer Identification Number under Internal Revenue Service Form W-9 and shall use its own
22 Employer Identification Number and shall transmit the required employers' and employees' share of the
23 withholdings, if any, to the appropriate state and federal tax authorities. The Settlement Administrator
24 shall establish a settlement fund that meets the requirements of a QSF under U.S. Treasury Regulation
25 section 468B-1 and section 468B of the Internal Revenue Code of 1986, as amended (the "Code"). The
26 QSF shall be an interest-bearing account at a federally insured bank that is mutually acceptable to the
27 parties and the Settlement Administrator. The parties agree that the QSF is intended to be a "Qualified
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1 Settlement Fund” under Section 468B of the Code and Treas. Reg. Section 1.468B-1, 26 CFR Sections
2 1.468B-1, et seq., and will be administered by the Settlement Administrator With respect to the QSF, the
3 Settlement Administrator shall: (1) open and administer in such a manner as to qualify and maintain the
4 qualification of the QSF as a “Qualified Settlement Fund” under Section 468B of the Code and Treas.
5 Reg. Section 1.468B-1; (2) satisfy all federal, state, and local income and other tax reporting, return, and
6 filing requirements with respect to Defendant and the QSF and any interest or other income earned by
7 the QSF; and (3) satisfy out of the QSF all (i) taxes (including any estimated taxes, interest, or penalties)
8 with respect to the interest or other income earned by the QSF, and (ii) fees, expenses, and costs incurred
9 in connection with the opening and administration of the QSF and the performance of its duties and
10 functions as described in this Settlement Agreement. The aforementioned taxes, fees, costs, and expenses
11 shall be treated as, and included in, the costs of administering the QSF and as Settlement Administration
12 costs. The Settlement Administrator shall provide copies to Defendant of any federal, state, and local
13 income or other tax reporting, return, and filing prepared on Defendant’ behalf. The Parties agree to
14 cooperate with the Settlement Administrator and one another to the extent reasonably necessary to carry
15 out the provisions of this section.

16 The Settlement Administrator shall be treated as an “administrator” as defined at Treasury
17 Regulation section 1.468B-2(k) for purposes of federal and state income tax reporting with respect to the
18 distributions and payments made under this Settlement Agreement. Accordingly, the Settlement
19 Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2
20 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest at
21 times and in the manner required by the Internal Revenue Code and consistent with this Settlement
22 Agreement. If the Internal Revenue Code, the regulations promulgated thereunder, or other applicable
23 tax law, is changed after the date of this Settlement Agreement, the processes set forth in this section
24 may be modified in a manner to comply with any such changes. Notwithstanding the treatment of the
25 payments to each Settlement Class member above, none of the payments called for by this Settlement
26 Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for
27 any purpose of any applicable benefit or retirement plan, unless required by such plans. Any interest
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1 accrued shall inure to the benefit of the Class. The Maximum Settlement Amount shall be deposited into
2 the QSF within ten (10) business days of the Effective Date. Defendant may, at its discretion, deposit the
3 Maximum Settlement Amount at an earlier date.

4 **VI. CLASS LIST, NOTICE TO CLASS MEMBERS, PARTICIPATION IN THE**
5 **SETTLEMENT, AND SETTLEMENT SHARES.**

6 62. Provision of the Class List.

7 Within fourteen (14) calendar days of the Court's entry of the Order of Preliminary Approval,
8 Defendant shall provide the Settlement Administrator with the Class List containing the following for
9 each Class Member: (i) name, (ii) last known address and telephone number, (iii) social security number,
10 (iv) dates of employment, and (v) pay period data.

11 63. Notice to Class Members.

12 Promptly upon receipt of the Class List, the Settlement Administrator shall access the National
13 Change of Address Database ("NCOA") and update the addresses provided by Defendant. The
14 Settlement Administrator shall also populate the Class Notice as appropriate. Within fourteen (14)
15 calendar days after receipt of the Class List, the Settlement Administrator shall mail the Class Notice to
16 each Class Member via first-class mail. For each notice returned as undeliverable before the Response
17 Deadline, the Settlement Administrator shall promptly attempt to determine a correct address using its
18 best efforts and shall resend the notice to any new address determined thereby. Any costs incurred by
19 having the Settlement Administrator handle these administrative tasks shall be included in the Settlement
20 Administrator costs approved by the Court. Any re-mailed Class Notice shall be identical to the original
21 Class Notice.

22 Within ten (10) calendar days after receipt of the Class List, or as otherwise directed by the
23 Court, the Settlement Administrator shall also launch its informational website. In addition to the
24 information contained in the Class Notice, the Settlement Administrator shall also post the Order of
25 Preliminary Approval, the motion for final approval, the motion for attorneys' fees, costs and Service
26 Payment, and Order of Final Approval when each is filed with the Court. The informational website
27 shall remain active until thirty (30) calendar days after the Effective Date.
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1 64. Proof Of Mailing.

2 At least five (5) calendar days prior to the Final Approval Hearing, the Settlement Administrator
3 shall provide a declaration of due diligence and proof of mailing with regard to mailing of the Class
4 Notice to Class Counsel and Defendant's Counsel, which they shall in turn provide to the Class Counsel.

5 65. No Claim Form Required.

6 Each Participating Class Member shall be entitled to a share of the Net Settlement Amount.
7 Participating Class Members shall not be required to complete a claim form. Class Members shall
8 receive a Class Notice informing them of the terms of the Settlement Agreement, their right to opt-out
9 and/or object, and an estimate of their share of the Net Settlement Amount. Unless a Class Member
10 elects to opt-out, he or she will be a Participating Class Member. Settlement Shares will be mailed to all
11 Participating Class Members.

12 66. Calculation of Settlement Shares.

13 Settlement Shares shall generally be based upon the number of workweeks worked by
14 Participating Class Members during the Class Period. The amount of each Participating Class Member's
15 Settlement Share shall be determined by the Settlement Administrator as follows:

16 The Settlement Shares will be proportionally based upon the number of workweeks worked by
17 Participating Class Members during the relevant period. The workweeks worked by each
18 Participating Class Member shall be divided by the total workweeks worked by all Participating
19 Class Members resulting in a payment ratio for each Participating Class Member. Each
20 Participating Class Member's Payment Ratio is then multiplied by the Net Settlement Amount,
21 less the amount allocated to Participating Former Employee Subclass Members, to determine his
22 or her individual settlement share. Former Employee Subclass Members shall each receive \$500
23 in addition to his or her individual Settlement Share. Workweeks worked by Participating
24 Dobuletime and Sick Pay Subclass Members shall receive a multiplier of 1.025 to account for the
25 additional value of their claims.

