

1 DIVERSITY LAW GROUP, P.C.  
Larry W. Lee (SBN 228175)  
2 *lwlee@diversitylaw.com*  
Kristen M. Agnew (SBN 247656)  
3 *kagnew@diversitylaw.com*  
Nicholas Rosenthal (SBN 268297)  
4 *nrosenthal@diversitylaw.com*  
515 S. Figueroa Street, Suite 1250  
5 Los Angeles, CA 90071  
(213) 488-6555  
6 (213) 488-6554 facsimile

7 POLARIS LAW GROUP LLP  
William L. Marder, Esq. (SBN 170131)  
8 *bill@polarislawgroup.com*  
501 San Benito Street, Suite 200  
9 Hollister, CA 95023  
Tel: (831) 531-4214  
10 Fax: (831) 634-0333

11 Attorneys for Plaintiff  
ROSA MARIA GARCIA and the Class

12 SEYFARTH SHAW LLP  
Christian J. Rowley (SBN 187293)  
13 *crowley@seyfarth.com*  
Kerry Friedrichs (SBN 198143)  
14 *kfriedrichs@seyfarth.com*  
Jaelyn Gross (SBN 323933)  
15 *kgross@seyfarth.com*  
560 Mission Street, 31st Floor  
16 San Francisco, California 94105  
Telephone: (415) 397-2823  
17 Facsimile: (415) 397-8549

18 Attorneys for Defendant  
19 THE PERMANENTE MEDICAL GROUP, INC.

20  
21 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN JOAQUIN

22 ROSA MARIA GARCIA, as an individual and on  
23 behalf of all others similarly situated,

24 Plaintiffs,

25 v.

26 THE PERMANENTE MEDICAL GROUP, INC.,  
a California corporation; and DOES 1 through 50,  
27 inclusive,

28 Defendants.

Case No. STK-CV-UOE-2019-10008

**STIPULATION AND SETTLEMENT OF  
CLASS, COLLECTIVE, AND  
REPRESENTATIVE ACTION**

Date Action Filed: August 1, 2019  
Trial Date: None Set

1 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP  
Norman B. Blumenthal (SBN 68687)  
2 *norm@bamlawca.com*  
Kyle R. Nordrehaug (SBN 205975)  
3 *kyle@bamlawca.com*  
Aparajit Bhowmik (SBN 248066)  
4 *aj@bamlawlj.com*  
2255 Calle Clara  
5 La Jolla, CA 92037  
Tel: (858) 551-1223  
6 Fax: (858) 551-1232

7 Attorneys for Plaintiff  
BRITTANY MILLER  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Subject to final approval by the Court, which counsel and the Parties agree to diligently pursue  
2 and recommend in good faith, Plaintiffs Rosa Maria Garcia, Jennifer Horton, and Brittany Miller  
3 (“Plaintiffs”), individually and on behalf of all other similarly situated persons and aggrieved  
4 employees, on the one hand, and Defendant The Permanente Medical Group, Inc. (“Defendant”), on the  
5 other hand (collectively, the “Parties” and individually, a “Party”), hereby agree to the following binding  
6 settlement of the class, collective, and representative action designated *Garcia et al. v. The Permanente*  
7 *Medical Group, Inc.* (San Joaquin County Superior Court Case No. STK-CV-UOE-2019-10008, (the  
8 “Action”), pursuant to the terms and conditions set forth below (the “Settlement,” “Settlement  
9 Agreement” or “Agreement”). Upon the Effective Date, and the payment by Defendant of all monies  
10 due under the Agreement, the Parties shall file a Satisfaction of Judgment with the Court.

11 **I. Definitions.**

12 The following definitions are applicable to this Settlement Agreement. Definitions contained  
13 elsewhere in this Settlement Agreement will also be effective:

14 **A. “Action.”**

15 The case entitled *Garcia et al. v. The Permanente Medical Group, Inc.*, San Joaquin County  
16 Superior Court Case No. STK-CV-UOE-2019-10008 and *Miller v. The Permanente Medical Group,*  
17 *Inc.*, Alameda County Superior Court Case No. RG19045904, combined as reflected in Section I.B,  
18 below.

19 **B. “Amended Complaint.”**

20 Prior to seeking Court approval of the Settlement, Plaintiffs Garcia and Horton will file a second  
21 amended complaint to add causes of action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*  
22 (“FLSA”), to the extent the FLSA overlaps with the Released Claims. The amendment will also add  
23 other claims and theories encompassed by the settlement to ensure that all included claims and theories  
24 are clearly articulated and covered. Defendant agrees not to remove the case to federal court following  
25 the filing of the second amended complaint. The amendment will also add Brittany Miller as a plaintiff,  
26 and will add the causes of action and theories alleged in *Miller v. The Permanente Medical Group, Inc.*,  
27 Alameda County Superior Court Case No. RG19045904 (the “Miller Action”). Within 5 days after the  
28 Effective Date of the instant settlement, Plaintiff Miller will request to have the class claims alleged in

1 the *Miller* action dismissed without prejudice. If the Court does not grant preliminary or final approval  
2 of the Settlement, the Parties shall be returned to their respective courts and statuses as of the date and  
3 time immediately prior to the Parties' mediation, and the Parties shall proceed in all respects as if this  
4 Settlement Agreement had not been executed, except that the costs of administration shall be borne  
5 equally by both Parties.

6 **C. "Attorneys' Fees and Costs."**

7 The attorneys' fees agreed upon by the Parties and approved by the Court for Class Counsel's  
8 litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the  
9 Action as set forth in Class Counsel's billing statements to clients, including, but not limited to, costs  
10 associated with documenting the Settlement, providing any notices required as part of the Settlement or  
11 Court's Order, securing the Court's approval of the Settlement, administering the Settlement, mediation  
12 expenses, any expert expenses, and securing entry of judgment in the Action. Class Counsel will  
13 request attorneys' fees not to exceed one-third (1/3) of the Class Settlement Amount which is presently  
14 \$9,730,000 (i.e., no more than \$3,243,333.33 in attorneys' fees, presently), plus litigation costs incurred  
15 not to exceed \$30,000 ("Attorneys' Fees and Costs"). The amount of Attorneys' Fees and Costs  
16 awarded are subject to the Court's approval. Defendant has agreed not to oppose Class Counsel's  
17 request for Attorneys' Fees and Costs as set forth above. Such Attorneys' Fees and Costs shall be paid  
18 from the Class Settlement Amount. Defendant shall have no liability for any other attorneys' fees or  
19 costs. Subject to Court approval, Class Counsel have agreed to the allocation of attorneys' fees and  
20 costs among Class Counsel as follows: 50% to Blumenthal Nordrehaug Bhowmik De Blouw LLP and  
21 50% to the law firms of Diversity Law Group, P.C. and Polaris Law Group LLP to be allocated between  
22 them as they shall determine. The allocation of litigation costs shall be to the firm that incurred the  
23 expense. To the extent that the Court approves less than the amount of Attorneys' Fees and Costs that  
24 Class Counsel request, the difference between the requested and awarded amounts will be distributed to  
25 Class Members on a proportional basis relative to the size of their claims as set forth in Section V below.  
26 Class Counsel will be issued an IRS Form 1099 for the Attorneys' Fees and Costs detailed in this  
27 Section and shall be solely and legally responsible for paying all applicable taxes on the payment made  
28

1 pursuant to this Section. No counsel shall be entitled to attorneys' fees or costs for work performed in  
2 this Action or in the *Miller* Action other than as provided in this Settlement Agreement. The instant  
3 Settlement Agreement is the exclusive means for recovery of attorneys' fees and costs incurred in this  
4 Action and in the *Miller* Action by any attorney, law firm and/or other legal services provider.

5 **D. "Class Counsel."**

6 Diversity Law Group, P.C., Polaris Law Group LLP, and Blumenthal Nordrehaug Bhowmik De  
7 Blouw LLP shall be appointed Class Counsel upon approval by the Court.

8 **E. "Class List."**

9 A complete list of all Class Members that Defendant will diligently and in good faith compile  
10 from their records and provide to the Settlement Administrator within thirty (30) calendar days after  
11 Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft  
12 Office Excel spreadsheet and will include each Class Member's full name, most recent mailing address,  
13 telephone number, Social Security number, dates of employment (*i.e.*, hire date and termination date, if  
14 applicable), number of workweeks that a Class Member worked, and any other relevant information  
15 needed to calculate settlement payments.

16 **F. "Class Member(s)" or "Settlement Class."**

17 All non-exempt persons employed by Defendant in the State of California during the Class  
18 Period. It shall be an opt out class. Individuals who submit a timely and valid request for exclusion  
19 shall not be Class Members.

20 **G. "Class Period."**

21 The period from December 6, 2015 through the earlier of the date of preliminary approval or  
22 December 31, 2020.

23 **H. "Class Representative Enhancement Payments."**

24 The amount to be paid to Plaintiffs in recognition of their efforts and work in prosecuting the  
25 Action on behalf of Class Members and for their general release of claims. Subject to the Court granting  
26 Final Approval of this Settlement Agreement, Plaintiffs will request Court approval of Class  
27 Representative Enhancement Payments in the amount of \$10,000 each. Plaintiffs will each be issued an  
28 IRS Form 1099 in connection with their Class Representative Enhancement Payment. Plaintiffs shall be

1 solely and legally responsible for paying any and all applicable taxes on these payments and shall hold  
2 Defendant harmless from any claim or liability for taxes, penalties or interest arising as a result of the  
3 payment. The Class Representative Enhancement Payments will be paid from the Class Settlement  
4 Amount and will be in addition to each Plaintiff's Individual Settlement Payment paid pursuant to the  
5 Settlement and are conditioned on the execution of a general release of claims as set forth below.  
6 Defendant makes no representations as to the tax treatment or legal effect of the payments called for  
7 herein, and Plaintiffs are not relying on any statement or representation by Defendant or its counsel in  
8 this regard. To the extent that the Court approves less than the amount of Class Representative  
9 Enhancement Payments that Plaintiffs request, the difference between the requested and awarded  
10 amounts will be distributed to Class Members on a proportional basis relative to the size of their claims  
11 as set forth in Section IV below.

