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CALIFORNIA RICE CENTER, INC.

15
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES - SPRING STREET COURTHOUSE**

18 BRENDA TORRES, individually and on behalf
19 of all others similarly situated,
20
21 Plaintiff,
22
23 v.
24 CALIFORNIA RICE CENTER, INC., a
California corporation; and DOES 1 through 100,
inclusive,
25
26 Defendants.

Case No.: 20STCV18638
[ASSIGNED FOR ALL PURPOSES TO THE
HON. ELIHU M. BERLE – DEPT. 6]
CLASS ACTION
**FIRST AMENDED JOINT STIPULATION
AND CLASS SETTLEMENT
AGREEMENT**

1 IT IS HEREBY STIPULATED AND AGREED by and between Defendant CALIFORNIA
2 RICE CENTER, INC. (hereinafter referred to as “Defendant”) on the one hand, and Plaintiff
3 BRENDA TORRES and Plaintiff SALVADOR OROZCO (hereinafter collectively referred to as
4 “Plaintiffs” and each may be individually referred to as a “Plaintiff”) each on his/her behalf and on
5 behalf of the other “Class Members” as defined herein and acting in his/her private attorney general
6 capacity, on the other hand (hereafter Defendant and Plaintiffs are collectively referred to as the
7 “Parties” and each may be individually referred to as a “Party”), subject to the approval of the Court
8 pursuant to section 382 of the California Code of Civil Procedure, Rule 3.769 of the California Rules
9 of Court, and California Labor Code § 2699, that the settlement of the Action (as defined herein)
10 shall be effectuated and subject to the following terms and conditions:

11
12 **I. SUMMARY OF SETTLEMENT TERMS**

13 Under the terms of the Settlement, Defendant will pay the Maximum Settlement Amount
14 (“MSA”) of Three Hundred Thousand Dollars (\$300,000.00), without reversion, in exchange for the
15 full and final settlement and release of any and all claims that were or could have been alleged in the
16 operative Complaint in this Action, and subject to the terms and conditions outlined in this
17 Agreement (as defined herein). This is a no claims-made settlement and will be administered by
18 Phoenix, a third-party administrator. Defendant conditionally agrees to stipulate, solely for the
19 limited purpose of consummating the terms of the Settlement contained in this Agreement, to have
20 the Court certify a class of all current and former hourly-paid and non-exempt employees who
21 worked for Defendant within the State of California, during the Class Period (as defined herein).

22 In addition, Plaintiffs and Class Counsel will seek from the Maximum Settlement Amount:
23 (1) attorneys’ fees in the amount of One Hundred Five Thousand Dollars (\$105,000.00), representing
24 thirty-five percent (35%) of the MSA; (2) litigation costs not to exceed Fifteen Thousand Dollars
25 (\$15,000); (3) enhancement payment for Plaintiff BRENDA TORRES in the amount of Five
26 Thousand Dollars (\$5,000.00); and (4) enhancement payment for Plaintiff SALVADOR OROZCO
27 in the amount of Five Thousand Dollars (\$5,000.00). Furthermore, the Parties have agreed that
28 Twenty Thousand Dollars (\$20,000.00) from the Maximum Settlement Amount will be allocated as

1 civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”),
2 with 75% of this amount, Fifteen Thousand Dollars (\$15,000.00), to be paid to the California Labor
3 & Workforce Development Agency (“LWDA”) in satisfaction of any claim for civil penalties that
4 may be owed to that agency under the PAGA. The other 25%, or Five Thousand Dollars (\$5,000.00),
5 will be distributed to the PAGA Employees (as defined herein) on a pro-rata basis.

6 Finally, any and all costs associated with the administration of the Settlement, including but
7 not limited to giving notice to the Class regarding the Settlement, processing any inquiries or
8 disputes, and remitting payment of any funds to the Participating Class Members pursuant to the
9 procedures outlined herein (“Settlement Administration Costs”), which shall not exceed Fifteen
10 Thousand Dollars (\$15,000.00), will be paid from the Maximum Settlement Amount. Defendant will
11 not be responsible for anything more than the Maximum Settlement Amount (except as provided in
12 Section II.21. below), however, payment of employer’s share of payroll taxes and other required
13 withholdings, based on Settlement Payment(s) to the Class Members shall be paid by the Defendant
14 in addition to the Maximum Settlement Amount. There will be no reversion of any funds to the
15 Defendant.

16
17 **II. DEFINITIONS**

18 As used in this Stipulation and Settlement Agreement (hereinafter the “Agreement”), the
19 following terms shall have the meanings specified below:

20 1. “Action” means this lawsuit, originally filed May 13, 2020, and the Operative
21 Complaint filed in the Superior Court of the State of California for the County of Los Angeles,
22 entitled *Brenda Torres v. California Rice Center, Inc.*, Case No. 20STCV18638.

23 2. “Agreement” or “Settlement” means this Stipulation and Settlement Agreement,
24 including any attached exhibits.

25 3. “Allocation Form” means the Court-approved Allocation Form, substantially in the
26 form of the Allocation Form attached as Exhibit 2 and incorporated by reference herein, which will
27 be mailed to Class Members only which advises them of their number of Workweeks and their
28 settlement share. The Class Members do not have to submit anything to receive their settlement

1 share.

2 4. "Class," "Class Member," or "Class Members" means all current and former hourly-
3 paid and non-exempt employees who worked for Defendant within the State of California at any time
4 during the Class Period. If such person is incompetent or deceased, "Class" or "Class Member" or
5 "Class Members" means the person's legal guardian, executor, heir, or successor in interest.

6 5. "Class Counsel" means Cody Payne, Esq. and Kim Nguyen, Esq. of PAYNE &
7 NGUYEN, LLP, 4640 Admiralty Way, Suite 500, Marina del Rey, CA 90292, Telephone No.: (310)
8 360-9882; Facsimile No.: (310) 928-7469.

9 6. "Class Counsel Costs" means the amounts to be paid, after Court approval, to Class
10 Counsel for costs incurred by Class Counsel in this Action.

11 7. "Class Counsel Fees" means the amount to be paid, after Court approval, to Class
12 Counsel for attorneys' fees.

13 8. "Class Notice" or "Notice of Settlement" means the form to be prepared by the Parties
14 and sent to the Class Members, after the Court preliminarily approves the terms contained in the
15 Agreement informing them of the material terms of the Agreement, why they are receiving the notice,
16 and what their options are to object, or be excluded from the Settlement. The Class Notice is attached
17 hereto as Exhibit 1. This mailing shall also include the Allocation Form as defined herein.

18 9. "Class Notice Period" or "Notice Period" means a period of sixty (60) calendar days
19 after the original date of the Settlement Administrator's mailing of the Notice of Settlement.

20 10. "Class Period" means from May 13, 2016 up to and including the date the Court
21 grants preliminary approval of this Settlement.

22 11. "Complaint" or "Operative Complaint" means the First Amended Complaint filed on
23 March 15, 2021 in this Action.

24 12. "Counsel for Defendant," "Defense Counsel," or "Defendant's Counsel" means
25 Alfred J. Landegger, Esq. and Evelyn Zarraga, Esq., of LANDEGGER RIVAS VERANO & DAVIS,
26 ALC, 15760 Ventura Blvd., Suite 1200, Encino, California 91436, Telephone No.: (818) 986-7561;
27 Facsimile No.: (818) 986-5147.

28 13. "Court" means the Los Angeles County Superior Court in which the Action is

1 currently pending, the Honorable Elihu M. Berle presiding, and located at Spring Street Courthouse,
2 312 North Spring Street, Los Angeles, California 90012. Court shall also mean any other Court that
3 acquires proper jurisdiction of this Action.

4 14. “Distributable Amount” or “Net Settlement Amount” means the amount that is
5 distributable to the Participating Class Members and PAGA Employees, and equals the Maximum
6 Settlement Amount less Class Counsel Fees, Class Counsel Costs, Plaintiff TORRES’ Enhancement
7 Payment, Plaintiff OROZCO’s Enhancement Payment, LWDA Payment, and Settlement
8 Administration Costs.