1 The Settlement Administrator shall mail the Settlement Shares to Participating Class Members
2 within twenty (20) calendar days of the Effective Date or within twenty (20) calendar days of the funding
3 of the QSF, whichever is later.

4 67. Procedures for Challenges.

5 A Class Member may, before the Response Deadline, dispute the amount of his or her Settlement
6 Share, and the data used to calculate it, by timely sending a written notice to the Settlement
7 Administrator informing the Settlement Administrator of the nature of the dispute and providing any
8 records or documentation supporting their position. In response to such a challenge, Defendant will first
9 verify the accuracy of the information contained in its records. Next, Class Counsel and Defense
10 Counsel will make a good faith effort to resolve the dispute informally. If Class Counsel and Defense
11 Counsel are unable to agree, the dispute shall be resolved by the Settlement Administrator after
12 examination of the records provided by the Class Member and Defendant. The Settlement
13 Administrator's determination will be final and binding.

14 If, before the Response Deadline, an individual not previously identified in the Class List asserts
15 his or her membership in the Class and seeks recovery under the Settlement, the Settlement
16 Administrator shall provide Class Counsel and Defense Counsel with the evidence submitted by the
17 individual. To be eligible for recovery under this Settlement, individuals must provide sufficient proof to
18 the Settlement Administrator supporting his or her request for inclusion, including specific evidence
19 establishing that he or she qualifies as a Class Member as defined herein. If Class Counsel and Defense
20 Counsel agree an individual is not a Class Member, the Settlement Administrator will inform the
21 individual that their request for inclusion has been rejected. If Class Counsel and Defense Counsel are
22 unable to agree, the dispute shall be resolved by the Settlement Administrator after examination of the
23 records provided by the Class Member and Defendant. The Settlement Administrator's determination
24 will be final and binding.

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1 **VII. EXCLUSIONS, OBJECTIONS AND BINDING EFFECT OF SETTLEMENT.**

2 68. Right to Opt-Out of Settlement.

3 The Class Notice will advise each Class Member of their right to exclude themselves from or opt-
4 out of the Settlement. To be effective, requests for exclusion must (a) be submitted in writing to the
5 Settlement Administrator, postmarked on or before the Response Deadline (i.e., no later than 45 calendar
6 days from the date of mailing of the Class Notice); (b) contain the individual's full name, current home
7 (or mailing address), and the last four digits of his or her social security number; (c) be signed by the
8 individual; and (d) include written affirmation of his or her desire to exclude themselves containing the
9 following or substantially similar language:

10
11 "I elect to opt-out of the *Modica vs. Iron Mountain Information Management Services, Inc., et al*
12 class action settlement. I understand that by doing so, I will not be able to participate in the
13 settlement, and will not receive a share of the settlement."
14

15 The Settlement Administrator shall notify Class Counsel and Defense Counsel within 48 hours of
16 its receipt of requests for exclusion. The Class Notice shall include the specific address to which
17 requests for exclusion must be mailed as well as a summary of this paragraph. Any Class Member who
18 timely requests exclusion from this Settlement shall not have any rights under the Settlement, shall not
19 be entitled to receive a Settlement Share, shall not be bound by the Settlement or the Order of Final
20 Approval, and shall not have the right to file an objection to the Settlement. No Class Member responses
21 of any kind that are postmarked more than 45 calendar days from the date of mailing of the Class Notice
22 shall be considered. Responses from Class Members must be postmarked for mail with the U.S. Postal
23 Service. Responses sent by facsimile, email, or other forms of electronic transmission will not be
24 considered.

25 69. Right of Class Members to Object to Settlement.

26 The Class Notice will advise each Class Member of their right object to the Settlement. To be
27 effective, the Class Member cannot opt-out and his or her objection must (a) be mailed to the Court,
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1 postmarked on or before the Response Deadline (i.e., no later than 45 calendar days from the date of
2 mailing of the Class Notice); (b) clearly identify the case name and number; (c) contain the objector's
3 full name, current home (or mailing address), and the last four digits of his or her social security number;
4 (d) clearly and concisely state all grounds for the objection; (e) indicate whether the objector is
5 represented by counsel and, if so, identify such counsel; (f) indicate whether the objector or his or her
6 counsel intend to appear at the Final Approval Hearing; and (g) be signed by the objector or his or her
7 counsel.

8 The Class Notice shall include the specific address to which objections must be mailed as well as
9 a summary of this paragraph. No Class Member may be heard at the Final Approval Hearing unless he
10 or she has complied with these requirements, or any requirements mandated by the Court, and any Class
11 Member who fails to comply with said requirements shall be deemed to have waived his or her right to
12 object to the Settlement unless the Court orders otherwise. The Parties will not be responsible for any
13 fees, costs, or expenses incurred by any Class Member and/or his or her counsel related to any objections
14 to the Settlement and/or appeals arising therefrom. Any Class Member whose objection is overruled will
15 be deemed to be a Participating Class Member and subject to the terms of this Settlement and the Court's
16 Order of Final Approval.

17 70. Acknowledgment of Binding Terms of the Settlement.

18 Class Counsel, Plaintiff, and the Participating Class Members acknowledge that they may
19 hereafter discover facts or law different from, or in addition to, the facts or law they know or believe to
20 exist with respect to the Released Claims. Class Counsel, Plaintiff, and the Participating Class Members
21 nonetheless agree that this Agreement and the Released Claims contained herein shall be and remain
22 effective in all respects notwithstanding such different or additional facts or law regarding such Released
23 Claims. Class Counsel, Plaintiff, and the Participating Class Members will bound by the terms and
24 conditions of this Settlement, the Court's Order of Final Approval, and the releases set forth herein.

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1 **VIII. RELEASES**

2 71. Released Claims.