12 **I. "Class Settlement Amount."**

13 The sum of no more than a Gross Fund Value of \$9,730,000 to be paid by Defendant in full  
14 satisfaction of all claims arising from the Action. The settlement will be on a common fund basis, there  
15 will be no claim form or claims process and there will be no reversion to Defendant. The Class  
16 Settlement Amount includes all Individual Settlement Payments to Class Members, the Class  
17 Representative Enhancement Payments to Plaintiffs, Settlement Administration Costs to the Settlement  
18 Administrator, the Labor and Workforce Development Agency Payment, and the Attorneys' Fees and  
19 Costs. Defendant will be responsible for any employer payroll taxes required by law, separate and in  
20 addition to the Class Settlement Amount, including the employer FICA, FUTA, and SDI contributions  
21 on the wage portion of the Individual Settlement Payments.

22 **J. "Defendant's Counsel"**

23 Christian Rowley, Kerry Friedrichs, and Parnian Vafaenia of Seyfarth Shaw LLP.

24 **K. "Effective Date."**

25 The date on which the Final Award becomes final. For purposes of this Section, the Final Award  
26 "becomes final" only after the Court grants the Motion for Final Approval. If there are no objector(s) or  
27 intervener(s), then the Parties agree that there is no right to appeal and therefore this Settlement shall be  
28 deemed final and the Effective Date shall be Fifteen (15) days after the Court has entered a Final

1 Approval Order and Judgment which approves the Settlement; provided, however, in the event an appeal  
2 is filed, Plaintiffs will file the appropriate motion to dismiss and if such appeal is filed before the  
3 settlement payments are mailed, such mailing shall be stayed until the appeal has been dismissed. If  
4 there is any objection or motion to intervene filed prior to the Court's Final Approval Order and  
5 Judgment, the Effective Date shall be the latter of: (i) if no appeal is filed, the expiration date of the time  
6 for the filing or noticing of any appeal from, or other challenge to, the Order Granting Final Approval  
7 (this time period shall not be less than 60 calendar days after the Court's Order is entered); (ii) the date  
8 of affirmance of an appeal of the Order Granting Final Approval becomes final under the California  
9 Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final Approval  
10 or the final dismissal of any proceeding on review of any court of appeal decision relating to the Order  
11 Granting Final Approval. It is the intention of the Parties that the Settlement shall not become effective  
12 until the Court's Final Order approving the Settlement has become completely final, and no timely  
13 recourse remains for an appellant or objector to contest the Settlement.

14 **L. "Final Approval" or "Final Award."**

15 The court order granting final approval of the Settlement Agreement.

16 **M. "Individual Settlement Payment."**

17 Each Class Member's share of the Net Settlement Amount, which shall be distributed to the  
18 Class Members, less employee portions of state and federal withholding taxes, including the employee  
19 FICA, FUTA and SDI contributions and any other applicable payroll deductions required by law as a  
20 result of the payment of the amount allocated to such Class Member as set forth herein.

21 **N. "LWDA Notice."**

22 The Parties agree that Plaintiffs will submit a Notice to the Labor and Workforce Development  
23 Agency ("LWDA") of this Settlement along with a copy of this Settlement Agreement within ten (10)  
24 calendar days of its execution by all Parties and Class Counsel, and will thereafter submit a copy of any  
25 judgment or any other order (e.g., the Final Award) providing for an award of civil penalties in  
26 conformity with Labor Code Section 2699(l).

27 **O. "LWDA Payment."**

28 The amount that the Parties have agreed to pay to the LWDA in connection with settlement of

1 Plaintiff's PAGA claims. The Parties have agreed that \$100,000 of the Class Settlement Amount will be  
2 allocated to the resolution of any Class Members' claims arising under the PAGA ("PAGA Settlement  
3 Amount"). Pursuant to the PAGA, \$75,000 (75%) of the PAGA Settlement Amount will be paid to the  
4 LWDA and \$25,000 (25%) of the PAGA Settlement Amount will be included in the Net Settlement  
5 Amount. Any change in the requested LWDA Payment is not a material term of this Agreement. If the  
6 Court approves a lesser or greater amount than that requested, the other terms of this Agreement shall  
7 still remain in effect. However, some approval of an LWDA Payment is a material term of the  
8 Settlement and this Agreement. If the Court does not approve any LWDA Payment, then the entire  
9 Agreement will be, at Defendant's sole discretion, void and unenforceable. In such a case, the Parties  
10 shall be returned to their respective statuses as of the date and time immediately prior to the execution of  
11 this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement  
12 had not been executed, except that the costs of administration shall be borne by Defendant.

13 **P. "Net Settlement Amount."**

14 The portion of the Class Settlement Amount remaining after deduction of the approved Class  
15 Representative Enhancement Payments, Settlement Administration Costs, LWDA Payment, and the  
16 Attorneys' Fees and Costs.

17 **Q. "Notice of Class Action Settlement."**

18 The document substantially in the form attached as Exhibit 1 that will be mailed to Class  
19 Members' last known addresses and which will provide Class Members with information regarding the  
20 Action and information regarding the Settlement of the Action.

21 **R. "Notice of Objection."**

22 A Class Member's valid and timely written objection to the Settlement Agreement. For the  
23 Notice of Objection to be valid, it must include the objector's full name, signature, address, telephone  
24 number and a written statement of all grounds for the objection accompanied by legal support, if any, for  
25 such objection. The Notice of Objection must be returned by mail or fax to the Settlement  
26 Administrator at the specified address or facsimile number and postmarked or faxed on or before the  
27 Response Deadline. The date of the postmark or fax receipt confirmation will be the exclusive means to  
28 determine whether a Notice of Objection has been timely submitted. Plaintiffs agree not to object to the

1 Settlement.

2 Absent good cause found by the Court, Class Members who fail to make objections in the  
3 manner specified above shall be deemed to have waived any objections and shall be foreclosed from  
4 making any objection (whether by appeal or otherwise) to the Settlement Agreement. Neither the Parties  
5 nor their counsel will solicit or otherwise encourage Class Members to submit written objections to the  
6 Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent any  
7 Class Members with respect to any such objections to this Settlement. The Settlement Administrator  
8 shall provide counsel for the Parties with complete copies of all objections received, including the date  
9 of postmark or fax receipt confirmation for each objection, within five (5) business days of receipt.  
10 Class Counsel will provide a single packet of copies of any objections and supporting documents to the  
11 Court at least sixteen (16) court days before the Final Approval Hearing. A Class Member who  
12 excludes himself or herself from the Settlement shall lose standing to object.

13 **S. “Notice Packet.”**

14 The Notice of Class Action Settlement and Individual Settlement Payment calculations, to  
15 include workweek information.

16 **T. “PAGA Period.”**

17 The period from July 15, 2018 through the earlier of the date of preliminary approval or  
18 December 31, 2020.

19 **U. “Plaintiffs.”**

20 Plaintiffs Rosa Maria Garcia, Jennifer Horton, and Brittany Miller on behalf of themselves and  
21 all others similarly situated and the general public.

22 **V. “Plaintiffs’ Released Claims.”**

23 Upon the Effective Date, and as a condition of receiving any portion of their Class  
24 Representative Enhancement Payments, Plaintiffs shall fully and finally release the Released Parties  
25 from any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance,  
26 regulation, common law, or other source of law, including but not limited to claims arising from or  
27 related to their employment with Defendant and their compensation while an employee of Defendant  
28 which occurred before or during the Class Period. Plaintiffs’ Released Claims include, but are not

1 limited to, all claims arising from or related to the Action. Plaintiffs' Released Claims include all claims  
2 for unpaid wages, including, but not limited to, failure to pay minimum wages, overtime compensation,  
3 and interest; the calculation of the regular rate of pay; unpaid wages; meal period and rest period wages  
4 and penalties; reimbursement for business expenses; payment for all hours worked, including off-the-  
5 clock work; wage statements; deductions; failure to keep accurate records; unfair business practices;  
6 penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum  
7 wage penalties, and waiting-time penalties; and attorneys' fees and costs. Plaintiffs' Released Claims  
8 include all claims arising under the California Labor Code; all claims arising under the California  
9 Industrial Welfare Commission Wage Orders; the California Private Attorneys General Act of 2004  
10 (PAGA); California Business and Professions Code section 17200, *et seq.*; the California Civil Code, to  
11 include sections 3287, 3336 and 3294; California Code of Civil Procedure § 1021.5; the California  
12 common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* and all regulations  
13 implementing and interpreting the FLSA, federal common law; the Employee Retirement Income  
14 Security Act, 29 U.S.C. § 1001, *et seq.* (ERISA), all claims for lost wages and benefits, emotional  
15 distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local  
16 laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example  
17 only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans with  
18 Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the California Fair  
19 Employment and Housing Act (FEHA), and the law of contract and tort. Notwithstanding the foregoing,  
20 this waiver and release of claims does not extend to any rights which as a matter of law cannot be  
21 waived and released by private agreement, the rights to sue to enforce this Agreement, and rights to  
22 vested benefits, unemployment benefits, disability benefits, social security benefits, workers'  
23 compensation benefits, claims outside the Class Period. Excluded from Plaintiffs' Released Claims are  
24 the unrelated claims of Plaintiff Miller set forth in causes of action 10 through 14 of the First Amended  
25 Complaint in the *Miller* Action which are being separately settled and the rights created by that separate  
26 settlement.