9 15. “Effective Date” means the later of (a) the date of entry of Order granting final
10 approval of this Settlement, if no objection to the Settlement is filed, (b) the date on which the time
11 for all appeals from objections to the Settlement has expired, if one or more objections to the
12 Settlement are filed, and not withdrawn, and (c) if an appeal is taken, the date on which the appeal is
13 settled, withdrawn or dismissed, or any reviewing court issues a decision, the time for further appeal
14 has expired, and the trial court has regained jurisdiction.

15 16. “Enhancement Payments” means the payments to the Representative Plaintiffs for
16 their service to the Class, which is in addition to whatever payment they are otherwise entitled to as
17 a Participating Class Member, including Plaintiff TORRES’ Enhancement Payment in the amount
18 of Five Thousand Dollars (\$5,000.00) and Plaintiff OROZCO’s Enhancement Payment in the amount
19 of Five Thousand Dollars (\$5,000.00).

20 17. “Final Approval Hearing” refers to the hearing during which the Parties will seek
21 final approval of this Agreement.

22 18. “Final Judgment” means the order entered by the Court pursuant to the terms set forth
23 in this Agreement finally and fully giving effect to the terms contained in this Agreement, certifying
24 the Class, approving this Settlement, and dismissing this Action with prejudice.

25 19. “Maximum Settlement Amount” or “MSA” means the total amount of Three
26 Hundred Thousand Dollars (\$300,000.00) to be paid by Defendant pursuant to the terms of this
27 Agreement. This is Maximum Settlement Amount is based on Defendant’s representation that the
28 Class Members worked a total of 12,319 Workweeks during the Class Period, as of the December 14,

1 2020 mediation. Should the Qualifying Workweeks worked by the Class Members during the Class
2 Period as of the December 14, 2020 mediation ultimately increase by more than 10% (i.e., by more
3 than 1,231 Workweeks), Defendant shall increase the Maximum Settlement Amount on a prorata
4 basis equal to the percentage increase in the number of Workweeks worked by the Class Members
5 above 10%. For example, if the number of Workweeks as of the December 14, 2020 mediation
6 increases by 11% to 13,674 Workweeks, the Maximum Settlement Amount will increase by 1%.

7 20. “Notice Returns” means envelopes containing the Class Notice that were mailed by
8 the Settlement Administrator to Class Members but were undelivered and returned to the Settlement
9 Administrator by the United States Postal Service.

10 21. “Objection to Class Settlement” means any written objection to this Settlement by
11 Class Members who do not choose to be excluded from the Class that is served on the Settlement
12 Administrator within the Opt-Out Period.

13 22. “Opt-Out Period” or “Response Deadline” refers to the deadline of no later than sixty
14 (60) calendar days after the original date of the Settlement Administrator’s mailing of the Notice of
15 Settlement that any Class Member, who wishes to be excluded from the Settlement, submits a
16 Request for Exclusion.

17 23. “PAGA Employee” or “PAGA Employees” means all Class Members employed at
18 any time during the PAGA Period.

19 24. “PAGA Payment” means the amount of Twenty Thousand Dollars (\$20,000.00) of
20 the Maximum Settlement Amount to be allocated as civil penalties under the California Labor Code
21 Private Attorneys General Act of 2004 (“PAGA”), with 75% of this amount, Fifteen Thousand
22 Dollars (\$15,000.00), to be paid to the LWDA in satisfaction of any claim for civil penalties that may
23 be owed to that agency under the PAGA (“LWDA Payment”). The other 25%, or Five Thousand
24 Dollars (\$5,000.00), will be distributed to the PAGA Employees on a pro-rata basis as described in
25 this Agreement.

26 25. “PAGA Period” means from January 8, 2020 up to and including the date the Court
27 grants preliminary approval of this Settlement.

28 26. “Participating Class Members” means those Class Members who do not timely file a

1 valid Request for Exclusion with the Settlement Administrator provided under this Agreement.

2 27. "Plaintiffs" or "Representative Plaintiffs" means Plaintiff BRENDA TORRES and
3 Plaintiff SALVADOR OROZCO, and each of their representative(s), heir(s), assign(s), and
4 attorney(s).

5 28. "Personal Release(s)" means each individual Representative Plaintiffs' irrevocable
6 and unconditional release, acquittal, and discharge of the Released Persons and all persons and/or
7 corporate entities acting by, through, under, or in concert with any of them, or any of them, from any
8 and all complaints, claims, penalties, liabilities, obligations, promises, agreements, controversies,
9 damages, costs, losses, debts and expenses (including attorneys' fees and costs actually incurred), of
10 any nature whatsoever, including but not limited to claims arising from the California Constitution;
11 Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e); the California Fair Employment and
12 Housing Act (Cal. Govt. Code §12900 et seq.); the Americans with Disabilities Act; the Age
13 Discrimination in Employment Act (29 U.S.C. §§621-633a); the Older Workers' Benefit Protection
14 Act; the Private Attorneys General Act of 2004; and claims of intentional infliction of emotional
15 distress; defamation and/or libel, or any other damage to reputation claims; breach of implied contract
16 or for claims of a breach of the covenant of good faith and fair dealing, as well as any other express
17 or implied covenant; or any other statute or common law principle of similar effect, known or
18 unknown, which the person giving this release now has, owns, or holds, or claims to have, own or
19 hold, or which said person at any time heretofore had, owned, or held, or claimed to have, own, or
20 hold or which said person at any time hereinafter may have, own, or hold, or claim to have, own, or
21 hold, against each or any of the Released Persons, arising from acts, events, or circumstances
22 occurring on or before the effective date of this Agreement.

23 As to the foregoing claims, each Representative Plaintiff expressly waives the benefits of
24 California *Civil Code §1542*. *Civil Code §1542* provides:

25 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT**
26 **THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR**
27 **SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF**
28 **EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR**
HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

1 The Personal Release is not intended to, nor does it cover, any claims that cannot be released
2 as a matter of law.

3 29. “Preliminary Approval Order” is the order preliminarily approving the settlement
4 terms contained in this Agreement.

5 30. “Preliminary Approval Date” is the date the Court grants preliminary approval of this
6 Settlement.

7 31. “Qualifying Workweeks” or “Workweeks” means the total workweeks each
8 Participating Class Member worked during the Class Period.

9 32. “Redirected Notice” means a re-mailing of the Class Notice mailed by the Settlement
10 Administrator to a new or different address to a Class Member that was obtained by the Settlement
11 Administrator as a result of a Notice Return.

12 33. “Released Claims” means all claims, debts, liabilities, demands, obligations,
13 guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which relate to any and all
14 claims alleged or which could have been alleged based on the facts in the Operative Complaint filed
15 by Representative Plaintiffs, both on their behalf and on behalf of the Participating Class Members
16 in this Action during the Class Period, including the date of preliminary approval of the Settlement
17 under any federal, state or local law, and shall specifically include claims for failure to pay minimum
18 wages, failure to pay overtime wages, failure to pay all hourly wages including minimum and
19 overtime wages as a result of failing to accurately record the actual time worked and/or off-the-clock
20 work, failure to provide meal periods or compensation in lieu thereof, failure to provide rest periods
21 or compensation in lieu thereof, failure to provide accurate itemized wage statements, failure to
22 timely pay final wages, failure to timely pay wages during employment, failure to properly maintain
23 required employment records, unfair and unlawful business practices, violations of California Labor
24 Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, Business
25 and Professions Code § 17200, *et seq.*, the Industrial Welfare Commission Wage Orders (“IWC
26 Wage Order”) including inter alia, IWC Wage Order No. 1, and any other claims, including claims
27 for statutory and/or civil penalties, pertaining to the Participating Class Members which were alleged
28 or could have been alleged in operative Complaint based upon the allegations and claims contained

1 in the Operative Complaint. With respect to the PAGA Employees, the Released Claims also includes
2 any and all claims for civil Penalties under PAGA [Cal. Lab. Code §§ 2699, *et seq.*] that are based
3 upon or arise from the factual allegations in the Operative Complaint and/or Notice to the LWDA,
4 arising during and/or with respect to the PAGA Period (PAGA penalties only for those violations set
5 forth in the Notice provided to Defendants and the LWDA on January 8, 2021, including (1) Failure
6 to Pay for All Time Worked at Correct Rates of Pay, Including Minimum Wages, Straight Time
7 Wages, and Overtime Compensation; (2) Failure to Provide Meal Periods and Pay Meal Period
8 Premiums; (3) Failure to Authorize and Permit Rest Periods and Pay Rest Period Premiums; (4)
9 Failure to Timely Pay Wages During Employment; (5) Failure to Provide Accurate Wage Statements;
10 (6) Failure to Maintain Accurate Records; and (7) Failure to Pay All Wages Upon Termination of
11 Employment), including violations of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7,
12 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, the Industrial Welfare Commission Wage Orders
13 (“IWC Wage Order”) including inter alia, IWC Wage Order No. 1, and including all attorneys’ fees
14 and costs related thereto. In addition, as to any Participating Class Member who cashes the check
15 representing their Settlement Payment, the signing and negotiation of that check shall serve as the
16 Class Member’s consent to join the action for purposes of releasing claims arising under the Fair
17 Labor Standards Act (“FLSA”) that are related to the claims stated in the Action, implicitly or
18 explicitly, and, for such persons, “Released Claims” shall include all related claims arising under the
19 FLSA. This release is limited in time to the Class Period covering the Participating Class Members
20 who worked for the Released Persons in the State of California.