3 As of the Effective Date, and in exchange for the consideration provided herein, the Participating
4 Class Members, i.e., those that do not opt-out, and their respective heirs, beneficiaries, devisees,
5 executors, administrators, trustees, conservators, guardians, personal representatives, successors-in-
6 interest, and assigns, shall forever and completely release and discharge Defendant and Released Parties
7 from the following claims, collectively the Released Claims:

- 8 (i) Participating Doubletime Subclass Members release Defendant and the Released Parties
9 of any and all claims for failure to pay doubletime wages and unfair business practices in
10 violation of California Business and Professions Code section 17200 et. seq., as well as
11 any and all claims under California law that were or could have been pled based upon the
12 factual allegations contained in the FAC. Participating Doubletime Subclass Members
13 whose employment with Defendant ended between October 1, 2017 and the earlier of
14 preliminary approval or March 13, 2020, and thus are also Former Employee Subclass
15 Members, shall also release any and all claims for failure to pay all wages due and owing
16 at the end of employment in violation of California Labor Code section 201-203;
- 17 (ii) Participating Sick Pay Subclass Members release Defendant and the Released Parties of
18 any and all claims for failure to pay sick pay and unfair business practices in violation of
19 California Business and Professions Code section 17200 et. seq., as well as any and all
20 claims under California law that were or could have been pled based upon the factual
21 allegations contained in the FAC. Participating Sick Pay Subclass Members whose
22 employment with Defendant ended between October 1, 2017 and the earlier preliminary
23 approval or March 13, 2020, and thus are also Former Employee Subclass members, shall
24 also release any and all claims for failure to pay all wages due and owing at the end of
25 employment in violation of California Labor Code section 201-203;
- 26 (iii) Participating Wage Statement Subclass Members release Defendant and the Released
27 Parties of any and all claims for failure to furnish accurate itemized wage statements in
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1 violation of Labor Code section 226 between January 22, 2018 through the earlier of
2 March 13, 2020 or preliminary approval;

3 (iv) Participating Doubletime Subclass Members and Participating Sick Pay Subclass
4 Members who are currently employed by Defendant and who participate in the Settlement
5 and receive a payment thereunder shall, by virtue of the same, release Defendant and the
6 Released Parties of any Labor Code section 201-203 claims for failure to pay doubletime
7 and/or sick pay, as appropriate, due and owing at the end of employment based upon the
8 claims set forth above in subsections (i) and (ii), above; and

9 (v) Doubletime Subclass Members who cash their Settlement Share checks also release
10 Defendant and Released Parties from any and all claims for failure to pay doubletime in
11 violation of 29 USC 207 based upon the factual allegations contained in the Class Action

12 In addition, all Participating Class Members shall be enjoined from seeking any monetary relief/award
13 by filing any claims with the Division of Labor Standards and Enforcement or Department of Labor, or
14 from initiating other proceeding regarding claims released under this Settlement.

15 72. Released PAGA Claims.

16 As of the Effective Date, Plaintiff, on behalf of herself the Labor and Workforce
17 Development Agency, and the other aggrieved employees in the State of California, releases
18 Defendant and Released Parties from any and all PAGA Claims based upon Defendant's alleged
19 violation of Labor Code sections 201 – 203, 221, 224, 225.5, 226, 226.3, 245.5-249, 510, 558, 1174,
20 1174.5, 1194, 1194.2, 1198, between December 24, 2017 and the earlier of March 13, 2020 or the
21 date of the Order of Preliminary Approval. The claims described above are referred to herein as the
22 "Released PAGA Claims."

23 73. Release by Plaintiff.

24 As of the Effective Date, in addition to the Released Claims, and in consideration for receipt of a
25 Service Payment, Plaintiff expressly additionally release all claims relating to her employment with
26 Defendant, conditions of employment, or the termination of her employment, including but not limited
27 to, claims for, breach of contract, breach of the covenant of good faith and fair dealing, negligent or
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1 intentional infliction of emotional distress; defamation; wrongful discharge; retaliation; harassment;
2 violation of public policy; constructive discharge; whistleblowing; interference with prospective
3 economic advantage or contractual relations; unfair business practices; unfair competition; or other tort
4 or personal injury; violation of any federal, state, or other governmental statute, regulation, or ordinance,
5 including, without limitation violation of Title VII of the Civil Rights Act of 1964, the Americans with
6 Disabilities Act, the Family and Medical Leave Act, the California Fair Employment and Housing Act,
7 the California Family Rights Act, the California Labor Code or any Industrial Welfare Commission
8 Wage Order, and vested benefits under the Employee Retirement Income Security Act. Plaintiffs
9 expressly waive and relinquish all rights and benefits afforded by Section 1542 of the Civil Code of the
10 State of California and does so understanding and acknowledging the significance of the waiver of
11 Section 1542. Section 1542 of the Civil Code of the State of California states: A GENERAL RELEASE
12 DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT
13 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
14 RELEASE AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED
15 HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

16 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and
17 complete release and discharge of Defendant and Released Parties, Plaintiff expressly acknowledges that
18 this Settlement is intended to include in its effect all claims that Plaintiff knows of, as well as all claims
19 that she does not know or suspect to exist in her favor against Defendant and Released Parties, and that
20 this Settlement contemplates the extinguishment of any such claims.

21 **IX. FINAL SETTLEMENT APPROVAL.**

22 74. Final Approval Hearing.

23 Class Counsel will take all necessary steps to secure the Court's final approval of this Settlement.
24 Defense Counsel agrees not to oppose Class Counsel's request for final approval of this Settlement as
25 long as the Class Counsel's request for final approval is consistent with the terms of this Settlement. A
26 Final Approval Hearing shall be held for the purpose of purpose of considering, *inter alia*, (a) the
27 fairness, adequacy, and reasonableness of the Settlement, (b) the Service Payment to Plaintiff, (c) the
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1 fees and reasonable costs of Class Counsel, and (d) the propriety of any timely objections as well as
2 Class Counsel's and Defense Counsel's response thereto. The date of the Final Approval Hearing shall
3 be set by the Court, and notice of such shall be provided to Class Members in the Class Notice.
4 Although the Court may continue the Final Approval Hearing without further notice to the Class
5 Members.

6 Plaintiffs will respectfully request the Court enter an Order of Final Approval, and Defendant
7 agree not to oppose as long as the Order of Final Approval remains consistent with the terms of this
8 Settlement:

- 9 (i) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and
10 adequate, and directing consummation of its terms and provisions;
- 11 (ii) Approving payment to the Settlement Administrator;
- 12 (iii) Approving the Service Payment to the Plaintiff for her service as Class Representative;
- 13 (iv) Approving Class Counsel's application for fees and reasonable costs;
- 14 (v) Permanently enjoining and restraining Participating Class Members from and against
15 initiating or pursuing against Defendant any individual, representative, or class claims
16 released by this Settlement;
- 17 (vi) Entering judgment in this Class Action consistent with the terms of this Settlement; and
- 18 (vii) Retaining jurisdiction to the extent necessary over the subject matter of the Class Action
19 and over the Parties and Class Members to enforce the terms of the Settlement.

20 **X. TERMINATION OF THE SETTLEMENT.**

21 75. Defendant's Right to Terminate the Settlement.

22 Notwithstanding any other provision in this Settlement, if 7% or more of the Class Members opt
23 out of the Settlement, Defendant shall have the right, in its sole discretion, to rescind, nullify, and
24 terminate the Settlement within ten (10) calendar days after the expiration of the Response Period. The
25 Settlement Administrator shall notify Defense Counsel and Class Counsel via email immediately if the
26 7% threshold for opt-outs is exceeded. If Defendant exercises this right, however, it shall be responsible
27 for the reasonable fees and costs of the Settlement Administrator to that point.