27 Plaintiffs' Released Claims include all claims as set forth above, whether known or unknown.  
28 Even if Plaintiffs discover facts in addition to or different from those that they now know or believe to

1 be true with respect to the subject matter of Plaintiffs’ Released Claims, those claims will remain  
2 released and forever barred. Thus, Plaintiffs expressly waive and relinquish the provisions, rights and  
3 benefits of California Civil Code Section 1542, which reads:

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

8 **W. “Preliminary Approval.”**

9 The Court’s order granting preliminary approval of the Settlement Agreement.

10 **X. “Qualified Settlement Account.”**

11 The fund established by the Settlement Administrator pursuant to Internal Revenue Code Section  
12 1.468B-1.

13 **Y. “Released Claims.”**

14 By operation of the entry of the Final Approval Order and Judgment, and except as to rights this  
15 Agreement creates, each Class Member releases Defendant, and each of its present and former affiliates  
16 and all of their officers, directors, employees, agents, servants, registered representatives, attorneys,  
17 insurers, successors, and assigns, and any other persons acting by, through, under or in concert with any  
18 of them (“Released Parties”), from any and all claims, debts, liabilities, demands, obligations, penalties,  
19 premium pay, guarantees, costs, expenses, attorney’s fees, damages, actions or causes of action of  
20 whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under  
21 federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime  
22 wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked  
23 (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods,  
24 failure to relieve of all duties during meal and rest periods, failure to timely pay wages and final wages,  
25 failure to properly calculate the regular rate of pay, donning and doffing, pre or post shift testing or  
26 inspections, expense reimbursement claims, reporting time, failure to furnish accurate wage statements  
27 including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that  
28 the Labor Code Section 514 exemption does not apply to Defendant’s employees, pre and post-shift work

1 and record-keeping violations that occurred during the Class Period. This Release shall include all claims  
2 and theories arising under the California Labor Code, wage orders, and applicable regulations, including  
3 Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 510, 511, 512, 515, 517,  
4 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and 2802 as well as  
5 claims under Business and Professions Code section 17200 *et seq.*, and/or Labor Code Section 2698 *et*  
6 *seq.* based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The  
7 release of claims shall include a Civil Code Section 1542 release as to the Released Claims only. The  
8 Release shall expressly exclude all other claims, including claims for vested benefits under ERISA or  
9 Taft-Hartley plans, wrongful termination, unemployment insurance, disability insurance, Social Security,  
10 workers' compensation, and class claims outside of the class period. The Release shall apply to the dates  
11 of the Class Period, as defined above, only. For the post-Class Period period of time, Defendant shall  
12 have the option to pay in an additional proportionate amount based on the number of additional  
13 workweeks.

14 In addition to the claims enumerated above, each member of the Settlement Class who endorses  
15 his or her Individual Settlement Payment check by signing the back of the check and depositing or cashing  
16 the check shall release and forever waive any and all claims the Settlement Class member may have under  
17 claims asserted in the operative first amended Complaint for violations of the Fair Labor Standards Act  
18 ("FLSA"); and any and all claims for restitution, including without limitation back pay, attorneys' fees  
19 and costs, interest, and liquidated damages under the FLSA that occurred during the Class Period ("FLSA  
20 Release").

21 This Agreement is contingent upon the releases by Plaintiffs and the Class Members as described  
22 herein, and upon covenants by Plaintiffs and Class Members that they will not participate in any actions,  
23 lawsuits, proceedings, complaints or charges in any court or before any administrative body related to  
24 any claims they have released under this Agreement.

25 **Z. "Released Parties."**

26 Defendant and each of its present and former affiliates and all of their officers, directors,  
27 employees, agents, servants, registered representatives, attorneys, insurers, successors, and assigns, and  
28 any other persons acting by, through, under or in concert with any of them.

1           **AA. “Request for Exclusion.”**

2           A notice submitted by a Class Member requesting to be excluded from the Settlement. For the  
3 Request for Exclusion to be valid, it must include the Class Member’s full name and a written statement  
4 requesting to be excluded from this Settlement and do not wish to participate in the settlement. The  
5 Request for Exclusion must be returned by mail or fax to the Settlement Administrator at the specified  
6 address or facsimile number and postmarked or faxed on or before the Response Deadline. The date of  
7 the postmark or fax receipt confirmation will be the exclusive means to determine whether a Request for  
8 Exclusion has been timely submitted. A Class Member who does not submit a timely and valid Request  
9 for Exclusion from the Settlement will be deemed a Class Member and will be bound by all terms of the  
10 Settlement Agreement if the Settlement is granted Final Approval by the Court. Plaintiffs agree not to  
11 request to be excluded from the Settlement.

12           Any Class Member who opts out of this Agreement may not submit an Objection and shall not  
13 receive any Individual Settlement Payment, and shall not be bound by the releases set forth in this  
14 Agreement. If a Class Member submits both a Request for Exclusion and an Objection, then the  
15 Request for Exclusion will be valid and will invalidate the Objection.

16           **BB. “Response Deadline.”**

17           The deadline by which Class Members must mail or fax to the Settlement Administrator valid  
18 Requests for Exclusion, Notices of Objection to the Settlement, or workweek disputes. The Response  
19 Deadline will be thirty (30) calendar days from the initial mailing of the Notice Packet by the  
20 Settlement Administrator, unless the 30th day falls on a Sunday or Federal holiday, in which case the  
21 Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The  
22 Response Deadline for Requests for Exclusion, Notices of Objection, or workweek disputes will be  
23 extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet by the  
24 Settlement Administrator, unless the 15th day falls on a Sunday or Federal holiday, in which case the  
25 Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The  
26 Response Deadline may also be extended by express agreement between Class Counsel and Defendant.  
27 Under no circumstances, however, will the Settlement Administrator have the authority to unilaterally  
28 extend the deadline for Class Members to submit a Request for Exclusion, Notice of Objection to the

1 Settlement, or workweek disputes.

2 **CC. “Settlement Administrator.”**

3 After obtaining not-to-exceed quotes from a minimum of two qualified settlement  
4 administrators, Phoenix Settlement Administrators shall be the third-party class action settlement  
5 administrator as mutually agreed to by the Parties and approved by the Court for the purposes of  
6 administering this Settlement and will issue to class members Forms W-2 and 1099 for all amounts paid  
7 under this settlement, making all deductions and withholdings required under law. The Parties each  
8 represent that they do not have any financial interest in the Settlement Administrator or otherwise have a  
9 relationship with the Settlement Administrator that could create a conflict of interest.

10 **DD. “Settlement Administration Costs.”**

11 The costs payable from the Class Settlement Amount to the Settlement Administrator are for  
12 administering this Settlement, including, but not limited to, printing, distributing, and tracking  
13 documents for this Settlement, address searches, calculating estimated amounts per Class Member, tax  
14 reporting, distributing the Class Settlement Amount, and providing necessary reports and declarations,  
15 and other duties and responsibilities set forth herein to process this Settlement Agreement, and as  
16 requested by the Parties. The Settlement Administration Costs will be paid from the Class Settlement  
17 Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement  
18 Administrator as being the maximum costs necessary to administer the Settlement. The Settlement  
19 Administration Costs are estimated to not exceed \$185,500 based upon the receipt of not-to-exceed  
20 quote from the Settlement Administrator. To the extent actual Settlement Administration Costs are  
21 greater than \$185,500, such excess amount will be deducted from the Class Settlement Amount, subject  
22 to the Court’s approval. Settlement Administration Costs allocated but not paid to the Settlement  
23 Administrator will be distributed to the Settlement Class pro rata.

24 **EE. “Settlement Payment Check.”**

25 The Settlement Payment Check is the payment to Class Members. The back of the Settlement  
26 Payment Check shall state, immediately below the space where the check is to be endorsed by the payee:  
27 “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to  
28 the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor

1 Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims,  
2 and agree to release all of my FLSA claims that are covered by the Settlement.”

3 **II. Recitals**

4 A. On August 1, 2019, plaintiff Rosa Maria Garcia filed a Complaint against Defendant in  
5 the Superior Court of the State of California, County of San Joaquin (the “Garcia Action”). Plaintiff  
6 Rosa Maria Garcia asserted claims that Defendant:

- 7 1. Violated California Labor Code § 226(a);
- 8 2. Violated the Private Attorney General Act, California Labor Code §§ 2698, et  
9 seq. (“PAGA”);

10 B. On September 5, 2019, Defendant filed a general denial along with 15 affirmative  
11 defenses to the Complaint in the Garcia Action.

12 C. On December 6, 2019, plaintiff Brittany Miller filed a Complaint against Defendant in  
13 the Superior Court of the State of California, County of Alameda (the “Miller Action”). Plaintiff  
14 Brittany Miller asserted claims that Defendant:

- 15 1. Violated California Business and Professions Code § 17200 et seq.;
- 16 2. Failed to pay minimum wages in violation of California Labor Code §§ 1194,  
17 1197 and 1197.1;
- 18 3. Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- 19 4. Failed to provide required meal periods in violation of California Labor Code §§  
20 226.7 & 512 and the applicable IWC Wage Order;
- 21 5. Failed to provide required rest periods in violation of California Labor Code §§  
22 226.7 & 512 and the applicable IWC Wage Order;
- 23 6. Failed to provide accurate itemized wage statements in violation of California  
24 Labor Code § 226;
- 25 7. Failed to provide wages when due in violation of California Labor Code §§ 201,  
26 202 and 203;
- 27 8. Failed to timely pay earned wages in violation of California Labor Code § 204(d);
- 28 9. Failed to reimburse employees for required expenses in violation of California

1 Labor Code § 2802;

2 10. Discrimination and retaliation in violation of FEHA;

3 11. Failed to prevent discrimination, harassment, and/or retaliation in violation of  
4 FEHA;

5 12. Failed to engage in the interactive process in violation of California Government  
6 Code § 12940(n);

7 13. Failed to provide reasonable accommodation in violation of California  
8 Government Code § 12940(m); and,

9 14. Wrongful termination in violation of public policy.