21 34. “Released Persons“ means Defendant CALIFORNIA RICE CENTER, INC., and its
22 respective agents, attorneys, insurers, past, present and future divisions, affiliates, DBAs (if any),
23 predecessors, successors, shareholders, officers, directors, managers, employees, trustees,
24 representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, owners,
25 subsidiaries, privies, and/or any and all persons and/or corporate entities acting by, through, under or
26 in concert with any of them.

27 35. “Request for Exclusion” or “Opt-Out” means a written request by a Class Member to
28 be excluded from the Class and the Settlement containing all the information necessary as detailed

1 herein.

2 36. “Settlement Administrator” refers to Phoenix Settlement Administrators (or
3 “Phoenix”), the entity that Class Counsel and Counsel for Defendant selected to administer this
4 Settlement and to act as the Settlement Administrator to process the Settlement under the terms of
5 this Agreement.

6 37. “Settlement Administration Costs” means the fees and costs incurred or charged by
7 the Settlement Administrator in connection with the execution of its duties under this Agreement
8 including: (a) using the data provided by Defendants to prepare the Allocation Form with the number
9 of Qualifying Workweeks for each Class Member as described above; (b) mailing the Notices defined
10 herein to Class Members; (c) tracking Requests for Exclusion and objections; (d) sending cure letters
11 to Class Members, and making follow-up telephone calls to Class Members; (e) notifying the Parties
12 of timely and untimely Requests for Exclusion, and objections received; (f) calculating the amounts
13 due to each Participating Class Member and PAGA Employee pursuant to the Settlement as described
14 herein; (g) notifying the Parties of, and helping to resolve, any disputes regarding claims by the Class
15 Members; (h) providing settlement payments, along with issuing requisite tax forms (e.g., IRS Form
16 1099, W-2, etc.), to the Participating Class Members and PAGA Employees and to the taxing
17 authorities; (i) utilizing the National Change of Address Database maintained by the United States
18 Postal Service, mail-forwarding information and/or skip tracing methods, as reasonable, to update
19 the mailing list, and taking steps to send Notice Packets to current mailing addresses; (j) submitting
20 payment of Defendant’s portion of payroll taxes; (k) mailing of Final Approval Notice and (l)
21 performing such other duties as are described herein or as the Parties may request from time to time.

22 38. “Settlement Payment” or “Individual Settlement Payment” refers to the payment to
23 any Participating Class Member and/or PAGA Employee pursuant to the terms of this Agreement.

24

25 **III. BACKGROUND**

26 The original complaint in this Action was filed on May 13, 2020, in the Superior Court of
27 the State of California, County of Los Angeles asserting the following causes of action:

28 (1) Violation of California Labor Code §§ 510 And 1198 (Unpaid Overtime);

- 1 (2) Violation of California Labor Code §§ 226.7 And 512(A) (Unpaid Meal Period
- 2 Premiums);
- 3 (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- 4 (4) Violation of California Labor Code §§ 1194, 1197 And 1197.1 (Unpaid Minimum
- 5 Wages);
- 6 (5) Violation of California Labor Code §§ 201, 202 And 203 (Final Wages Not Timely Paid);
- 7 (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- 8 (7) Violation of California Labor Code § 226(A) (Non-Complaint Wage Statements);
- 9 (8) Violation of California Labor Code § 1174 (D) (Failure to Keep Requisite Payroll
- 10 Records); and
- 11 (9) Violation of California Business And Professions Code § 17200, Et Seq.

12 On January 8, 2021, Plaintiff SALVADOR OROZCO sent a letter to the LWDA and
13 Defendant giving notice of his intent to pursue a representative action against Defendant pursuant to
14 the PAGA, on behalf of himself and the State of California, as well as on behalf of a proposed group
15 of aggrieved employees (“Notice to the LWDA”).

16 Plaintiffs filed their First Amended Complaint on March 15, 2021, adding Plaintiff
17 SALVADOR OROZCO as an additional putative class representative and asserting the following
18 additional cause of action on a representative basis: (10) Private Attorney General Act, Labor Code
19 § 2698, et seq.

20 Defendant denies each and every one of the allegations asserted in the Complaint and asserts
21 that it has no liability for the claims of the Representative Plaintiffs or the Class.

22 The Parties have conducted a significant investigation of the facts and law during the
23 prosecution of this Action, which included informal discovery. The informal discovery included the
24 exchange of class information such as class size and composition, the production of Class Members’
25 time and payroll records, as well as Defendant’s written wage and hour policies and practices. The
26 Parties conducted the aforementioned investigation and discovery in anticipation of, and prior to, the
27 private mediation of the Action. Counsel for the Parties investigated the law as applied to the
28 discovered facts regarding the alleged claims of the Representative Plaintiffs and the potential

1 defenses thereto, and the potential damages claimed by the Representative Plaintiffs.

2 Thereafter, the Parties participated in a full day mediation on December 14, 2020 before an
3 experienced and well-regarded mediator, Jeffrey Krivis, Esq. Through the efforts of all Parties and
4 their counsel, as well as the invaluable assistance of the mediator, the Parties were eventually able to
5 reach a mutual understanding of the material terms of settlement, which are memorialized in this
6 Agreement.

7 Representative Plaintiffs and Class Counsel concluded, after taking into account the sharply
8 disputed factual and legal issues involved in the Action, the risks and substantial expenses involved
9 in the further prosecution of this case, and the substantial benefits to be received pursuant to the
10 compromise and settlement of the Action at this early stage, as set forth in this Agreement, that
11 settlement on the terms set forth herein is in the best interest of Representative Plaintiffs and the
12 Class, and is fair and reasonable. In particular, Class Counsel and Representative Plaintiffs
13 understand the risk of the class certification process, as well as the potential merits of affirmative
14 defenses expected to be raised by the Defendant. In light of the risks related to certifying a class,
15 prevailing on an anticipated motion for summary judgment and a potential trial, the recovery of Three
16 Hundred Thousand Dollars (\$300,000.00) obtained in the Action is both reasonable and fair.

17 Similarly, Defendant concluded that there are benefits associated with settling the Action at
18 this early stage. After taking into account the sharply disputed factual and legal issues involved in
19 the Action, the expense and burden of protracted litigation, and its desire to put the controversy to
20 rest, Defendant believes that settlement on the terms set forth in this Agreement is in its best interest
21 and is fair and reasonable. Defendant in particular has concluded that the future costs and expenses
22 involved in continuing the Action are substantial and chose to eliminate any further expenses,
23 attorneys' fees, and risks via the Settlement. In particular, given the severely disputed nature of the
24 case, it is expected that substantial expenses will be incurred determining many issues dealing with
25 discovery, a class certification motion, a Summary Judgment motion, eventual trial, and possible
26 appeals.

27 This Agreement contemplates (i) entry of an Order preliminarily approving the Settlement
28 and approving certification of a provisional settlement class, contingent upon final approval of the

1 Settlement; (ii) the mailing of a Notice of Settlement to all Class Members; (iii) the processing of
2 any objections, and opt-outs by the Settlement Administrator, as well as payment to the Class
3 Members after final approval of this Agreement by the Court; and (iv) entry of Final Judgment
4 granting final approval of the Settlement and terms contained therein, and dismissal of the Action
5 with prejudice.