1 76. Effect of Termination.

2 If the Settlement is terminated in accordance with the terms set forth herein (a) the Settlement
3 shall have no force or effect, and no party shall be bound by any of its terms; except as otherwise
4 provided herein, (b) the Order of Preliminary Approval and/or Order of Final Approval shall be vacated,
5 (c) the Settlement and all negotiations, statements, and proceedings related thereto shall be without
6 prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in
7 the Class Action prior to the settlement, and (d) neither this Settlement Agreement, nor the filings in
8 connection with the sought approval thereof shall be admissible or offered into evidence in the Class
9 Action or in any other action for any reason whatsoever.

10 77. Nullification of Settlement Agreement.

11 In the event: (i) the Court does not grant approval of the Settlement as provided herein; (ii) the
12 Court does not grant final approval of the Settlement as provided herein; (iii) the Court does not enter a
13 Final Judgment as provided herein; or (iv) the Settlement does not become final for any other reason, this
14 Settlement Agreement shall be deemed null and void, including Defendant' obligation to fund the
15 Maximum Settlement Amount; provided, however, that reduction by the Court of Class Counsel fees and
16 costs or a reduction by the Court of Plaintiff's Service Payment shall not render this Settlement null and
17 void. In the event this Settlement Agreement is rendered null and void as set forth herein, any order or
18 judgment entered by the Court in furtherance of this Settlement shall be treated as void from the
19 beginning, and the stipulations and recitals contained herein shall be of no force or effect, and shall not
20 be treated as an admission by the Parties or their Counsel. In such a case, the Parties and any funds to be
21 awarded under this Settlement shall be returned to their respective statuses as of the date and time
22 immediately prior to the execution of this Settlement Agreement; the Parties shall stand in the same
23 position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court;
24 and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed and no
25 individual or entity shall be entitled to the payment amounts contemplated herein, except that any costs
26 already incurred by the Settlement Administrator shall be paid in equal parts by Plaintiff and Defendant.

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1 **XI. MISCELLANEOUS TERMS.**

2 78. Mutual Cooperation.

3 The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement
4 Agreement, including but not limited to, executing and amending such documents and taking such other
5 actions as may reasonably be necessary to implement the terms of this Settlement Agreement. The
6 Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and
7 any other efforts that may become necessary by order of the Court or otherwise, to effectuate this
8 Settlement Agreement and the terms set forth herein. Neither party, nor their counsel, employees, or
9 agents, shall solicit or encourage any Class Member to exclude themselves from the Settlement or object
10 to the Settlement.

11 79. Non-Evidentiary Use.

12 Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in
13 any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement;
14 provided, however, that this Settlement Agreement may be used by Defendant and/or the Released
15 Parties to prove or defend against any claim released herein by Plaintiff or any Settlement Class member
16 in any claim or threatened claim, including but not limited to any judicial, quasi-judicial, administrative,
17 or governmental proceeding. Neither this Settlement Agreement or its terms, nor any statements or
18 conduct in the negotiation or drafting of it, shall be admissible, offered, or used as evidence by the
19 Parties, any Settlement Class member, or their respective counsel in the Action or in any other
20 proceeding as evidence of liability or wrongdoing by Defendant and/or the Released Parties, or for any
21 purpose whatsoever. If Final Approval does not occur, the Parties agree that this Settlement Agreement
22 is void, but remains protected by California Evidence Code Section 1152. In the event of non-approval
23 by the Court, the Parties may not use the fact that the Parties agreed to settle the case (nor any
24 communications regarding the Settlement or any confidential data provided for settlement purposes
25 only), as evidence of Defendant's liability.

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1 80. Modification.

2 This Settlement Agreement may not be changed, altered, or modified, except in writing and
3 signed by counsel for the Parties, and approved by the Court, provided however that changes solely to
4 the timing and deadlines herein may be made for administrative convenience by written agreement of
5 counsel for all Parties without Court approval. This Settlement Agreement may not be discharged except
6 by performance in accordance with its terms or by a writing signed by the Parties hereto and approved by
7 the Court.

8 81. Integration Clause – Entire Agreement.

9 This Settlement Agreement and the attached exhibits contains the entire agreement between the
10 Parties relating to the settlement of the Class Action and the transaction contemplated hereby, and all
11 prior or contemporaneous agreements, understandings, representations, and statements, whether oral or
12 written and whether by a party or such party’s legal counsel, are merged herein. In entering into this
13 Settlement Agreement, none of the Parties has relied on any representation or promise not expressly set
14 forth in this Settlement Agreement. No rights hereunder may be waived except in writing.

15 82. Class Counsel Signatories.

16 It is agreed that because of the anticipated large number of Participating Class Members, it will
17 be impossible or impractical to have each Participating Class Member execute this Settlement
18 Agreement. As such, Class Counsel is signing on behalf of the Participating Class Members. In
19 addition, the Notice will advise Class Members of the binding nature of the Settlement, and their right to
20 Opt-Out and/or object, and shall have the same force and effect as if it were executed individually by
21 each Participating Class Member.

22 83. Interim Stay of Proceedings.

23 Pending the completion of the approval process, the Parties agree to a stay of all proceedings in
24 the Class Action except those necessary to implement the Settlement itself.

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1 84. Notices.

2 Any notices, requests, requests, demands, or other communications required or necessitated by
3 this Settlement Agreement shall be in writing and, except as provided elsewhere in this Settlement
4 Agreement, shall be delivered as follows:

5 If to Plaintiff or Class Counsel, then to:

If to Defendant or Defense Counsel, then to:

7 Robert J. Wasserman, Esq.

 Jon D. Meer, Esq.

8 Jenny D. Baysinger, Esq.

 Jonathan L. Brophy, Esq.

9 Mayall Hurley P.C.

 Seyfarth Shaw LLP

10 2453 Grand Canal Blvd.

 2029 Century Park East, Suite 3500

11 Stockton, CA 95207

 Los Angeles, CA 90067-3021

12 Email: rwasserman@mayallaw.com

 Email: jmeer@seyfarth.com

13 Email: jbaysinger@mayallaw.com

 Email: jbrophy@seyfarth.com

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15 85. Resolution of Disputes Arising from Preparation of Settlement Agreement.

16 If the Parties have a dispute with regard to the preparation of this Settlement Agreement, they
17 agree to first attempt to resolve the dispute informally through good-faith negotiations, but if those
18 efforts are unsuccessful, they agree to seek the guidance of their mediator, David Rotman, Esq. The
19 Parties will split the cost of the mediator, and all Parties will bear their own fees and costs.