10 D. On January 10, 2020, plaintiff Miller filed a First Amended Complaint adding a claim  
11 under the Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. (“PAGA”) in the Miller  
12 Action.

13 E. On January 13, 2020, Defendant filed a general denial along with 35 affirmative defenses  
14 to the Complaint in the Miller Action.

15 F. On February 24, 2020, Defendant filed a general denial along with 37 affirmative  
16 defenses to the First Amended Complaint in the Miller Action.

17 G. On May 27, 2020, the Parties participated in an all-day mediation with David A. Rotman,  
18 Esq., a respected mediator of wage and hour class actions. Following the mediation, each side,  
19 represented by its respective counsel, were able to agree to settle the Action based on a mediator’s  
20 proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement  
21 replaces and supersedes the Memorandum of Understanding and any other agreements, understandings,  
22 or representations between the Parties.

23 H. On June 5, 2020, plaintiffs Rosa Maria Garcia and Jennifer Horton filed a First Amended  
24 Complaint in the Garcia Action.

25 I. This Agreement represents a compromise and settlement of highly disputed claims.  
26 Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims  
27 in the Action of Plaintiffs or the Class have merit or that Defendant bears any liability to Plaintiffs or the  
28 Class on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in

1 the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement  
2 only. If for any reason the settlement does not become effective, Defendant reserves the right to contest  
3 certification of any class for any reason and reserves all available defenses to the claims in the Action.

4 **III. Funding of the Class Settlement Amount.**

5 Within fourteen (14) calendar days after the Effective Date of the Settlement, Defendant will  
6 make a one-time deposit of all approved and claimed amounts from the Class Settlement Amount into a  
7 Qualified Settlement Account to be established by the Settlement Administrator. Within fourteen (14)  
8 calendar days of the funding of the Settlement, the Settlement Administrator will issue payments to: (a)  
9 Class Members; (b) the Labor and Workforce Development Agency (LWDA); (c) Plaintiff; and (d)  
10 Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved  
11 services performed in connection with the Settlement. Defendant has no obligation to deposit such  
12 funds prior to the deadline set forth herein.

13 **IV. Labor and Workforce Development Agency Payment.**

14 Subject to Court approval, the Parties agree that \$100,000 of the Class Settlement Amount will  
15 be designated for satisfaction of Plaintiff's and Class Members' PAGA claims (the "PAGA Settlement  
16 Amount"). Pursuant to the PAGA, \$75,000 (75%) of the PAGA Settlement Amount will be paid to the  
17 LWDA and \$25,000 (25%) of the PAGA Settlement Amount will be included in the Net Settlement  
18 Amount for distribution to the Class Members based upon their respective workweeks worked during  
19 the PAGA Period. If the Court approves a PAGA Settlement Amount of less than \$100,000, the  
20 remainder will be retained in the Net Settlement Amount for distribution to Class Members.

21 **V. Individual Settlement Payment Calculations.**

22 Individual Settlement Payments will be calculated and apportioned from the Net Settlement  
23 Amount based on the number of workweeks that a Class Member worked during the Class Period.  
24 Specific calculations of Individual Settlement Payments will be made as follows:

25 Defendant will calculate the total number of weeks worked by each Class Member ("Individual  
26 Workweeks") and the total number of weeks worked by all Class Members ("Class Workweeks")  
27 during the Class Period.  
28

1 To determine each Class Member's Individual Settlement Payment, the Settlement Administrator  
2 will use the following formula: Individual Settlement Payment = (Individual Workweeks ÷ Class  
3 Workweeks) × Net Settlement Amount.

4  
5 The Individual Settlement Payment will be reduced by any required deductions for each Class  
6 Member as set forth herein, including employee-side tax withholdings or deductions.

7 The Individual Settlement Payments made to Class Members under this Settlement, and any  
8 other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits  
9 under any benefit plans to which any Class Members may be eligible, including, but not limited to,  
10 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans,  
11 PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement  
12 will not affect any rights, contributions, or amounts to which any Class Members may be entitled under  
13 any benefit plans.

14 **VI. Effect of Request for Exclusion.**

15 Class Members who submit a valid Request for Exclusion will receive no Individual Settlement  
16 Payments and their Requests for Exclusion will reduce neither the Gross Settlement Amount nor the Net  
17 Settlement Amount. Their respective Individual Settlement Payments will remain a part of the Net  
18 Settlement Amount for distribution to Class Members who do not submit valid Requests for Exclusion  
19 on a *pro rata* basis relative to their Individual Settlement Shares.

20 **VII. Settlement Administration Process.**

21 1. The Parties agree to cooperate in the administration of the Settlement and to make all  
22 reasonable efforts to control and minimize the costs and expenses incurred in administration of the  
23 Settlement. The Settlement Administrator will provide the following services:

- 24 a. Establish and maintain a Qualified Settlement Account.  
25 b. Calculate the Individual Settlement Payment each Class Member is eligible to  
26 receive.  
27 c. Translate the Notice Packet into Spanish at the request of any Class Members.  
28 d. Print and mail the Notice Packet.

- e. Establish and maintain a toll-free information telephone support line to assist Class Members who have questions regarding the Notice Packet.
- f. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable.
- g. Process Requests for Exclusion, calculate Class Members' Individual Settlement Payment, field inquiries from Class Members, and administer any Requests for Exclusion. This service will include settlement proceeds calculation, printing and issuance of Settlement Payment Checks, and preparation of IRS W-2 and 1099 Tax Forms. Basic accounting for and payment of employee tax withholdings and forwarding all payroll taxes and penalties to the appropriate government authorities will also be included as part of this service.
- h. Issuing to Plaintiffs, Class Members, and Plaintiffs' Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement.
- i. Provide declarations and/or other information to the Court as requested by the Parties and/or the Court.
- j. Provide weekly status reports to counsel for the Parties.

2. Within thirty (30) calendar days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator.

3. Using best efforts to mail it as soon as possible, and in no event later than twenty-one (21) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the last known mailing addresses identified in the Class List.

4. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct any known or identifiable address changes. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the

1 Notice Packet. If no forwarding address is provided, the Settlement Administrator will promptly attempt  
2 to determine the correct address using a skip-trace, or other search using the name, address and/or Social  
3 Security number of the Class Member involved, and will then perform a single re-mailing. Those Class  
4 Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have between  
5 the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark or fax a  
6 Request for Exclusion or Notice of Objection to the Settlement. The Settlement Administrator will be  
7 responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders,  
8 and fee, as agreed to with the Parties and according to the following deadlines, to trace the mailing  
9 address of any Class Member for whom a Notice Packet is returned by the U.S. Postal Service as  
10 undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail;  
11 performing address searches for all mail returned without a forwarding address using available email  
12 addresses, phone numbers, social security numbers, credit reports, LinkedIn, and Facebook; and  
13 promptly re-mailing to Class Members for whom new addresses are found. If the Notice Packet is re-  
14 mailed, the Settlement Administrator will note for its own records and notify Defendant's Counsel of the  
15 date and address of each such re-mailing as part of a weekly status report provided to the Parties.

16 5. All Class Members will be mailed a Notice Packet containing the forms attached as  
17 Exhibit 1 as approved by the Court.

18 6. Class Members will have an opportunity to dispute the information provided in their  
19 Notice Packets. To the extent Class Members dispute the number of workweeks to which they have  
20 been credited or the amount of their Individual Settlement Payment, Class Members may produce  
21 evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence  
22 rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a  
23 Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the  
24 evidence submitted by the Class Member and will make the final decision as to the number of eligible  
25 workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member  
26 may be entitled. The workweek dispute must be returned by mail or fax to the Settlement Administrator  
27 at the specified address or facsimile number and postmarked or faxed on or before the Response  
28 Deadline. The date of the postmark or fax receipt confirmation will be the exclusive means to determine

1 whether a workweek dispute has been timely submitted. All such disputes are to be resolved not later  
2 than fourteen (14) calendar days after the Response Deadline.

3 7. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the  
4 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The  
5 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of  
6 receiving the defective submission to advise the Class Member that his or her submission is defective  
7 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will  
8 have until the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the  
9 cure letter, whichever date is later, to postmark or fax a revised Request for Exclusion.

10 8. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the  
11 Settlement Agreement must sign and postmark or fax a written Request for Exclusion to the Settlement  
12 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope  
13 or the fax receipt confirmation will be the exclusive means to determine whether a Request for  
14 Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the Settlement  
15 Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the Requests for  
16 Exclusion that were timely submitted. Any Class Member who does not timely seek exclusion will be  
17 bound by the terms of this Settlement Agreement.

18 9. The Settlement Administrator shall have its own Employer Identification Number under  
19 Internal Revenue Service Form W-9 and shall use its own Employer Identification Number in  
20 calculating payroll withholdings for taxes and shall transmit the required employers' and employees'  
21 share of the withholdings to the appropriate state and federal tax authorities. The Settlement  
22 Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement  
23 Fund ("QSF") under US Treasury Regulation section 468B-1.

## 24 **VIII. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

25 1. Defendant's Option to Nullify the Settlement Agreement. If five percent (5%) or more of  
26 the Class Members opt out of the Settlement, Defendant, in its sole discretion, shall have the option of  
27 nullifying the Settlement Agreement. Defendant shall give written notice to Class Counsel within ten  
28 (10) calendar days after the Settlement Administrator informs the Parties that the opt out rate exceeds

1 five percent (5%). In such a case, the Parties and any funds to be awarded under this Settlement  
2 Agreement shall be returned to their respective statuses as of the date and time immediately prior to the  
3 execution of this Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement  
4 had not been executed, except that any fees already incurred by the Settlement Administrator shall be  
5 paid by Defendant. Defendant estimates that there are 3,844 non-unionized Class Members who  
6 collectively worked 386,208 workweeks and 40,768 unionized Class Members who collectively worked  
7 6,096,170 workweeks from December 6, 2015 to May 23, 2020. Defendant will provide a declaration  
8 verifying the number of Class Members and workweeks worked during the Class Period.