6 **IV. SETTLEMENT APPROVAL & IMPLEMENTATION PROCEDURE**

7 **A. Preliminary Approval of the Settlement.**

8 As soon as practicable, Class Counsel will also submit this Agreement to the Court for its
9 preliminary approval. Such submission will include such motions, pleadings, and evidence as may
10 be required for the Court to determine that this Agreement is fair, adequate, and reasonable, as
11 required by section 382 of the California *Code of Civil Procedure*, Rule 3.769 of the California *Rules*
12 *of Court*, and California Labor Code § 2699. Such submission will also include a Notice of Class
13 Settlement and Allocation Form, in substantially the form attached hereto as Exhibits 1 and 2
14 respectively.

15 **B. Conditional Certification of the Class.**

16 Defendant hereby consents, solely for purposes of the Settlement set forth in this Agreement,
17 to the conditional certification of the Class, to the conditional appointment of Class Counsel, and to
18 the conditional approval of the Representative Plaintiffs, provided however, that if the Settlement
19 fails to be approved or otherwise fails to be consummated for any reason whatsoever, including but
20 not limited to the Final Judgment not becoming final, then Defendant retains all rights previously
21 available to it, and any provisional certification of any class, or the adoption of any procedure herein,
22 shall be undone and the Parties restored to their pre-settlement status as if no settlement had been
23 reached and no decisions were made pursuant to it. In that event, nothing in this Agreement or other
24 papers or proceedings related to the Settlement shall be used as evidence or argument by any party,
25 including any Class Members who opt out, concerning whether or not the claims advanced in the
26 Complaint may properly be maintained as a class action, whether the purported class is ascertainable,
27 or whether Class Counsel or the Representative Plaintiffs can adequately represent the members of
28 the class under applicable law.

1 **C. Cooperation.**

2 The Parties agree to cooperate fully with each other to accomplish the terms and requirements
3 of this Agreement, including but not limited to, the execution of such documents and to take such
4 other action as may reasonably be necessary to implement the terms of this stipulated Settlement.

5 Except as otherwise provided herein, neither party nor any of their attorneys or agents shall
6 initiate any communication with any Class Members for the purpose of encouraging or discouraging
7 them to Opt-Out of the Class, or to object to the Settlement contained herein, unless agreed upon by
8 the other party in writing or if authorized by the Court. This provision in no way limits Class Counsel
9 from communicating with the Representative Plaintiffs, nor does the provision limit Class Counsel
10 from responding to any inquiry initiated by any Class Members.

11 The Parties shall promptly submit this Agreement for preliminary approval and determination
12 by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this
13 Agreement, the Parties shall apply to the Court for the entry of a Preliminary Approval Order
14 scheduling a hearing to determine whether the proposed Class Settlement should be approved as fair,
15 reasonable, and adequate as to the Class Members, and approving as to form and content of the
16 proposed Notice of Settlement.

17 **D. Notice Of Settlement By Mail.**

18 Defendant will provide as soon as practicable, but no later than fifteen (15) business days
19 after the Court grants preliminary approval of the Settlement, to the Settlement Administrator a list
20 containing: (1) the Class Members' names, (2) last known addresses, (3) total Workweeks worked
21 during the Class Period, (4) total Workweeks worked during the PAGA Period, and (5) social security
22 number, which will be used to send the Notice of Settlement and Allocation Form to Class Members
23 ("Class List"). Within fifteen calendar (15) days of receipt from Defendant of the Class List, the
24 Settlement Administrator shall mail the Notice of Settlement via First-Class mail using the United
25 States Postal Service to the most recent address known for each Class Member. Before mailing the
26 Notice of Settlement, the Settlement Administrator shall review the national change of address
27 registry for all Class Members and/or skip trace to determine the most up-to-date addresses of all
28 Class Members. If any Notices of Settlement are returned with a forwarding address, the Settlement

1 Administrator will re-mail the Notice of Settlement and Allocation Form to the Class Member whose
2 notice was returned.

3 In the event that prior to the final date for any Class Member to Opt-Out, any Notice mailed
4 to the Class Member is returned as having been undelivered by the U.S. Postal Service (“Notice
5 Return”), the Settlement Administrator shall, via skip-tracing, seek an address correction from such
6 Class Member(s), and send a Redirected Notice to the new or different address within seven (7)
7 calendar days if such address is found.

8 **E. Allocation Form.**

9 The Settlement Administrator shall mail along with the Notice of Settlement the Allocation
10 Form as described above, to the Class Members in English and Spanish.

11 **F. Requests for Exclusion (“Opt-Outs”).**

12 Any Class Member who wishes to be excluded from the Settlement must submit a Request
13 for Exclusion from the Settlement to the Settlement Administrator, no later than sixty (60) calendar
14 days after the original date of the Settlement Administrator’s mailing of the Class Notice of
15 Settlement (the “Opt-Out Period” or “Response Deadline”). Any Class Member who submits a valid
16 and timely request to be excluded from the Settlement shall no longer be a member of the Class, shall
17 be barred from participating in this Settlement, shall be barred from objecting to this Settlement, and
18 shall receive no benefit from this Settlement (except for PAGA Employees who retain a right to
19 receive a pro-rata share of the portion of the PAGA Payment allocated to the PAGA Employees).

20 The written request for exclusion must: (1) explicitly and unambiguously state the following
21 statement or similar statement: “I wish to exclude myself from the settlement reached in the matter
22 of *Brenda Torres v. California Rice Center, Inc.* I understand by excluding myself, I will not receive
23 any money from the Class settlement reached in this matter.”; (2) contain the name (including any
24 former names used during employment with CALIFORNIA RICE CENTER, INC.), address, and the
25 last four digits of the Social Security number of the person requesting exclusion; (3) be signed by the
26 Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement
27 Administrator at the specified address. The request for exclusion will not be valid if it is not timely
28 submitted, if it is not signed by the Class Member, or if it does not contain the name, and address of

1 the Class Member. The date of the postmark on the return mailing envelope on the request for
2 exclusion shall be the exclusive means used to determine whether the request for exclusion was
3 timely submitted. Any Class Member who requests to be excluded from the Settlement Class will
4 not be entitled to any recovery under the Settlement and will not be bound by the terms of the
5 Settlement (other than as it applies to the PAGA claim with respect to the PAGA Employees) or have
6 any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely
7 written request for exclusion by the Response Deadline shall be bound by all terms of the Settlement
8 and any final judgment entered in this Action if the Settlement is approved by the Court, regardless
9 of whether that Class Member receives and/or cashes his or her Settlement Payment check.

10 Class Members who are also PAGA Employees submitting a Request for Exclusion will
11 nevertheless receive their pro-rata share of the 25% of the PAGA Payment allocated to the PAGA
12 Employees. If the Court approves the compromise of the PAGA claim, all PAGA Employees are
13 bound by the Court's resolution of that claim. Plaintiff shall serve a notice of settlement on the
14 California Labor and Workforce Development Agency at the same time Plaintiff files the motion for
15 preliminary approval.

16 **G. Declaration Of Compliance.**

17 As soon as practicable, but no later than ten (10) calendar days following the Opt-Out-Period,
18 the Settlement Administrator shall provide Class Counsel and Counsel for Defendant with a
19 declaration attesting to completion of the notice process set forth in this Agreement, including an
20 explanation of efforts to resend undeliverable notices returned with forwarding addresses, and a
21 summary of disputed claims, and opt outs including the name of the class members opting out, which
22 declaration shall be filed with the Court by Class Counsel along with their papers requesting Final
23 Approval of the Settlement.

24 **H. Sufficient Notice.**

25 Compliance with the procedures described in this Section shall constitute due and sufficient
26 notice to Class Members of this Settlement and the final approval hearing, shall satisfy the
27 requirements of due process, and nothing else shall be required of the Representative Plaintiffs, Class
28 Counsel, Defendant, Counsel for Defendant, or the Settlement Administrator to provide additional

1 notice of the settlement and the Final Approval Hearing, unless expressly ordered by the Court.

2 **I. Objections To Settlement.**

3 Any Class Member wishing to object to the approval of this Settlement shall inform the Court
4 and Claims Administrator in writing of his or her intent to object by following the procedure set forth
5 in the Notice of Settlement within sixty (60) calendar days of mailing of the Notice of Settlement
6 and Allocation Form.