20 86. Retention of Jurisdiction by the Court.

21 Following approval of the Settlement and the Court's entry of the Order of Final Approval, the
22 Court shall retain jurisdiction for the purpose of addressing any issues which may arise with respect to
23 the administration of the Settlement or the enforcement of the Settlement's terms.

24 87. Choice of Law.

25 This Settlement shall be governed by and construed, enforced and administered in accordance
26 with the laws of the State of California.

27 ///

1 88. Construction.

2 This Agreement is entered into freely and voluntarily without duress or undue pressure or
3 influence of any kind or nature whatsoever and neither Party has relied on any promises,
4 representations or warranties regarding the subject matter hereof other than as set forth in this
5 Agreement. Each Party has been represented by counsel in the settlement negotiations leading up
6 to, and in connection with the preparation and execution of, this Settlement Agreement. The
7 Parties acknowledge and agree that all Parties had an equal hand in drafting this Agreement so
8 that it shall not be deemed to have been prepared or drafted by one Party or another. All Parties
9 waive the provisions of California Civil Code section 1654 (and any other equivalent state,
10 federal, or local provision), which provides, in part, that "the language of a contract should be
11 interpreted most strongly against the Party who caused the uncertainty to exist."

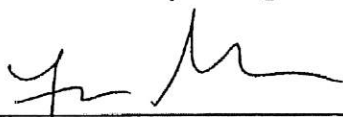
12 89. Execution in Counterparts.

13 This Agreement may be executed in counterparts, by facsimile and/or by electronic
14 signature/PDF, each of which shall be deemed an original, and all of which together shall constitute one
15 and the same instrument. Any signature to this Agreement transmitted by facsimile or electronically and
16 any copies of any signatures are valid and binding.

17 90. Authority.

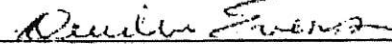
18 The individuals signing this Agreement represent and warrant that they are authorized to do so.
19 Those individuals likewise represent and warrant that they have the authority to execute this Agreement
20 and to take all appropriate action required and permitted to be taken by this Agreement, except such
21 action that is the prerogative of the Court.

22 **DATED:** January 22, 2020

By 

Jennifer Modica
Plaintiff

25 **DATED:** January 22, 2020

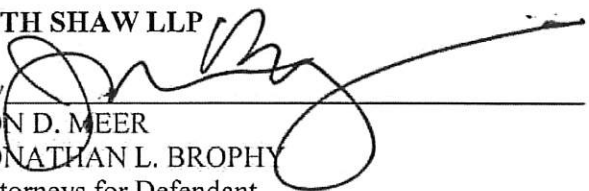
By 

Deirdre Evens, EVP & GM of NA RIM
Authorized Representative for Defendant and
the Released Parties

1 **APPROVED AS TO FORM AND CONTENT:**

2 **DATED:** January 28, 2020

SEYFARTH SHAW LLP

3
4 By 
5 JON D. MEER
6 JONATHAN L. BROPHY
7 Attorneys for Defendant

8 **DATED:** January 22, 2020

MAYALL HURLEY P.C.


9 By 
10 ROBERT J. WASSERMAN
11 JENNY D. BAYSINGER
12 Attorneys for Plaintiff and the Putative Class
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EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF CALIFORNIA

3 JENNIFER MODICA, individually and on
4 behalf of other similarly situated current and
5 former employees and as proxy for the
6 LWDA,

7 Plaintiff,

8 v.

9 IRON MOUNTAIN INFORMATION
10 MANAGEMENT SERVICES, INC., a
11 Delaware corporation; and DOES 1-100,
12 inclusive,

13 Defendant.

Case No.: 2:19-cv-00370-TLN-EF

14 NOTICE OF PENDENCY OF CLASS ACTION,
15 PRELIMINARY APPROVAL OF SETTLEMENT
16 AND HEARING FOR FINAL APPROVAL

17 **IMPORTANT: THIS LEGAL NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT
18 CAREFULLY. YOU ARE NOT BEING SUED. THE COURT IN CHARGE OF THIS CASE
19 STILL HAS TO DECIDE WHETHER TO APPROVE THE SETTLEMENT.**

20 **TO:** All current and former California non-exempt employees of Defendant who (i) worked doubletime
21 or used paid sick leave during a workweek when he/she also earned shift differentials, non-
22 discretionary bonuses, or other remuneration on at least one occasion between October 1, 2017 and
23 the earlier of preliminary approval or March 13, 2020; and/or (ii) received a wage statement during a
24 pay period when he/she either (i) earned shift differentials and/or (ii) worked overtime between
25 January 22, 2018 and the earlier of preliminary approval or March 13, 2020.

26 **RE:** Notice of settlement of a class action lawsuit for alleged wage and hour violations and
27 announcement of a Court hearing that you may choose to attend. You may be entitled to
28 receive a payment under the terms of this class action settlement. Payments will be made only
if the Court approves the settlement and after appeals, if any, are resolved.

29 **YOUR OPTIONS UNDER THIS SETTLEMENT:**

30 DO NOTHING	You are automatically entitled to participate in the Settlement. You will be paid as described in this Notice. You will also be releasing Defendant from any further liability under the settlement
31 OBJECT	You may submit a written objection about why you believe that the Settlement is unfair or unreasonable. Any objection must be received by _____, ___ 2020. You may also speak to the Court about why you believe the Settlement is unfair. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement and entitled to receive a payment.
32 EXCLUDE	If you wish to be excluded from the Settlement, you must mail a written election

1 2 3 4 5 6 7 8	YOURSELF FROM THE SETTLEMENT	not to participate known as an “opt-out” by no later than _____, ____ 2020. If you submit a timely and valid request for opt-out, you will not be bound by the Settlement and will not receive a payment.
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1. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff Jennifer Modica (“Plaintiff”) filed this lawsuit (“Lawsuit”) on January 25, 2019, in the San Joaquin County Superior Court. On March 1, 2019, Iron Mountain Information Management Services, Inc. (“Defendant”) removed the Lawsuit to federal court. Plaintiff is represented by Mayall Hurley P.C. The Court has appointed Mayall Hurley, P.C. to act as attorneys for the Class (referred to as “Class Counsel”) and has approved this Notice.

Plaintiff alleges that Defendant failed to properly compensate its non-exempt California employees; specifically, that Defendant 1) failed to properly calculate and pay doubletime; 2) failed to properly calculate and pay sick pay; 3) failed to furnish accurate itemized wage statements; and 4) failed to pay all wages due upon cessation of employment. Plaintiff also alleges that the foregoing constitute unfair business practices and violate the California Private Attorneys General Act (“PAGA”).