9       2.     Nullification of the Settlement Agreement. In the event: (i) the Court does not enter the  
10 Preliminary Approval Order and approve the Released Settlement specified herein; (ii) the Court does  
11 not finally approve the Settlement as provided herein; (iii) Defendant exercises its option to nullify the  
12 Settlement Agreement based on an excessive number of opt-outs, as described in the above Section; or  
13 (iv) the Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this  
14 Settlement Agreement shall be null and void. Any order or judgment entered by the Court in  
15 furtherance of this Settlement Agreement shall be treated as void from the beginning, and the  
16 Stipulations and Recitals contained herein shall be of no force or effect, and shall not be treated as an  
17 admission by the Parties or their counsel. In such a case, the Parties and any funds to be awarded under  
18 this Settlement Agreement shall be returned to their respective statuses as of the date and time  
19 immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all  
20 respects as if this Settlement Agreement had not been executed, except that any fees already incurred by  
21 the Settlement Administrator shall be shared equally.

22       3.     Settlement Terms Bind All Class Members Who Do Not Opt Out. Any Class Member  
23 who does not affirmatively opt out of the Settlement Agreement by submitting a timely and valid  
24 Request for Exclusion will be bound by all its terms.

25 **IX. Certification Reports Regarding Individual Settlement Payment Calculations.**

26       1.     The Settlement Administrator will provide Defendant's counsel and Class Counsel a  
27 weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for  
28 Exclusion; (b) any objections submitted to the Settlement along with a copy of any such objection; and

1 (c) whether any Class Member has submitted a challenge to any information contained in his/her Notice  
2 Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated  
3 reports regarding the administration of the Settlement Agreement as needed or requested.

4 2. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to  
5 Class Members will be negotiable for one-hundred eighty (180) calendar days. If a check is returned to  
6 the Settlement Administrator within one-hundred twenty (120) calendar days after the mailing, the  
7 Settlement Administrator will make all reasonable efforts to re-mail it to the affected Class Member at  
8 his or her correct address by use of available email addresses, phone numbers, social security numbers,  
9 credit reports, LinkedIn and Facebook. If a Class Member's check is not cashed within 120 days after  
10 its last mailing to the Class Member, the Settlement Administrator will also send the affected Class  
11 Member a notice informing him or her that unless the check is cashed in the next 60 days, the check will  
12 expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not  
13 cashed. After one-hundred eighty (180) calendar days from the date of mailing, the checks shall become  
14 null and void, and any monies remaining in the distribution account shall be distributed to the *cy pres*  
15 recipient selected by the parties, California Rural Legal Assistance, consistent with California Code of  
16 Civil Procedure § 384, subject to Court approval and the Class Member remains bound by the  
17 Settlement. Pursuant to California Code of Civil Procedure § 384.4, the Parties and the attorneys  
18 signing this Agreement hereby notify the Court that they and their respective firms have no relationship  
19 with or connection to the *cy pres* recipient, California Rural Legal Assistance, that could create an  
20 appearance of impropriety.

21 3. Certification of Completion. Within ten (10) calendar days of the completion of  
22 administration of the Settlement, the Settlement Administrator will provide a written declaration under  
23 oath to certify such completion to the Court and counsel for all Parties.

24 **X. Tax Treatment of Individual Settlement Payments.**

25 All Individual Settlement Payments will be allocated as follows: one-third (1/3) wages, one-third  
26 (1/3) interest and one-third (1/3) penalties.

27 The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated  
28 to non-wages will be reported on an IRS Form-1099 by the Settlement Administrator. The Gross

1 Individual Settlement Payments will be reduced by any required legal deductions for each Class  
2 Member. All standard employee payroll deductions will be made for state and federal withholding  
3 taxes, including any other applicable payroll deductions owed by the Class Members as a result of the  
4 Wage Component, resulting in a net wage component. The Settlement Administrator will issue a check  
5 and W-2 Form to each Class Member for the wage component. No withholding shall be made on the  
6 penalty portions of the Gross Individual Settlement Payment. The Settlement Administrator will issue a  
7 second check and IRS Form-1099 for the remaining penalty component. The Settlement Administrator  
8 shall be responsible for issuing the payments and calculating and withholding all required state and  
9 federal taxes. The Settlement Administrator shall determine the eligibility for, and the amounts of, any  
10 Individual Settlement Payments under the terms of this Settlement Agreement. Any disputes not  
11 resolved by the Settlement Administrator concerning the administration of the Settlement will be  
12 resolved by the Court, under the laws of the State of California. Prior to any such involvement of the  
13 Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of  
14 involving the Court.

15 **XI. Administration of Taxes by the Settlement Administrator.**

16 1. Tax Liability. Class Counsel, Defendant and Defendant's Counsel make no  
17 representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiffs  
18 and Class Members are not relying on any statement, representation, or calculation by Defendant or by  
19 the Settlement Administrator in this regard. Plaintiffs and Class Members understand and agree they  
20 will be solely responsible for the payment of their share of any taxes and penalties assessed on the  
21 payments described herein.

22 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT  
23 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY  
24 TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN  
25 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
26 SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE  
27 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS  
28 OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE

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

17 **XII. Release by Class Members.**

18 1. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant  
19 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,  
20 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of  
21 action or right herein released and discharged.

22 2. It is the desire of Plaintiffs, Class Members (except those who exclude themselves from  
23 the Settlement), and Defendant to fully, finally, and forever settle, compromise, and discharge the  
24 Released Claims. Upon the Final Approval by the Court of this Settlement Agreement, and except as to  
25 such rights or claims as may be created by this Settlement Agreement, the Class Members shall fully  
26 release and discharge the Released Parties from any and all Released Claims for the entire Class Period.  
27 This release shall be binding on all Class Members who have not timely submitted a valid and complete  
28 Request for Exclusion, including each of their respective attorneys, agents, spouses, executors,

1 representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the  
2 Released Parties, who shall have no further or other liability or obligation to any Class Member with  
3 respect to the Released Settlement, except as expressly provided herein.

4 **XIII. Materiality of Terms.**

5 1. The Court's approval of Class Representative Enhancement Payments, Attorneys' Fees  
6 and Costs, and the LWDA Payment are not material terms of this Agreement. If the Court approves only  
7 a lesser amount of these payments, then the other terms of this Agreement shall still remain in effect and  
8 the difference will remain part of the Net Settlement Amount.

9 2. Except as otherwise stated herein, each substantive term of this Agreement is material  
10 and has been relied upon by the Parties in entering into this Agreement. Any failure by the Court to fully  
11 and completely approve the material terms of this Settlement Agreement will result in this Settlement  
12 Agreement entered into by the Parties, and all obligations under this Settlement Agreement, being  
13 nullified and voided. Upon such failure, any order or judgment entered by the Court in furtherance of  
14 this Settlement Agreement shall be treated as void from the beginning, and the Stipulations and Recitals  
15 contained herein shall be of no force or effect and shall not be treated as an admission by the Parties or  
16 their counsel. In such a case, the Parties and any funds to be awarded under this Settlement Agreement  
17 shall be returned to their respective statuses as of the date and time immediately prior to the execution of  
18 this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement  
19 had not been executed, except that any fees already incurred by the Settlement Administrator shall be  
20 paid equally by both Parties.

21 **XIV. Preliminary Approval Hearing.**

22 1. Plaintiffs will obtain a hearing before the Court to request Preliminary Approval of the  
23 Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional certification of  
24 the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement  
25 Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing.

26 2. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class  
27 Members as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiffs will  
28 submit this Settlement Agreement and will include the proposed Notice Packet.

1           3.       Class Counsel will be responsible for drafting all documents necessary to obtain  
2 Preliminary Approval.

3           4.       At the hearing before the Court to request Preliminary Approval, the Parties will jointly  
4 appear, support the granting of the motion, and submit a proposed Order Granting Preliminary Approval  
5 of the Settlement.

6           5.       Should the Court decline to preliminarily approve material aspects of the Settlement  
7 (including but not limited to the scope of release to be granted by Class Members or the binding effect  
8 of the Settlement on Class Members who do not submit valid Requests for Exclusion), the Parties shall  
9 work together in good faith to address any concerns raised by the Court and propose a revised  
10 Settlement for the Court's approval.

11 **XV.   Final Settlement Approval Hearing and Entry of Judgment.**

12           1.       Upon expiration of the Response Deadline, and with the Court's permission, a Final  
13 Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the  
14 Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments;  
15 (b) the LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative Enhancement  
16 Payments; and (e) all Settlement Administration Costs.

17           2.       The Final Approval/Settlement Fairness Hearing will be held no later than forty-five (45)  
18 calendar days after the Response Deadline.

19           3.       Class Counsel will be responsible for drafting all documents necessary to obtain Final  
20 Approval. Class Counsel will also be responsible for drafting the Attorneys' Fees and Costs application  
21 to be heard at the Final Approval/Settlement Fairness Hearing.

22           4.       At the hearing before the Court to request Final Approval, the Parties will jointly appear,  
23 support the granting of the motion, and submit a proposed Final Approval Order and Judgment.

24 **XVI.   Judgment and Continued Jurisdiction.**

25           1.       The Court shall retain jurisdiction under California Code of Civil Procedure section 664.6  
26 with respect to the interpretation, implementation, and enforcement of the terms of this Settlement  
27 Agreement and all orders and judgments entered in connection therewith, and the Parties and their  
28 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and

1 enforcing the Settlement embodied in this Settlement Agreement and all orders and judgments entered in  
2 connection therewith.

3 **XVII. Other Provisions.**

4 1. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set  
5 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.  
6 Any Exhibits to this Settlement are an integral part of the Settlement.

7 2. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the  
8 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements  
9 may be deemed binding on the Parties.