7 To be valid, the notice of Objection must be signed by the Class Member and state: (1) the
8 full name of the Class Member (including any former names used during employment with
9 CALIFORNIA RICE CENTER, INC.); (2) the dates of employment of the Class Member; (3) the
10 last four digits of the Class Member's Social Security number and/or the Employee ID number; (4)
11 the basis for the objection; and (5) if the Class Member intends to appear at the Final
12 Approval/Settlement Fairness Hearing. In order to object to the Settlement, the Class Member must
13 not have submitted a Request for Exclusion, however a Class Member may still attend the Final
14 Approval/Settlement Fairness Hearing and ask to speak regarding his or her objection and may orally
15 object at the hearing regardless of whether they submitted a written objection. At no time shall any
16 of the Parties or their counsel seek to solicit or otherwise encourage Class Members to file or serve
17 written objections to the Settlement or appeal from the Order and Final Judgment. Class Counsel
18 shall not represent any Class Members with respect to any such objections.

19 As soon as practicable, the Settlement Administrator shall forward any and all Objections to
20 Class Settlement to Class Counsel and Defense Counsel. Class Counsel shall ensure that any written
21 objections are transmitted to the Court for the Court's review (either as an attachment to a declaration
22 from Class Counsel or as an attachment to a declaration from the Settlement Administrator). The
23 Court may, in its sole discretion, permit any Settlement Class Member to state comments about the
24 Settlement or objections to the Settlement at the Final Approval hearing, regardless of whether the
25 Settlement Class Member has submitted an Objection to Class Settlement. Regardless of the form,
26 an objection alone will not satisfy the requirement that a Settlement Class Member must formally
27 intervene and become a party of record in the action to appeal a Judgment entered following an Order
28 or Judgment finally approving this Settlement, as is required under the California Supreme Court

1 decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018). A Class Member who does
2 not object prior to or at the Final Approval Hearing, will be deemed to have waived any objections
3 and will be foreclosed from making any objections (whether at the Final Approval Hearing, by
4 appeal, or otherwise) to the Settlement. If the objecting Class Member does not formally intervene
5 in the action and/or the Court rejects the Class Member's objection, the Class Member will still be
6 bound by the terms of this Agreement. Class Counsel and Defendant's Counsel may, at least five
7 days (or some other number of days as the Court shall specify) before the final approval hearing, file
8 responses to any Objections to Class Settlement received by the Settlement Administrator.

9 In order to object to the Class Settlement, the Class Member must not have submitted a
10 Request for Exclusion.

11 If an Objection or dispute of the amount due to a Class Member and a Request for Exclusion
12 are received from the same Class Member, the Settlement Administrator shall attempt to resolve the
13 matter by contacting the Class Member by any reasonable means to determine the Class Member's
14 choice. If the Settlement Administrator fails to determine what the Class Member intends, the Opt-
15 Out shall be null and void, and the Class Member will be counted as part of the Class and bound by
16 the terms and conditions of the Settlement.

17 **J. Final Approval Hearing.**

18 At the final approval hearing, the Representative Plaintiffs, Class Counsel, and Counsel for
19 Defendant shall ask the Court to give final approval to this Agreement and the Settlement contained
20 herein. At this hearing, the Court will consider and rule upon any Objections to Settlement submitted
21 by any Class Member, whether timely or not. Upon granting final approval of the Settlement
22 contained herein, the Court shall also enter a Final Judgment dismissing with prejudice all claims
23 and implementing the Releases contained in this Agreement as to Plaintiffs and all Participating Class
24 Members. The Releases contained in this Agreement shall enter into effect concurrently with the
25 issuance of the Final Approval order and/or Judgement.

26 **K. Formulas to Determine Payment, Distribution of Funds and Payment of Funds.**

27 1. ***General Terms of Settlement***

28 Defendant shall pay the Maximum Settlement Amount of Three Hundred Thousand Dollars

1 (\$300,000.00), to settle this Action, under the terms described in this Agreement.

2 Defendant shall pay the MSA in three installments. Defendant shall pay the first installment
3 of Fifty Thousand Dollars (\$50,000.00) by July 30, 2021 by electronic transfer to the Settlement
4 Administrator.

5 Defendant shall pay the second installment of One Hundred Twenty Five Thousand Dollars
6 (\$125,000.00) within seven (7) calendar days of the Effective Date by electronic transfer to the
7 Settlement Administrator.

8 Defendant shall pay the third and final installment of One Hundred Twenty Five Thousand
9 Dollars (\$125,000.00) within six (6) months of the Effective Date by electronic transfer to the
10 Settlement Administrator.

11 From the Maximum Settlement Amount, Class Counsel will request, and Defendant will not
12 oppose, One Hundred Five Thousand Dollars (\$105,000.00) as Class Counsel Fees, and up to Fifteen
13 Thousand Dollars (\$15,000.00) for Class Counsel Costs. In addition, Class Counsel will request Five
14 Thousand Dollars (\$5,000.00) as an Enhancement Payment for Representative Plaintiff BRENDA
15 TORRES, and Five Thousand Dollars (\$5,000.00) as an Enhancement Payment for Representative
16 Plaintiff SALVADOR OROZCO. Plaintiffs will have to execute the Agreement to receive their
17 respective Enhancement Payment. Under no circumstances will Defendant be required to pay more
18 in Class Counsel Fees, Class Counsel Costs, and/or Enhancement Payments than specified in this
19 Section. Class Counsel Fees, Class Counsel Costs, and the Enhancement Payments are subject to
20 Court approval. The Court's ruling on the request for Class Counsel Fees, Class Counsel Costs, and
21 Enhancement Payments shall not affect the enforceability of this Agreement or the terms contained
22 herein. In the event the Court reduces the amount requested in Class Counsel Fees, Class Counsel
23 Costs, and/or Enhancement Payments, the difference shall be added to the Distributable Amount to
24 the Class Members.

25 In addition, the Parties have agreed that Twenty Thousand Dollars (\$20,000.00) of the
26 Maximum Settlement Amount will be allocated for PAGA penalties, with 75% of this amount,
27 Fifteen Thousand Dollars (\$15,000.00), to be paid to the LWDA in satisfaction of any claim for
28 penalties that may be owed to that agency under PAGA (Cal. Labor Code 2699, *et seq.*), and the

1 remaining 25%, or Five Thousand Dollars (\$5,000.00), to be distributed to the Class Members on a
2 pro-rata basis. Under no circumstances will Defendant be required to pay more in PAGA Payment
3 than specified in this Section.

4 Further, the Settlement Administration Costs, currently estimated at Fifteen Thousand
5 (\$15,000.00), shall be made from the Maximum Settlement Amount. Any and all Settlement
6 Administration Costs shall be made from the Maximum Settlement Amount. Any amounts not used
7 by the Settlement Administrator for Settlement Administration shall be added to the Distributable
8 Amount to the Class Members. Under no circumstances will Defendant be required to pay more in
9 Settlement Administration Costs than specified in this Section.

10 Consequently, the amount from which the Class may be paid, also called the “Distributable
11 Amount,” is estimated to be:

12	Maximum Settlement Amount	\$300,000.00
13	Class Counsel Fees	- \$105,000.00
14	Class Counsel Costs	- \$15,000.00
15	Plaintiff TORRES’ Enhancement Payment	- \$5,000.00
16	Plaintiff OROZCO’s Enhancement Payment	- \$5,000.00
17	Settlement Administrator Costs	- \$15,000.00
18	LWDA Payment (LWDA Portion)	- \$15,000.00
19	Distributable Amount	\$140,000.00

20 No funds will revert to the Defendant from the Maximum Settlement Amount.

21 **2. Formula for Determining the Value of the Claims for the Class, including**
22 **for Each Participating Class Member and PAGA Employee**

23 The Net Settlement Amount will be allocated to the Participating Class Members and PAGA
24 Employees. Each Participating Class Member’s Settlement Payment shall include a pro-rata share
25 of the remainder of the Distributable Amount after deducting \$5,000.00 (the amount allocated for
26 PAGA penalties to PAGA Employees). Each Participating Class Member’s pro-rata share shall be
27 determined by comparing the individual Participating Class Member’s Qualifying Workweeks
28 during the Class Period to the total Qualifying Workweeks for all Participating Class Members during

1 the Class Period. The resulting percentage is the value of the individual Participating Class
2 Member's Class claim.