Defendant strongly denies liability for all of Plaintiff’s claims and asserts that it has no liability for any of Plaintiff’s or the Class Members’ claims under any statute, wage order, common law, or equitable theory. Defendant contends that it properly compensated its non-exempt California employees at all times relevant to this lawsuit and has not violated any laws. Defendant has agreed to the proposed Settlement without any admission of wrongdoing. Defendant reserves the right to object to and defend itself against any claim if the Settlement fails.

The Court has made no determination about the strengths and weaknesses of the claims or contentions of either Plaintiff or Defendant. However, in order to avoid the time, risks and expense of continued litigation, Plaintiff and Defendant (the “Parties”) agreed to enter into a settlement of this case (“Settlement”). This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the claims or defenses asserted by either side. There have been ongoing investigations and substantial exchanges of information.

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2. WHY DID I RECEIVE THIS NOTICE?

The Parties have settled this class action lawsuit. Your employment records indicate that you are a member of the Class. If the Court approves the proposed Settlement, your legal rights may be affected. This Notice, which has been approved by the Court, is only a summary. A more detailed document, called the “Class Action Settlement and Release of Claims”, containing the complete terms of the Settlement, is on file with the Court and on the Settlement Administrator’s website at www.ironmountainclassaction.com.

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3. WHO IS COVERED BY THE CLASS ACTION AND PROPOSED SETTLEMENT?

A. Who are the Class Members?

The proposed Settlement covers the claims of certain current and former employees of Defendants (referred to as the “Class Members” and collectively as the “Class”). The Class contains four subclasses defined as follows:

- 1 i. All current and former California non-exempt employees of Defendant who worked more
2 than twelve (12) hours in a workday and/or more than eight (8) hours on the 7th consecutive
3 day worked in the workweek during a workweek when he/she also earned shift differentials,
4 non-discretionary bonuses, or other remuneration on at least one occasion between October
5 1, 2017 and the earlier of preliminary approval or March 13, 2020 (the “Doubletime
6 Subclass”);
7
8 ii. All current and former California non-exempt employees of Defendant who were eligible
9 for and used paid sick leave during a workweek when he/she also earned shift differentials,
10 non-discretionary bonuses, or other remuneration on at least one occasion between October
11 1, 2017 and the earlier of preliminary approval or March 13, 2020 (the “Sick Pay
12 Subclass”);
13
14 iii. All individuals who are members of the Doubletime Class and/or the Sick Pay Class and
15 separated from employment at any time between October 1, 2017 and the earlier of
16 preliminary approval or March 13, 2020 (the “Former Employee Subclass”); and
17
18 iv. All current and former California employees of Defendant who received a wage statement
19 during a pay period when he/she either (i) earned shift differentials and/or (ii) worked
20 overtime between January 22, 2018 and the earlier of preliminary approval or March 13,
21 2020 (the “Wage Statement Subclass”).

22 There are approximately 1,119 individuals in the Class.

23 **i. What is the Effect of Membership in the Class?**

24 If you are a member of one or more of the subclasses defined above, you are automatically a
25 Participating Class Member unless you opt-out (i.e., exclude yourself from the Settlement by following the
26 procedures set forth in this Notice). If the Settlement is approved by the Court, you are entitled to payment
27 under the Settlement and will be bound by its terms. Individuals who opt-out will not be bound by the
28 Settlement and will not be eligible to receive a payment.

1 **4. WHAT ARE THE TERMS OF THE SETTLEMENT?**

2 The proposed Settlement was agreed upon between Defendant and Class Counsel after months of
3 litigation, a mediation with renowned employment class action mediator David Rotman, Esq. and months of
4 protracted negotiations. Class Counsel believes that this Settlement, the terms of which are summarized
5 below, is fair, reasonable, adequate, and in the best interests of the Class.

6 **A. Overall Summary of the Settlement Terms.**

7 Defendant will pay \$1,500,000 to settle the claims of the Class (referred to as the “Maximum
8 Settlement Amount”). The Maximum Settlement Amount includes (1) payments to Participating Class
9 Members, (2) employee- taxes and withholdings, (3) the fees and costs of the Settlement Administrator, (4) a
10 required payment to the State of California's Labor and Workforce Development Agency, (5) the Service
11 Payment to Plaintiff for her service to the Class, (6) and Class Counsel’s attorneys’ fees and reasonable
12 costs. The remainder, after deduction of these payments is known as the "Net Settlement Amount." No
13 money from the Maximum Settlement Fund reverts back to Defendant.

1
2 **B. What Can I Expect to Receive?**

3 Settlement shares shall generally be based upon the number of workweeks worked by Participating
4 Class Members during the Class Period. The amount of each Participating Class Member's Settlement Share
shall be determined by the Settlement Administrator as follows:

5 The Settlement Shares will be proportionally based upon the number of workweeks worked by
6 Participating Class Members during the relevant period. The workweeks worked by each
7 Participating Class Member shall be divided by the total workweeks worked by all Participating
8 Class Members resulting in a payment ratio for each Participating Class Member. Each Participating
9 Class Member's payment ratio is then multiplied by the Net Settlement Amount, less the amount
10 allocated to Participating Former Employee Subclass Members, to determine his or her individual
settlement share. Former Employee Subclass Members shall each receive \$500 in addition to his or
her individual settlement share. Workweeks worked by Participating Doubletime and Sick Pay
Subclass Members shall receive a multiplier of 1.025 to account for the additional value of their
claims.

11 Defendant's records indicate that you are a member of the Doubletime Subclass / Sick Pay Subclass /
12 Former Employee Subclass / Wage Statement Subclass. Its records also indicate that you [worked ____
13 workweeks between [October 1, 2017 and the earlier of preliminary approval or March 13, 2020 or January
22, 2018 and the earlier of preliminary approval or March 13, 2020]. It is estimated that your total payment
14 will be \$ _____. It will not be possible to know the exact amount of your payment until the Response
Deadline has passed and the Settlement Administrator knows the number of Participating Class Members.