10 3. Amendment or Modification. This Settlement Agreement may be amended or modified  
11 only by a written instrument signed by counsel for all Parties or their successors-in-interest and  
12 approved by the Court. If the Court requires certain non-material modifications to be made to this  
13 Settlement Agreement as a condition for granting approval, then the parties agree that their counsel can  
14 enter into a stipulation to modify this agreement to conform it to the Court's Order and that signatures of  
15 counsel shall suffice for such an amendment.

16 4. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and  
17 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement  
18 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant  
19 to this Settlement Agreement to effectuate its terms and to execute any other documents required to  
20 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with  
21 each other and use their best efforts to effect the implementation of the Settlement. If the Parties are  
22 unable to reach agreement on the form or content of any document needed to implement the Settlement,  
23 or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement,  
24 the Parties may seek the assistance of David Rotman to resolve such disagreement.

25 5. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,  
26 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

27 6. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto  
28 will be governed by and interpreted according to the laws of the State of California.

1           7.     Execution and Counterparts. This Agreement may be executed in one or more  
2 counterparts by facsimile, electronic signature, DocuSign or email which for purposes of this Agreement  
3 shall be accepted as an original. All executed counterparts and each of them will be deemed to be one  
4 and the same instrument. Any executed counterpart will be admissible in evidence to prove the  
5 existence and contents of this Agreement.

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

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

16           10.    Waiver of Certain Appeals. Provided that the Judgment is consistent with the terms and  
17 conditions of this Agreement, Class Members who did not timely submit an objection to the Settlement,  
18 Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment,  
19 including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited  
20 to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal  
21 does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment  
22 proceedings. 11.    Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.

23 If, after a notice of appeal, a petition for review, or a petition for certiorari, or any other motion, petition,  
24 or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a  
25 material modification to the Settlement (including, but not limited to, the scope of release to be granted  
26 by Class Members), and that Court's decision is not completely reversed and the Judgment is not fully  
27 affirmed on review by a higher Court, then the Parties shall work together in good faith to address any  
28 concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court

1 not later than fourteen days after the reviewing Court's decision vacating, reversing, or materially  
2 modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of  
3 the Class Representative Enhancement Payments or the Attorneys' Fees and Costs will not constitute a  
4 vacation, reversal, or material modification of the Judgment within the meaning of this paragraph,  
5 provided that Defendant's obligation to make payments under this Settlement will remain limited by the  
6 Gross Settlement Amount.

7 12. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to  
8 class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved,  
9 the stipulation to certification will be void. The Parties further agree that certification for purposes of  
10 the Settlement is not an admission that class action certification is proper under the standards applied to  
11 contested certification motions and that this Settlement Agreement will not be admissible in this or any  
12 other proceeding as evidence that either: (a) a class action should be certified or (b) Defendant is liable  
13 to Plaintiffs or any Class Member, other than according to the Settlement's terms.

14 13. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve  
15 the dispute that has arisen between them and to avoid the burden, expense, and risk of continued  
16 litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically denies,  
17 that it has violated any federal, state, or local law; violated any regulations or guidelines promulgated  
18 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any  
19 contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in  
20 any other unlawful conduct with respect to its employees. Neither this Settlement Agreement, nor any  
21 of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an  
22 admission or concession by Defendant of any such violations or failures to comply with any applicable  
23 law. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this  
24 Settlement Agreement and its terms and provisions shall not be offered or received as evidence in any  
25 action or proceeding to establish any liability or admission on the part of Defendant or to establish the  
26 existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or  
27 other applicable law.

28 14. Captions. The captions and section numbers in this Settlement Agreement are inserted

1 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the  
2 provisions of this Settlement Agreement.

3 15. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement  
4 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or  
5 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

6 16. Enforcement Action. If one or more of the Parties institutes any legal action or other  
7 proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare  
8 rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover  
9 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees  
10 incurred in connection with any enforcement actions.

11 17. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and  
12 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed  
13 more strictly against one Party than another merely by virtue of the fact that it may have been prepared  
14 by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations  
15 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

16 18. Representation by Counsel. The Parties acknowledge that they have been represented by  
17 counsel throughout all negotiations that preceded the execution of this Settlement Agreement and that  
18 this Settlement Agreement has been executed with the consent and advice of counsel and reviewed in  
19 full. Plaintiff

20 19. All Terms Subject to Final Court Approval. All amounts and procedures described in  
21 this Settlement Agreement herein will be subject to final Court approval.

22 20. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good  
23 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this  
24 Settlement Agreement.

25 21. Binding Agreement. The Parties warrant that they understand and have full authority to  
26 enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on  
27 all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its  
28 terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under

1 federal or state law. Plaintiffs, and not their respective representative(s), must personally execute this  
2 Settlement Agreement.

3 22. No Prior Assignments or Undisclosed Liens. Plaintiffs and Class Counsel represent that  
4 they have not assigned, transferred, conveyed, or otherwise disposed of any Released Claim or claim to  
5 attorneys' fees and costs award to be paid under this Agreement. Plaintiffs and Class Counsel further  
6 represent and warrant that there are not any liens or claims against any amount that Defendant is to pay  
7 under this Agreement. Plaintiffs and Class Counsel agree to defend, to indemnify, and to hold  
8 Defendant harmless from any liability, losses, claims, damages, costs, or expenses, including reasonable  
9 attorneys' fees, resulting from a breach of these representations or from any lien or assignment.

10 23. Confidential Information. Class Counsel will destroy all confidential documents and  
11 information provided by Defendant within 60 calendar days after the completion of the administration of  
12 this Agreement. Class Counsel further agree that none of the information provided by Defendant shall  
13 be used for any purpose other than prosecution of this Action.

14 24. Publicity. Neither Plaintiffs nor Class Counsel will publicize the Settlement in any way  
15 prior to preliminary approval. Nothing in this Stipulation shall preclude Class Counsel from  
16 communicating with members of the Settlement Class after preliminary approval, and after preliminary  
17 approval Class Counsel are permitted to post court-filed documents on their website for viewing by the  
18 Settlement Class.

19 25. Headings. The descriptive heading of any section or paragraph of this Agreement is  
20 inserted for convenience of reference only and does not constitute a part of this Agreement.

21 26. Notice. All notices, demands or other communications given under this Agreement will  
22 be in writing and deemed to have been duly given upon being sent, via email, to the following  
23 individuals, provided that the recipients confirm receipt within two business days:

24 To Plaintiffs and the Class:

25 Norman B. Blumenthal  
26 Kyle R. Nordrehaug  
27 Blumenthal Nordrehaug Bhowmik De Blouw LLP  
28 2255 Calle Clara  
La Jolla, CA 92037  
Tel.: (858) 551-1223

1 Fax: (858) 551-1232  
2 E-Mail: norm@bamlawca.com  
3 kyle@bamlawca.com

4 Larry W. Lee  
5 Kristen M. Agnew  
6 Nicholas Rosenthal  
7 Diversity Law Group, P.C.  
8 515 S. Figueroa Street, Suite 1250  
9 Los Angeles, CA 90071  
10 Tel.: (213) 488-6555  
11 Fax: (213) 488-6554  
12 E-Mail: lwlee@diversitylaw.com  
13 kagnew@diversitylaw.com  
14 [nrosenthal@diversitylaw.com](mailto:nrosenthal@diversitylaw.com)

15 William L. Marder  
16 Polaris Law Group, LLP  
17 501 San Benito Street, Suite 200  
18 Hollister, CA 95023  
19 Tel.: (831) 531-4214  
20 Fax: (831) 634-0333  
21 E-Mail: [bill@polarislawgroup.com](mailto:bill@polarislawgroup.com)

22 To Defendant:

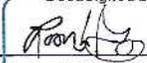
23 Christian J. Rowley  
24 Kerry Friedrichs  
25 Parnian Vafaenia  
26 560 Mission Street, 31st Floor  
27 San Francisco, CA 94105  
28 Tel.: (415) 397-2823  
Fax: (415) 397-8549  
E-Mail: Crowley@seyfarth.com  
kfriedrichs@seyfarth.com  
[pvafaenia@seyfarth.com](mailto:pvafaenia@seyfarth.com)

27. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the mediation with David A. Rotman on May 27, 2020 until the earlier of the Effective Date or the reopening of renewed discovery.

**SO AGREED:**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: November <sup>24</sup> \_\_, 2020

DocuSigned by:  
  
\_\_\_\_\_  
Plaintiff Rosa Maria Garcia

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Jennifer Horton

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Brittany Miller

Dated: November \_\_, 2020

By \_\_\_\_\_  
For The Permanente Medical Group, Inc

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Rosa Maria Garcia

Dated: November 30, 2020

DocuSigned by:  
Jennifer Horton  
\_\_\_\_\_  
Plaintiff Jennifer Horton

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Brittany Miller

Dated: November \_\_, 2020

By \_\_\_\_\_  
For The Permanente Medical Group, Inc

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Rosa Maria Garcia

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Jennifer Horton

Dated: November 23, 2020

  
\_\_\_\_\_  
Brittany Miller (Nov 23, 2020 16:20 PST)  
Plaintiff Brittany Miller

Dated: November \_\_, 2020

By \_\_\_\_\_  
For The Permanente Medical Group, Inc

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Rosa Maria Garcia

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Jennifer Horton

Dated: November \_\_, 2020

\_\_\_\_\_  
Plaintiff Brittany Miller

Dated: December 31, 2020

By   
For The Permanente Medical Group, Inc

1 **Approval As To Form And Content By Counsel:**

2  
3 DATED: November 23, 2020

Respectfully submitted,

4 BLUMENTHAL NORDREHAUG BHOWMIK  
5 DE BLOUW LLP

6 

7 By: \_\_\_\_\_  
8 Norman Blumenthal  
Attorneys for Plaintiffs and Proposed Classes

9 DATED: November \_\_, 2020

Respectfully submitted,

10 DIVERSITY LAW GROUP, P.C.

11  
12 By: \_\_\_\_\_  
13 Larry Lee  
14 Attorneys for Plaintiffs and Proposed Classes

15 DATED: November \_\_, 2020

Respectfully submitted,

16 POLARIS LAW GROUP LLP

17  
18 By: \_\_\_\_\_  
19 William Marder  
Attorneys for Plaintiffs and Proposed Classes

20  
21 DATED: November \_\_, 2020

Respectfully submitted,

22 SEYFARTH SHAW LLP

23  
24 By \_\_\_\_\_  
25 Christian J. Rowley  
26 Kerry M. Friedrichs  
Attorneys for Defendant

27 THE PERMANENTE MEDICAL GROUP, INC.  
28

1 **Approval As To Form And Content By Counsel:**

2

3 DATED: November \_\_, 2020

Respectfully submitted,

4

BLUMENTHAL NORDREHAUG BHOWMIK  
DE BLOUW LLP

5

6

By: \_\_\_\_\_  
Norman Blumenthal  
Attorneys for Plaintiffs and Proposed Classes

7

8

9 DATED: ~~November~~ <sup>December</sup> ~~1~~, 2020

Respectfully submitted,

10

DIVERSITY LAW GROUP, P.C.