3 The formula to calculate the "Individual Class Claim" payment amount for
4 a Participating Class Member is: (Individual Participating Class Member's
5 Qualifying Workweeks during the Class Period / Total Qualifying
6 Workweeks for all Participating Class Members during the Class Period) x
7 (Distributable Amount less the \$5,000.00 amount allocated for PAGA
8 penalties to PAGA Employees) = Value of Participating Class Member's
9 Individual Class Claim.

10 Individual Class Claim payments from the Distributable Amount shall be made only to
11 Participating Class Members, pursuant to the manner provided in this Agreement.

12 In additional, each Class Member who is a PAGA Employee will be paid a pro-rata share of
13 the \$5,000.00 amount allocated for PAGA penalties to PAGA Employees, as calculated by the
14 Settlement Administrator, with a formula similar to payments to Participating Class Members for
15 Individual Class Claims.

16 The formula to calculate the "Individual PAGA Claim" payment amount
17 for a PAGA Employee is: (Individual PAGA Employee's Qualifying
18 Workweeks during the PAGA Period / Total Qualifying Workweeks for all
19 PAGA Employees during the PAGA Period) x (\$5,000.00, the amount
20 allocated for PAGA penalties to PAGA Employees) = Value of PAGA
21 Employee's Individual PAGA Claim.

22 The Settlement Payment for a Participating Class Member who is also a PAGA Employee
23 will therefore include the Participating Class Member's Individual Class Claim payment amount and
24 his or her Individual PAGA Claim payment amount.

25 Class Members who are PAGA Employees will not be permitted to exclude themselves from
26 the PAGA claim portion of the Settlement. PAGA penalty settlement payments in the appropriate
27 amounts will be distributed by the Settlement Administrator by mail to the PAGA Employees
28 including to those Class Members who are PAGA Employees who submitted a Request for

1 Exclusion.

2 Twenty percent (20%) of each Participating Class Member's Individual Class Claim
3 settlement payment shall be considered wages and shall be subject to all applicable local, state and
4 federal taxes and withholdings. Each Participating Class Member will receive from the Settlement
5 Administrator a W-2 for this portion of the payment. Forty percent (40%) of each Participating Class
6 Member's Individual Class Claim settlement payment shall be considered penalties and forty percent
7 (40%) of each Participating Class Member's Individual Class Claim settlement payment shall be
8 considered interest. One hundred percent (100%) of each PAGA Employee's Individual PAGA
9 Claim settlement payment shall be considered penalties. Each Class Member receiving a Settlement
10 Payment will also receive from the Settlement Administrator an IRS Form 1099 for those portions
11 of their Settlement Payment attributable to penalties and interest, and Class Members will be
12 responsible for correctly characterizing this compensation for tax purposes and to pay any taxes
13 owing.

14 Each Class Member receiving a Settlement Payment shall be responsible for correctly
15 characterizing any compensation received under the Settlement on his/her personal income tax
16 returns and paying any and all taxes due for any and all amounts paid to them under the Settlement.
17 The Settlement Administrator will withhold the employee's share of taxes and withholdings with
18 respect to the wages portion of the Individual Settlement Payments. Any employer's share of taxes
19 and contributions on the wages portion from the payment of any settlement funds to any Class
20 Member pursuant to the terms of this Agreement shall not be made from the Distributable Amount.
21 However, Defendant will only be responsible for employer side payroll taxes, separate and apart
22 from the MSA.

23 3. *Class Counsel Fees, Costs, Enhancement Payments, LWDA Payment,*
24 *Settlement Administration Cost, and Payment of Maximum Settlement Amount*
25 *Funds*

26 Plaintiffs and Class Counsel will request, and Defendant agrees not to oppose, payment from
27 the Maximum Settlement Amount of Five Thousand Dollars (\$5,000.00) to Representative Plaintiff
28 BRENDA TORRES as an Enhancement Payment and Five Thousand Dollars (\$5,000.00) to

1 Representative Plaintiff SALVADOR OROZCO as an Enhancement Payment. Class Counsel
2 believes, and Defendant does not challenge, that such award to the Representative Plaintiffs as an
3 Enhancement Payment is reasonable. The Settlement Administrator will issue an IRS Form 1099 to
4 each Representative Plaintiff for the Enhancement Payment, and Representative Plaintiffs shall be
5 solely and legally responsible for correctly characterizing this compensation for tax purposes and for
6 paying any taxes on the amounts received. Representative Plaintiffs agree to indemnify and hold
7 Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of
8 the Enhancement Payment

9 Plaintiffs and Class Counsel will request, and Defendant agrees not to oppose, the payment
10 from the Maximum Settlement Amount of One Hundred Five Thousand Dollars (\$105,000.00),
11 representing thirty-five percent (35%) of the MSA, to Class Counsel for Class Counsel Fees. Class
12 Counsel believes, and Defendant does not challenge, that such an award to Class Counsel is
13 reasonable. Plaintiffs and Class Counsel will request, and Defendant agrees not to oppose, a payment
14 from the Maximum Settlement Amount not to exceed Fifteen Thousand Dollars (\$15,000.00) to
15 Class Counsel for Class Counsel Costs. Class Counsel believes, and Defendant does not challenge,
16 that such an award to Class Counsel is reasonable.

17 Class Counsel Fees, Class Counsel Costs, and the Enhancement Payments, whether they are
18 awarded as requested or reduced by the Court at its discretion, shall be paid from the Maximum
19 Settlement Amount.

20 The Parties have agreed that Twenty Thousand Dollars (\$20,000.00) of the Maximum
21 Settlement Amount will be allocated as PAGA penalties, with 75% of this amount, Fifteen Thousand
22 Dollars (\$15,000.00), to be paid to the LWDA in satisfaction of any claim for penalties that may be
23 owed to that agency under PAGA. The other 25%, or Five Thousand Dollars (\$5,000.00), will be
24 distributed to the PAGA Employees on a pro-rata basis.

25 Moreover, all the Settlement Administration Costs shall be paid from the Maximum
26 Settlement Amount, which the Parties currently estimate will be about Fifteen Thousand Dollars
27 (\$15,000.00).

28 Class Counsel shall timely provide a completed IRS Form W-9 no later than five (5) calendar

1 days after the Effective Date and any other information needed for the Settlement Administrator to
2 make payments. Any payment obligation by any party shall be tolled until the correct information is
3 provided as required by any party. Settlement Administration Costs may be paid earlier if necessary
4 to effectuate the terms of this Agreement, except that the party paying shall be entitled to offset the
5 costs from the Maximum Settlement Amount. Under no circumstances shall Defendant be required
6 to pay more than the Maximum Settlement Amount.

7 4. ***Cure Provision***

8 If Defendant fails to timely make an installment payment as set forth in this Agreement,
9 Defendant shall have thirty (30) calendar days from the last day the payment is due to cure the
10 untimely installment payment. Defendant shall make any payment under this provision pursuant to
11 the Settlement Administrator’s electronic transfer instructions. The Parties expressly agree that the
12 Defendant’s payment obligations with respect to any cure shall be met upon initiating the electronic
13 transfer of funds to the Settlement Administrator, pursuant to its instructions.

14 **L. The Settlement Administrator**

15 Class Counsel and Defendant designate Phoenix, an experienced Settlement Administrator,
16 to process this Settlement. The Settlement Administrator will administer the Settlement including,
17 but not limited to, distributing the Class Notice of Settlement and Allocation Form, calculating and
18 directing the disbursements for payments from the Distributable Amount, and handling inquiries
19 about the calculation of individual settlement payments to the Class pursuant to the terms contained
20 in this Agreement. The Settlement Administrator shall establish a settlement payment center address,
21 telephone number, and timely process Class Members’ inquiries about the Class Notice of
22 Settlement, Requests for Exclusion and Objections, and process the payments to the Class under the
23 terms of this Agreement.