15 For the purpose of taxes and required withholdings: (1) 100% of the amount distributed to each
16 Participating Wage Statement Subclass Member who is not a member of any other subclass shall constitute
penalties (for which an IRS Form 1099 shall be issued); (2) 100% of the \$500 paid to each and Former
17 Employee Subclass Member shall constitute penalties (for which an IRS Form 1099 shall be issued); (3) 1%
18 of each Participating DoubleTime and Sick Pay Subclass Member's Settlement Share shall constitute wages
(for which an IRS Form W-2 shall be issued), 49.5% shall constitute interest, and 49.5% shall constitute
19 penalties (for which an IRS Form 1099 shall be issued). You will be issued appropriate tax forms for these
amounts. Any and all employer taxes that Defendant would normally be responsible for paying will be paid
20 by Defendant in addition to the Maximum Settlement Amount. You are responsible for any taxes owing on
the non-wage portion of your payment. Nothing in this Notice, or in any of the settlement documents is
21 intended to provide any tax advice and you understand that Defendant, Defendant's counsel, Plaintiff, and
Plaintiff's counsel are not giving any tax advice.
22

23 **C. Costs of Claims Administrator.**

24 The Parties have agreed to employ Phoenix Class Action Administration Solutions to serve as
Settlement Administrator. The Settlement Administrator sends out this Notice, calculates the amount of
25 each Settlement Share and taxes and sends out the checks to Participating Class Members. The Settlement
Administrator's fees and costs for administering the Settlement, estimated to be no more than \$14,000, if
26 approved by the Court, will be paid out of the Maximum Settlement Amount.
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1 **D. Payment to the State of California.**

2 The Settlement allocates \$10,000 of the Maximum Settlement Amount to any civil penalties under
3 the Private Attorneys General Act ("PAGA") that could be awarded as a result of the violations alleged. Of
4 that amount, \$7,500 (75% of \$10,000) will be paid to the State of California's Labor and Workforce
5 Development Agency, and the remaining \$2,500 (25% of \$10,000) will be included in the amounts paid to
6 the Participating Class Members.

7 **E. Service Payment to Class Representative.**

8 Plaintiff has been approved by the Court to serve as Class Representative. As Class Representative,
9 Plaintiff is entitled to payment for her services to the Class. The Court has preliminarily approved a
10 payment of \$15,000, or 1% of the Maximum Settlement Amount, for Plaintiff's services to the Class. The
11 actual amount awarded will be determined by the Court upon final approval of the Settlement.

12 **F. Class Counsel's Fees and Costs.**

13 Class Counsel are entitled to attorney's fees and costs for representing the Class. Class Counsel will
14 request for attorneys' fees of one-third of the Maximum Settlement Amount, or \$500,000, and
15 reimbursement of declared litigation costs of up to \$25,000. The Court has preliminarily approved payment
16 to Class Counsel in the amount set forth above. The actual amount awarded will be determined by the Court
17 upon final approval of the Settlement.

18 **5. WHAT AM I GIVING UP IF I DO NOT OPT-OUT OF THE SETTLEMENT?**

19 If the Settlement is approved by the Court, in exchange for the consideration provided herein, the
20 Participating Class Members, i.e., those that do not opt-out, and their respective heirs, beneficiaries, devisees,
21 executors, administrators, trustees, conservators, guardians, personal representatives, successors-in-interest,
22 and assigns, shall forever and completely release and discharge Defendant and Released Parties from the
23 following claims, collectively the Released Claims:

- 24 (i) Participating Doubletime Subclass Members release Defendant and the Released Parties of any
25 and all claims for failure to pay doubletime wages and unfair business practices in violation of
26 California Business and Professions Code section 17200 et. seq., as well as any and all claims
27 under California law that were or could have been pled based upon the factual allegations
28 contained in the FAC. Participating Doubletime Subclass Members whose employment with
Defendant ended between October 1, 2017 and the earlier of preliminary approval or March 13,
2020, and thus are also members of the Former Employee Subclass, shall also release any and
all claims for failure to pay all wages due and owing at the end of employment in violation of
California Labor Code section 201-203;
- (ii) Participating Sick Pay Subclass Members release Defendant and the Released Parties of any
and all claims for failure to pay sick pay and unfair business practices in violation of California
Business and Professions Code section 17200 et. seq., as well as any and all claims under
California law that were or could have been pled based upon the factual allegations contained
in the FAC. Participating Sick Pay Subclass Members whose employment with Defendant
ended between October 1, 2017 and the earlier preliminary approval or March 13, 2020, and
thus are also members of the Former Employee Subclass shall also release any and all claims

1 for failure to pay all wages due and owing at the end of employment in violation of California
2 Labor Code section 201-203;

3 (iii) Participating Wage Statement Subclass Members release Defendant and the Released Parties of
4 any and all claims for failure to furnish accurate itemized wage statements in violation of Labor
5 Code section 226 between January 22, 2018 through the earlier of March 13, 2020 or
6 preliminary approval;

7 (iv) Participating Doubletime Subclass Members and Participating Sick Pay Subclass Members
8 who are currently employed by Defendant and who participate in the Settlement and receive a
9 payment thereunder shall, by virtue of the same, release Defendant and the Released Parties of
10 any Labor Code section 201-203 claims for failure to pay doubletime and/or sick pay, as
11 appropriate, due and owing at the end of employment based upon the claims set forth above in
12 subsections (i) and (ii), above; and

13 (v) Doubletime Subclass Members who cash their Settlement Share checks also release Defendant
14 and Released Parties from any and all claims for failure to pay doubletime in violation of 29
15 USC 207 based upon the factual allegations contained in the Class Action.

16 If the Settlement is approved by the Court, Plaintiff, on behalf of herself the Labor and Workforce
17 Development Agency, and the other aggrieved employees in the State of California, releases Defendant and
18 Released Parties from any and all PAGA Claims based upon Defendant's alleged violation of Labor Code
19 sections 201 – 203, 221, 224, 225.5, 226, 226.3, 245.5-249, 510, 558, 1174, 1174.5, 1194, 1194.2, 1198,
20 between December 24, 2017 and the earlier of March 13, 2020 or the date of the Order of Preliminary
21 Approval.

22 **If you do NOT exclude yourself by following the procedures set forth in this Notice and the Court
23 approves the proposed Settlement, you will be deemed to have released the aforementioned claims, as
24 appropriate, and will receive a payment.**

25 6. HOW DO I RECEIVE A PAYMENT?

26 You do not need to submit a claim form. All Class Members will receive a payment under this
27 Settlement unless they submit a timely and valid request for opt-out. If you are a Class Member and you
28 move or change your address, and you want to receive your payment at your new address, you must send a
notice of your change of address to the Settlement Administrator, Phoenix Class Action Administration
Solutions, P.O. Box 7208, Orange, CA 92863, Telephone: (800) 523-5773,
www.administrator@_____.com; www.ironmountainclassaction.com.

7. WHAT ARE MY RIGHTS AND OPTIONS?

If you are a Class Member as defined above, you have the following rights and options under the
proposed Settlement:

A. Participate in the Settlement, be represented by Class Counsel, and take no action.

1 If you take no further action, you will be a Participating Class Member, will be represented by Class
2 Counsel, and will have the right to a share of the Net Settlement Amount. If the Settlement is approved by
3 the Court, you will be bound by the terms of the Settlement and, as set forth above, will be deemed to have
4 released your claims against Defendant. As a Participating Class Member, you will not be charged for the
5 services of Class Counsel.