11

12

By:  \_\_\_\_\_  
Larry Lee  
Attorneys for Plaintiffs and Proposed Classes

13

14

15 DATED: November 24, 2020

Respectfully submitted,

16

POLARIS LAW GROUP LLP

17

18

By:  \_\_\_\_\_  
William Marder  
Attorneys for Plaintiffs and Proposed Classes

19

20

21 DATED: November \_\_, 2020

Respectfully submitted,

22

SEYFARTH SHAW LLP

23

24

By \_\_\_\_\_  
Christian J. Rowley  
Kerry M. Friedrichs  
Attorneys for Defendant

25

26

THE PERMANENTE MEDICAL GROUP, INC.

27

28

1 **Approval As To Form And Content By Counsel:**

2  
3 DATED: November \_\_, 2020

Respectfully submitted,

4 BLUMENTHAL NORDREHAUG BHOWMIK  
5 DE BLOUW LLP

6  
7 By: \_\_\_\_\_  
8 Norman Blumenthal  
Attorneys for Plaintiffs and Proposed Classes

9 DATED: November \_\_, 2020

Respectfully submitted,

10 DIVERSITY LAW GROUP, P.C.

11  
12 By: \_\_\_\_\_  
13 Larry Lee  
14 Attorneys for Plaintiffs and Proposed Classes

15 DATED: November \_\_, 2020

Respectfully submitted,

16 POLARIS LAW GROUP LLP

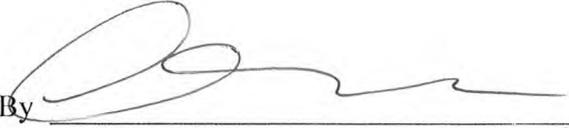
17  
18 By: \_\_\_\_\_  
19 William Marder  
Attorneys for Plaintiffs and Proposed Classes

20 DATED: November \_\_, 2020

21 *December 31, 2020*

Respectfully submitted,

22 SEYFARTH SHAW LLP

23  
24 By:  \_\_\_\_\_  
25 Christian J. Rowley  
26 Kerry M. Friedrichs  
Attorneys for Defendant

27 THE PERMANENTE MEDICAL GROUP, INC.

# EXHIBIT 1

[CLASS MEMBER NAME and ADDRESS]

If you worked for The Permanente Medical Group, Inc. as a non-exempt employee from December 6, 2015 through [earlier of the date of preliminary approval or December 31, 2020] (“Class Period”), you could receive a payment from a class action settlement.

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.** The San Joaquin County Superior Court has authorized this notice in the matter of *Garcia et al. v. The Permanente Medical Group, Inc.*, San Joaquin County Superior Court Case No. STK-CV-UOE-2019-10008. This is not a solicitation from a lawyer.

- You are receiving this Notice because The Permanente Medical Group, Inc.’s (hereafter “TPMG”) records show that you are in the proposed Settlement Class. Your estimated net settlement share is [INSERT ESTIMATED AWARD].
- A proposed settlement (the “Settlement”) has been reached in the amount of \$9,730,000.00. The Settlement resolves a lawsuit against TPMG for unpaid wages, unpaid overtime, failure to pay overtime and meal and rest period premium pay at the proper rate, failure to provide meal and rest periods, itemized wage statement violations, failure to pay all wages owed to former employees at the end of their employment, and civil penalties under the Private Attorneys’ General Act (“PAGA”).
- TPMG denies all of the allegations and expressly and specifically denies violating any laws.
- Your legal rights may be affected by this Settlement whether you act, or do not act. Your options are explained in this notice. Thus, please read this notice carefully and in its entirety. To request to be excluded from, or object to, this Settlement, you must act before [30 days from date notice is mailed].
- The Court still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after appeals are resolved.

<b>Your Legal Rights and Options in this Settlement</b>	
<b>Do Nothing</b>	<b>Stay in this lawsuit. Receive a share in the Settlement amount.</b>
<b>Ask To Be Excluded</b>	<b>Get out of this lawsuit. Get no benefits (except for your share of the PAGA award) from it. Keep rights.</b>  If you ask in writing to be excluded from the Settlement, you will not share in the settlement amount, except for your share of the PAGA award, but will not give up any rights you may have with respect to the claims at issue in this lawsuit.
<b>Object</b>	<b>Write to the Court about why you don’t agree with the Settlement.</b>

## 1. Why did I get this notice?

TPMG's records show that you currently work or previously worked for TPMG in a non-exempt position between December 6, 2015 and [earlier of the date of preliminary approval or December 31, 2020] ("Class Period").

The Court directed that you receive this notice because you have a right to know about a proposed settlement of two class action lawsuits (the "Settlement"), and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves it, and after objections and appeals are resolved, an administrator appointed by the Court will make the payments that the Settlement allows. You will be informed of the progress of the Settlement.

This notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the California Superior Court for the County of San Joaquin, and the case is known as *Garcia et al. v. The Permanente Medical Group, Inc.*, San Joaquin County Superior Court Case No. STK-CV-UOE-2019-10008.

## 2. What is the lawsuit about?

The lawsuit is for unpaid wages, unpaid overtime, failure to pay overtime and meal and rest periods at the proper rate, failure to provide meal and rest periods, itemized wage statement violations, failure to pay all wages owed to former employees at the end of their employment, and civil penalties under the Private Attorneys' General Act ("PAGA"). The

TPMG expressly and specifically denies any liability or wrongdoing of any kind associated with the claims alleged in the lawsuit.

## 3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case, Brittany Miller, Rosa Maria Garcia, and Jennifer Horton), sue on behalf of people who may have similar claims. All of these people collectively are a Class. One court will resolve the issues for all Class Members, except for those who exclude themselves from the Class.

## 4. Why is there a settlement?

The Court did not decide in favor of the Class Representatives or TPMG. Instead, both sides agreed to the Settlement with the assistance of a professional mediator. This allowed both sides to avoid the cost of a trial, and the Class will be guaranteed to receive compensation. TPMG did not admit any liability but settled the lawsuit in order to avoid costly, disruptive, and time-consuming litigation. The Class Representatives and Class Counsel believe the Settlement is fair.

## 5. How do I know if I am part of the settlement?

The Court decided that everyone who fits this description is a Class Member: all current and former individuals who were employed by TPMG in the State of California as a non-exempt employee from December 6, 2015 through [INSERT DATE].

## 6. How can I be sure I am part of the Class?

If you are receiving this Notice and it is addressed to you, you are a Class Member in the proposed Settlement. If you are not sure if you were included and/or think you should have been, you can ask for free help to determine whether or not you are a Class Member. Call 1-xxx-xxx-xxxx Toll Free, or visit [www.XXXXXXXX.com/xxxx](http://www.XXXXXXXX.com/xxxx) for more information. You may also call Class Counsel, whose contact information is on page 5.

## 7. What does the settlement provide?

TPMG will pay a Class Settlement Amount of \$9,730,000.00 (“Class Settlement Amount”) to cover: (1) Settlement payments to Settlement Class Members; (2) the costs of administering the Settlement; (3) Class Representative Enhancements to the Class Representatives; (4) payment to the California Labor and Workforce Development Agency (“LWDA”); and (5) the Class Counsel Award and costs. The Gross Fund will be distributed in accordance with the terms of this Agreement. A description of how to “exclude” yourself is provided below, in Question 14 on page [REDACTED].

## 8. How much will my payment be?

Your share of the Settlement will depend on the number of Class Members who participate (*i.e.*, the number of Class Members who do not “exclude” themselves), and how many workweeks you worked for TPMG as a non-exempt employee in California during the Class Period. Each Class Member shall receive a pro rata portion of the Settlement subject to a distribution formula. Here’s how it works:

After deducting the Class Representatives’ Enhancements, Class Counsel’s awarded attorneys’ fees and expenses, payment to the LWDA, and the Claims Administrator’s fees and expenses, the balance of the Class Settlement Amount (the “Net Settlement Fund”) will be available for payment to Settlement Class Members.

The Settlement Payments for each participating Settlement Class Member shall be determined on a pro-rata basis based on the number of workweeks that the Class Member worked during the Class Period (“Individual Workweeks”). An “Individual Settlement Payment” for each Class Member will be determined by multiplying the Net Settlement Fund by a ratio that is determined by dividing a Class Member’s Individual Workweeks by the total number of weeks worked by all Class Members (who do not opt out of the Settlement) during the Class Period. Each individual’s portion of the PAGA award will be determined by dividing that individual’s Individual Workweeks by the total number of weeks worked by all PAGA Members between July 15, 2018 through [the earlier of the date of preliminary approval or December 31, 2020] (the “PAGA Period”).