24 Moreover, the Settlement Administrator shall provide as soon as possible to Defense Counsel
25 instructions for Defendant to tender the MSA payment by electronic transfer to the Settlement
26 Administrator as described in this Agreement. Defendant’s payment of the MSA is contingent upon
27 receipt of the payment instructions. Defendant expressly agrees to follow the Settlement
28 Administrator’s payment instructions. The Parties agree that Defendant’s payment obligations under

1 the Settlement shall be met upon initiating the electronic transfer of funds to the Settlement
2 Administrator, pursuant to its instructions.

3 The Settlement Administrator shall provide the parties with weekly reports commencing with
4 the date the Class Notice is first mailed and continuing to the Effective Date notifying the Parties of
5 Notices mailed, Notices returned to sender, Notice re-mailed and the number of valid Opt-Outs
6 submitted by Class Members, if any, the number of Objections and identity of Objectors, if any and
7 the amounts of all Settlement Payments due and payable.

8 The Settlement Administrator shall not disburse the settlement funds except as provided
9 herein, as ordered by the Court, or as agreed upon, in writing, by Defense Counsel and Class Counsel.
10 Subject to further orders and/or directions as may be made by the Court, the Settlement Administrator
11 is authorized to execute such transactions on behalf of the Class Members as are consistent with the
12 terms of this Agreement.

13 Moreover, the Parties expressly agree that, in the event Phoenix cannot perform the functions
14 herein within the allocated \$15,000.00 Settlement Administration Costs, they will cooperate with
15 each other to select a new, mutually agreed upon Settlement Administrator. Under no circumstances
16 shall Defendant be required to pay more than the Settlement Administration Costs.

17 **M. Time For Disbursement**

18 Within Five (5) calendars days of receipt of Defendant's third installment payment of the
19 Maximum Settlement Amount, the Settlement Administrator shall cause to be paid the Settlement
20 Administration Costs, Class Counsel Fees, Class Counsel Costs, Enhancement Payments, LWDA
21 Payment, and the Distributable Amount.

22 Class Members who are PAGA Employees will not be permitted to exclude themselves from
23 the PAGA claim portion of the Settlement and will bound by the Court's resolution of that claim.
24 Class Members who do not timely Opt-Out will be bound by all the terms of this Agreement,
25 regardless of whether that Class Member receives and cashes his or her check for Settlement
26 Payment. Any checks issued by the Settlement Administrator to Participating Class Members will
27 be negotiable for one-hundred and eighty (180) calendar days.

28 Any settlement checks remaining un-cashed after one hundred and eighty (180) calendar days

1 after being issued shall become null and void, and any monies remaining in the distribution account
2 shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed
3 Property Law, California Civil Code § 1500 et seq., for the benefit of those Settlement Class
4 Members who did not cash their checks until such time that they claim their property.

5 **N. Taxes**

6 **1. *Withholding and Reporting Requirements***

7 The Settlement Administrator shall be responsible for ensuring that all taxes associated with
8 the Agreement are timely paid to the appropriate tax authorities. The Settlement Administrator's
9 responsibilities include the following: (i) filing all federal, state, and local tax deduction, (ii) to timely
10 and proper filing of all required federal, state, and local forms (e.g., 1099s, W-2s, etc.) with the
11 appropriate taxing authorities, and (iii) completion of any other steps necessary for compliance with
12 any tax obligations of the Settlement under federal, state, and/or local law, as applicable. To verify
13 the Settlement Administrator's compliance with the foregoing withholding and reporting
14 requirements, as soon as administratively practicable, the Settlement Administrator shall furnish
15 Class Counsel and Counsel for Defendant with copies of all forms detailing the payment of taxes
16 (including all 1099 forms and returns) sufficient to prove that such payments were properly remitted.
17 The Settlement Administrator shall provide a final accounting declaration adequate to demonstrate
18 full compliance with all duties set forth in this Agreement, including but not limited to tax
19 withholding, payment, and reporting obligations.

20 **2. *Determination and Payment of Taxes***

21 The Settlement Administrator shall determine the amount of any withholding or taxes to be
22 withheld from each Participating Class Member's settlement payment and issue form W-2's to the
23 Class Members. All such withholdings shall be remitted by the Settlement Administrator to the
24 proper governmental taxing authorities. Participating Class Members and PAGA Employees shall
25 be responsible for any tax consequences of any funds paid out to each of them pursuant to this
26 Agreement.

27 **O. Circular 230 Disclaimer**

28 Each party to this Agreement (for purposes of this section, the "Acknowledging Party"; and

1 each party to this Agreement other than the Acknowledging Party, an “Other Party”) acknowledges
2 and agrees that (1) no provision of this Agreement, and no written communication or disclosure
3 between or among the parties or their attorneys and other advisers, is or was intended to be, nor shall
4 any such communication or disclosure constitute or be construed or be relied upon as, tax advice
5 within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
6 amended); (2) the Acknowledging Party (a) has relied exclusively upon his, her, or its own,
7 independent legal and tax advisers for advice (including tax advice) in connection with this
8 Agreement, (b) has not entered into this Agreement based upon the recommendation of any other
9 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
10 communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty
11 that may be imposed on the Acknowledging Party; and (3) no attorney or advisor to any other party
12 has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax
13 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
14 Acknowledging Party of the tax treatment or tax structure of any transaction, including any
15 transaction contemplated by this Agreement.

16 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

17 **A. No Admission**

18 Neither the acceptance nor the performance by Defendant of the terms contained in this
19 Agreement nor any of the related negotiations or proceedings is or shall be claimed to be, construed
20 as, or deemed a precedent or an admission by Defendant of the truth of any allegations in any version
21 of the Complaint. Defendant enters into this Settlement Agreement solely for the purposes of
22 compromising and settling the Action.

23 **B. Non-Evidentiary Use**

24 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
25 or drafting of it, shall be offered or used as evidence by Plaintiffs, any Class Member (including any
26 individual who requested to be excluded from the Class), Defendant, or its or their respective counsel,
27 in the Action or any other proceeding, except as is reasonably necessary to effectuate its purpose and
28 terms. This Agreement may be used by Defendant and/or the Released Persons to prove or defend

1 against any claim released herein by any Class Member in any judicial, quasi-judicial, administrative,
2 or governmental proceeding. Nothing in this Agreement abridges a Class Member's right to file a
3 charge or participate in any manner in an investigation, hearing, or proceeding under the laws
4 enforced by Equal Employment Opportunity Commission.

5 **C. No Publicity**

6 Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement, including the
7 fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any
8 manner or form, directly or indirectly, to any person or entity, except as may be strictly required to
9 effectuate the terms of the Settlement. For the avoidance of doubt, this section means Plaintiffs and
10 Class Counsel agree not to issue press releases, communicate with, or respond to any media or
11 publication entities, publish information in manner or form, whether printed or electronic, on any
12 medium or otherwise communicate, whether by print, video, recording or any other medium, with
13 any person or entity, including the general public, concerning the Settlement, its terms or contents
14 and the negotiations underlying the Settlement, or identify Defendant or its principals owners as
15 associated with the underlying lawsuit, except as shall be contractually required to effectuate the
16 terms of the Settlement. However, for the limited purpose of allowing Class Counsel to prove
17 adequacy as class counsel in other actions for purposes of seeking approval of an unrelated
18 settlement, Class Counsel may refer to any information in the public record for such purposes.

19 **D. Nullification**

20 If the Court for any reason does not approve this Settlement, this Agreement shall be
21 considered null and void and all parties to this Settlement shall stand in the same position, without
22 prejudice, as if the Settlement had been neither entered into nor filed with the Court. Moreover, in
23 the event the Court does not approve this Settlement, Defendant will not be deemed to have waived,
24 limited, or affected in any way any of its objections, or defenses in this Action. Invalidation of any
25 material portion of this Settlement shall invalidate this Settlement in its entirety unless the Parties
26 agree in writing that the remaining provisions shall remain in full force and effect.