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8 **B. Participate in the Settlement, but elect to hire your own attorney.**

9 If you do not wish to be represented by Class Counsel, you may hire your own attorney. Your
10 attorney must send a Notice of Appearance to the Settlement Administrator at the address listed below, so
11 that it is received no later than _____, ____ 2020. You will be responsible for any attorneys' fees and
12 costs charged by your attorney.

13
14 **C. Exclude yourself from the Settlement by opting out.**

15 If you are a Class Member but do not want to participate in the settlement, you may exclude yourself
16 by opting out. If you choose to opt-out, you will lose any right to participate in the settlement and you will
17 not be eligible to receive a share of the Net Settlement Amount. You will be free to pursue any claims you
18 may have against Defendant on your own behalf, but Class Counsel will not represent you.

19 In order to opt-out, you must notify the Settlement Administrator, in writing, at the address listed
20 below. In order to be effective, your opt-out must be postmarked or delivered to the Settlement
21 Administrator no later than [45 days from the mailing of the Class Notice], and must be signed, contain your
22 full name, current home (or mailing address), the last four digits of your Social Security number, and written
23 affirmation of your desire to opt out containing the following or substantially similar language:

24 "I elect to opt out of the *Modica vs. Iron Mountain Information Management Services, Inc., et al.*
25 class action settlement. I understand that by doing so, I will not be able to participate in the
26 settlement, and will not receive a share of the settlement."

27 If you do not comply with these procedures, you will lose any opportunity to exclude yourself from
28 the settlement, you will be a Participating Class Member, will be represented by Class Counsel, and will
receive a share of the Net Settlement Amount. If the Settlement is approved by the Court, you will be bound
by the terms of the Settlement and, as set forth above, will be deemed to have released your claims against
Defendant.

D. Object to the terms of the Settlement.

If you are dissatisfied with the terms of the Settlement, you may, object to the Settlement. All
objections and supporting papers must (a) clearly identify the case name and number (i.e., *Modica vs. Iron
Mountain Information Management Services, Inc., et al*, United States District Court, Eastern District of
California, Case No. 2:19-cv-00370-TLN-EF), (b) include your full name, address, telephone number, and
the last four digits of your Social Security Number, (c) concisely state the grounds for your objection, (d)
indicate whether you are represented by counsel and, if so, identify such counsel, (e) indicate whether you
would like to appear at the Final Approval Hearing, and (e) be signed by you. To be timely, your objection
must be mailed to the Court and the Settlement Administrator, postmarked on or before [45 days following
the mailing of the Notice].

1 If you have filed a timely and proper objection, you also may, but are not required, to appear and
2 present argument at the Final Approval Hearing. Objections not timely postmarked or delivered by [45 days
3 after the mailing of the Notice] will not be considered by the Court. If you file an objection that is not
4 timely, or that does not include the information specified above, you will have no right to appear and present
5 any argument at the Final Approval Hearing.

6 You may be represented by an attorney at the Final Approval Hearing. Any attorney who will
7 represent an individual objecting to the settlement must file a notice of appearance with the Court and serve
8 counsel for all parties on or before [45 days after the mailing of the Notice]. All objections or other
9 correspondence must state the name and number of the case – *Modica vs. Iron Mountain Information
10 Management Services, Inc., et al.*, United States District Court, Eastern District of California, Case No. 2:19-
11 cv-00370-TLN-EF.

12 **8. WHEN IS THE COURT HEARING AND WHAT IS IT FOR?**

13 The Court will hold the Final Approval Hearing in the Robert T. Matsui United States Courthouse,
14 501 I Street, Sacramento, CA 95814, on _____, ____ 2019, at 2:00 p.m. in Courtroom 2, 15th Floor, to
15 determine whether the Settlement should be finally approved as fair, reasonable and adequate. The Court
16 will also be asked to approve the fees and costs of the Settlement Administrator, the payment to the State of
17 California, the Service Payment to the Class Representative, and the fees and costs of Class Counsel. **It is
18 not necessary for you to appear at this hearing to participate in the Settlement.** If you want to be heard
19 orally in support of, or in opposition to, the Settlement (for instance if you have submitted an objection),
20 either personally or through counsel, you must comply with the procedures set forth above.

21 **9. HOW CAN I GET MORE INFORMATION?**

22 The above is a summary of the basic terms of the Settlement. For the precise terms and conditions
23 of the Settlement, you are referred to the Class Action Settlement and Release of Claims. The Class Action
24 Settlement and Release, as well as the pleadings and other records in this litigation, including Motion for
25 Preliminary Approval, Motion for Final Approval, and Motion for Attorneys' Fees, Costs and Service
26 Payment, are available by accessing the Court docket in this case through the Court's Public Access to
27 Electronic Records (Pacer) system at <https://ecf.caed.uscourts.gov>, or by visiting the Clerk Court at any
28 time between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court Holidays, in the Clerk's
29 Office located at the Robert T. Matsui United States Courthouse, 501 "I" Street, Room 4-200 Sacramento,
30 CA 95814. You may also view the Court's Order of Preliminary Approval and, once they are filed, the
31 Motion for Attorneys' Fees, Costs and Service Payment, Motion for Final Approval, and Order Granting
32 Final Approval, online at www.ironmountainclassaction.com. The Motion for Attorneys' Fees, Costs and
33 Service Payment will appear online on or before [35 days after the mailing of the Class Notice]. The
34 Motion for Final approval will appear online on or before [_____, ____ 2020].

35 If you have questions about the Settlement, you may contact Class Counsel or the Claims
36 Administrator as follows:

<u>Class Counsel</u>	<u>Claims Administrator</u>
Robert J. Wasserman, Esq. Jenny D. Baysinger, Esq. Mayall Hurley P.C. 2453 Grand Canal Blvd.	Modica vs. Iron Mountain Information Management Services, Inc. c/o _____ ADDRESS

1 Stockton, CA 95207
2 Telephone: (209) 477-3833
3 rwasserman@mayallaw.com
jbaysinger@mayallaw.com

CITY, STATE ZIP
Telephone: (209) 867-5309
www.administrator@_____.com

4 **PLEASE DO NOT WRITE OR TELEPHONE THE COURT FOR INFORMATION ABOUT THE**
5 **PROPOSED SETTLEMENT OR THIS LAWSUIT.**

6 **THE COURT HAS APPROVED THIS NOTICE.**

EXHIBIT 2