TPMG’s records show that you worked [NUMBER] of workweeks as a non-exempt TPMG employee during the Class Period (December 6, 2015 to [DATE]) and that you worked [NUMBER] of workweeks as a non-exempt TPMG employee during the PAGA Period (July 15, 2018 and [DATE]).

If you feel that you were not credited with the correct number of workweeks that you worked as a non-exempt TPMG during the Class Period or PAGA Period, you may submit evidence to the Settlement Administrator on or before [INSERT DATE OF RESPONSE DEADLINE] with documentation to establish the number of workweeks you claim to have actually worked during the Class Period. DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS. The Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith with counsel for TPMG how many workweeks should be credited to you. The Settlement Administrator will make the final decision as to how many weeks are credited, and report the outcome to you. If you are unsatisfied with the decision, you may submit an Objection, as discussed below, or you may opt out of the Settlement.

## 9. How can I get a payment?

You do not need to do anything to get your payment. If you are a Class Member (as defined above in Question #5), and received this notice, you are automatically included in the Settlement and do not need to take any further action to receive a payment.

## 10. What if my address changes?

If you move after receiving this notice or if it was misaddressed, please contact the Settlement Administrator:

[Insert Settlement Administrator address and phone number]

It is important that you advise the Settlement Administrator of any address changes so that future notices and/or the settlement payment can reach you.

## 11. When will I get my payment?

The Court will hold a hearing on **[INSERT FINAL APPROVAL HEARING DATE]** to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objectors, you should receive your payment within three months of the Court granting approval. If there are objectors and/or appeals, the process may take longer. Please be patient. You can contact Class Counsel whose contact information is included in Question 16 for an update at any time.

## 12. What am I giving up in return for payment?

Unless you exclude yourself, you are staying in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against The Permanente Medical Group, Inc. and its present and former affiliates and all of their officers, directors, employees, agents, servants, representatives, attorneys, insurers, successors, and assigns, and any other persons acting by, through, under or in concert with any of them ("Released Parties") about the legal issues in this case. It also means that all of the Court's orders will apply to you and legally bind you.

If you do not exclude yourself, then you will agree to a "Release of Claims." These claims are the legal claims that you give up if you get the settlement benefit. Specifically, each Class Member releases the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, donning and doffing, pre or post shift testing or inspections, expense reimbursement claims, reporting time, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that the Labor Code Section 514 exemption does not apply to Defendant's employees, pre and post-shift work and record-keeping violations that occurred during the Class Period. This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 510, 511, 512, 515, 517, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and 2802 as well as claims under Business and Professions Code section 17200 *et seq.*, and/or Labor Code Section 2698 *et seq.* based on alleged violations of the above Labor Code provisions, as alleged in the following lawsuits: *Garcia et al. v. The Permanente Medical Group, Inc.*, San Joaquin County Superior Court Case No. STK-CV-UOE-2019-10008 and *Miller v. The Permanente Medical Group, Inc.*, Alameda County Superior Court Case No. RG19045904. This release shall only apply to all claims arising at any point during the Class Period through **[DATE]** ("Release Period"), but this release shall not include unrelated claims like retaliation, discrimination, workers' compensation, or ERISA claims, or claims arising outside the Release Period.

In addition to the claims enumerated above, each member of the Settlement Class who endorses his or her Individual Settlement Payment check by signing the back of the check and depositing or cashing the check shall release and forever waive any and all claims the Settlement Class member may have under claims asserted in the operative first amended Complaint for violations of the Fair Labor Standards Act ("FLSA"); and any and all claims for restitution, including without limitation back pay, attorneys' fees and costs, interest, and liquidated damages under the FLSA that occurred during the Class Period ("FLSA Release").

## 13. Can I get a settlement payment if I still work for TPMG?

Yes. If you are still working for TPMG, you will receive a settlement payment so long as you do not exclude yourself. The Settlement will not affect your employment and TPMG will not retaliate against you in any manner for participating in the Settlement or choosing not to participate in the Settlement.

**California law strictly prohibits retaliation.**

## 14. How do I get out of the Settlement if I don't want to participate?

If you **do not** want to take part in the Settlement, you can exclude yourself. To exclude yourself from the Settlement, you must send a letter or postcard postmarked no later than [insert response deadline] with your name, signature, and should state something to the effect of:

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN GARCIA V. THE PERMANENTE MEDICAL GROUP, INC.

Send the Request for Exclusion directly to the Settlement Administrator at the following address:

[Insert Settlement Administrator address]

**The Request must be postmarked or faxed on or before [INSERT RESPONSE DEADLINE].** Any person who files a timely written request to be excluded from the Settlement will, upon receipt, no longer be a Class Member, will **not** receive any money from the Settlement, except for his or her share of the PAGA award. You will not be legally bound by anything that happens in this lawsuit other than the resolution of the PAGA claims at issue. You cannot both exclude yourself and object to the Settlement.

## 15. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, you will not receive any money from the Settlement.

## **THE LAWYERS REPRESENTING THE PARTIES AND EXPENSE INFORMATION**

### 16. Who are the lawyers in this case?

#### **CLASS COUNSEL:**

Norman B. Blumenthal  
Kyle R. Nordrehaug  
Blumenthal Nordrehaug Bhowmik  
De Blouw LLP  
2255 Calle Clara  
La Jolla, CA 92037  
Tel.: (858) 551-1223  
Fax: (858) 551-1232  
Email: norm@bamlawca.com  
kyle@bamlawca.com

Larry W. Lee  
Kristen M. Agnew  
Nicholas Rosenthal  
Diversity Law Group, P.C.  
515 S. Figueroa Street, Suite  
1250  
Los Angeles, CA 90071  
Tel.: (213) 488-6555  
Fax: (213) 488-6554  
Email: lwlee@diversitylaw.com  
kagnew@diversitylaw.com  
nrosenthal@diversitylaw.com

William L. Marder  
Polaris Law Group, LLP  
501 San Benito Street, Suite 200  
Hollister, CA 95023  
Tel.: (831) 531-4214  
Fax: (831) 634-0333  
Email: bill@polarislawgroup.com

#### **COUNSEL FOR TPMG:**

##### **SEYFARTH SHAW LLP**

Christian J. Rowley (SBN 187293)  
*crowley@seyfarth.com*  
Kerry M. Friedrichs (SBN 198143)  
*kfriedrichs@seyfarth.com*  
Parnian Vafaenia (SBN 316736)  
*pvafaenia@seyfarth.com*  
560 Mission Street, 31st Floor

## 17. How will the lawyers for the Class be paid?

All attorneys' fees and costs awarded by the Court to Class Counsel will be paid out of the Gross Fund. Class Counsel are asking the Court to award one-third of the Gross fund (\$3,243,333.33) in attorneys' fees, and litigation costs actually incurred in representing the interests of the Class, supported by adequate documentation, in an amount not to exceed \$30,000. Plaintiffs and Class Counsel support this amount because of the substantial benefits obtained by Class Counsel for Class Members. The Court may award less than these amounts.

## 18. What other expenses are taken out of the total settlement amount?

TPMG has agreed to pay \$9,730,000.00 to resolve the claims that were brought in this lawsuit. Under the terms of the Settlement Agreement preliminarily approved by the Court will be paid from the Settlement amount to [Settlement Administrator] to act as the Settlement Administrator, who is sending this notice to you, and will perform all the administrative duties related to this Settlement. The Settlement Administration Costs are estimated to not exceed \$ [redacted].

Class Counsel will also ask the Court to award Class Representatives Rosa Maria Garcia, Jennifer Horton, and Brittany Miller enhancement awards in the amount of \$10,000 each to compensate them for their service on behalf of the Class Members. The Class Representatives will also receive a share of the Settlement as class members.

Lastly, \$100,000 of the Settlement is allocated to the Private Attorneys General Act ("PAGA") claims asserted in the Action. Under PAGA, 75% of the PAGA penalties must be paid (here, \$75,000) to the California Labor and Workforce Development Agency. The remaining 25% (here, \$25,000) allocated to the PAGA claims will be included in the distribution to Settlement Class Members.

## 19. How do I tell the court that I do not agree with the Settlement?

If you are a Class Member, you can object to the Settlement if you do not agree with any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. You can submit a written objection to the Settlement Administrator no later than [INSERT RESPONSE DEADLINE]. However, even if you do not submit a written objection you may appear at the Final Fairness Hearing in-person and present any objection that you wish for the Court to consider. The Final Fairness Hearing is presently scheduled for [INSERT FINAL APPROVAL HEARING DATE] at [INSERT TIME] in [INSERT HEARING LOCATION INFORMATION].

If you wish to submit a written objection please mail it to the Settlement Administrator at:

[Insert Settlement Administrator address]

Written objections should **not** be filed with and/or mailed/served on Class Counsel.

## 20. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you, except that you will receive your share of the PAGA award.

## 21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Settlement Approval Hearing, which is presently scheduled for [INSERT FINAL APPROVAL HEARING DATE] at [INSERT TIME] in [INSERT HEARING LOCATION INFORMATION]. The date and time of the Final Settlement Approval Hearing is subject to change. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also decide how much money to pay to Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

## 22. Do I have to come to the hearing?

No. Class Counsel will answer questions the Court may have. However, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. You may also pay your own lawyer to attend, but this is not required.

## 23. Are there more details about the Settlement and how do I get more information?

This notice summarizes the proposed Settlement. More details are in a Settlement Agreement and a website created by the Settlement Administrator accessible at: [www.xxxxxx.com](http://www.xxxxxx.com). The pleadings and other records in this litigation are also available on the San Joaquin County Superior Court's website, at [INSERT LINK].

**PLEASE DO NOT TELEPHONE THE COURT, THE OFFICE OF THE CLERK, TPMG OR DEFENSE COUNSEL FOR INFORMATION REGARDING THIS PROPOSED SETTLEMENT.**