27 **E. Right to Withdraw**

28 Notwithstanding any other provision contained in this Agreement, if more than Ten Percent

1 (10%) of the Class Members submit timely and valid Requests for Exclusion from the Settlement
2 during the Opt-Out Period outlined herein, Defendant shall have the option but not the obligation, in
3 its sole discretion, to withdraw from this Agreement (“Right to Withdraw”), whereupon the
4 Agreement shall be null and void for any and all purposes and may not be used or introduced in the
5 Action or any other proceeding. The Parties will be restored to their respective positions in the
6 litigation as if this Agreement was never negotiated, drafted or agreed upon. However, if Defendant
7 exercises its Right to Withdraw, Defendant will be responsible for all Settlement Administration
8 Costs incurred up to the date when the Defendant exercises its Right to Withdraw. The Settlement
9 Administrator shall notify Class Counsel and Counsel for Defendant of the number of timely opt-
10 outs within five (5) calendar days after the period to file an Opt-Out has expired. If Defendant elects
11 to exercise its Right to Withdraw under this provision, Defendant will so notify Class Counsel and
12 the Court no later than five (5) calendar days after receiving notice of the number of opt-outs and/or
13 value of the valid claims made by the Participating Class Members.

14 **F. No Effect on Employee Benefits**

15 Amounts paid to the Plaintiffs or other Class Members pursuant to this Settlement Agreement
16 shall not be deemed pensionable earnings or have any effect on the eligibility for, or calculation of,
17 any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the Plaintiffs or Class
18 Members.

19 **VI. RELEASE OF THE CLASS**

20 It is the desire of the Representative Plaintiffs, Class Members, and Defendant to fully,
21 finally, and forever settle, compromise, and discharge disputes and claims arising from or related to
22 this Action. Upon the full funding of the MSA and by operation of the Agreement’s terms, and
23 except as to such rights or claims as may be created by this Agreement, all Participating Class
24 Members fully release and discharge the Released Persons from all Released Claims, whether known
25 or unknown during the Class Period. As to any Participating Class Member who cashes the check
26 representing their Settlement Payment, the signing and negotiation of that check shall serve as the
27 Class Member’s consent to join the action for purposes of releasing claims arising under the FLSA
28 that are related to the claims stated in the Action, implicitly or explicitly, and, for such persons,

1 “Released Claims” shall include all related claims arising under the FLSA. All PAGA Employees,
2 whether requesting exclusion from the Settlement or not, fully release and discharge the Released
3 Persons from any and all claims for civil Penalties under PAGA [Cal. Lab. Code §§ 2699, *et seq.*]
4 that are based upon or arise from the factual allegations in the Operative Complaint and/or Notice to
5 the LWDA, arising during and/or with respect to the PAGA Period, including all attorneys’ fees and
6 costs related thereto. Plaintiffs and Defendant stipulate and agree that the consideration paid to the
7 Class Members pursuant to this Agreement compensates the Class Members for all wages and
8 penalties due to them arising from the claims alleged in the Operative Complaint.

9 **VII. MISCELLANEOUS PROVISIONS**

10 **A. Amendments**

11 The terms and provisions of this Agreement may be amended only by a written agreement,
12 which is signed by Representative Plaintiffs, Class Counsel, Defendant, and Counsel for Defendant.

13 **B. Jurisdiction of the Court to Enforce Terms of Agreement**

14 The Parties stipulate and agree that the Court will retain jurisdiction to enforce the terms of
15 this Agreement following the entry of the Judgment pursuant to California *Code of Civil Procedure*
16 section 664.6. The Parties agree to the exclusive jurisdiction of the Court to enforce the terms and
17 conditions contained herein.

18 **C. Enforcement Actions**

19 In the event one or more of the Parties to this Stipulation institutes and legal action or other
20 proceeding against any other party or parties to enforce the provisions of this Stipulation, or to declare
21 rights and/or obligations under this Stipulation, the prevailing party or parties shall be entitled to
22 recover from the unsuccessful party or parties’ reasonable attorneys’ fees and costs in connection
23 with any enforcement actions.

24 **D. No Inducements**

25 Plaintiffs and Defendant acknowledge that they are entering into this Agreement as a free and
26 voluntary act without duress or undue pressure or influence of any kind or nature whatsoever and
27 that neither Plaintiffs nor Defendant have relied on any promises, representations, or warranties
28 regarding the subject matter hereof other than as set forth in this Agreement.

1 **E. No Prior Assignment**

2 The Parties hereto represent, covenant, and warrant that they have not directly, 3 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or 4 entity any portion of any liability, claim, demand, action, cause of action or rights herein released 5 and discharged except as set forth herein. If any claims are made by any Class Member between the 6 start of the Class Period and the date in which the Court approves the Settlement outlined in this 7 Agreement as final, such a claim will be deemed covered and released by the individual Class 8 Member making the claim unless such Class Member has timely exercised the right to be excluded 9 from this Agreement under the terms set forth herein. Any Class Member covered by this Agreement 10 will be barred from proceeding with any such claim.

11 **F. Representative Plaintiffs' Personal Release(s)**

12 As part of the Agreement, Representative Plaintiffs BRENDA TORRES and Plaintiff 13 SALVADOR OROZCO, each in their individual capacity, grant the Released Persons the Personal 14 Release(s), as that term is defined in Section II herein.

15 With respect to each individual Representative Plaintiff's release of any and all claims under 16 the Older Workers Benefit Protection Act/Age Discrimination in Employment Act ("ADEA") 17 ("ADEA Release"), each Representative Plaintiff specifically acknowledges that Defendant has 18 advised him or her that under the ADEA, he or she has twenty-one (21) days from receipt of this 19 Agreement to consider the ADEA Release before signing the Agreement. Each Representative 20 Plaintiff may decide to sign the Agreement sooner and voluntarily waive the 21-day period provided 21 by the ADEA. Each Representative Plaintiff further acknowledges that he or she has had the 22 opportunity to make counter-proposals to the ADEA Release, and has been advised that he or she 23 has seven (7) days after signing this Agreement to revoke the ADEA Release, and the ADEA Release 24 shall not become effective or enforceable until the revocation period has expired. In the event any 25 Representative Plaintiff exercises the right to revocation, as discussed above, he or she must notify 26 Defendant of such revocation in writing via facsimile and certified mail, return receipt requested. 27 Said notification will be considered timely if post-marked no later than the seventh day after the 28 Representative Plaintiff has signed this Agreement. The individual Representative Plaintiff's ADEA

1 Release will be null and void if revoked by him or her during said revocation period. The individual
2 Representative Plaintiff's revocation of the ADEA Release must be addressed to the attention of
3 Defense Counsel at the address stated herein. In the event the individual Representative Plaintiff
4 exercises revocation of the ADEA Release, said revocation shall have no effect on his or her Personal
5 Release of any and all claims unrelated to the ADEA. If any individual Representative Plaintiff
6 exercises his or her right to revoke under this provision, he or she gives up the right to any
7 Enhancement Payment under this Agreement.

8 **G. Destruction of Informal Discovery**

9 The Parties agree that in the event the Court does not approve the Settlement for any reason,
10 or if the Settlement cannot be consummated for any reason, Class Counsel expressly agrees to either:
11 (1) return all informally produced discovery by Defendant to Defendant or Defense Counsel; or (2)
12 immediately destroy all informal discovery, and provide sufficient proof (such as a declaration under
13 oath by Class Counsel) that the information was destroyed within 10 calendar days after becoming
14 aware that the Settlement has failed to become final. Retaining any copy of direct or derivative
15 information shall be a violation of this provision. Such informal discovery shall include, but is not
16 limited to: (1) Class Members' time and payroll records; (2) written policies and procedures; and (3)
17 information disclosed pursuant to the mediation and/or settlement privilege. If Class Counsel fails to
18 either destroy or return such information within a reasonable time, the Parties expressly agree that
19 Defense Counsel may apply to the Court to seek enforcement of this specific provision (including
20 any and all reasonable attorney's fees and costs in seeking such enforcement).

21 If the Court approves the settlement, Plaintiffs and Class Counsel agree to maintain the
22 information provided by Defendant only for as long as it is necessary to consummate and finalize the
23 approval process of the Settlement by the Court, up to and including the Effective Date. After such
24 time, the Parties agree that Class Counsel will return the information to Defendant or Defense
25 Counsel, or destroy the information (including any derivative information) as provided herein, except
26 as provided in Plaintiffs' personnel file.

27 Plaintiffs and Class Counsel agree to treat and maintain the information disclosed
28 confidentially, protect it, and take any and all reasonable steps to maintain it confidentially and treat

1 it as a trade secret. However, the Parties expressly agree that Class Counsel may disclose such
2 information to the Court as is necessary to consummate and finalize the approval process of the
3 Settlement by the Court.

4 **H. Review of Noticed Motions And/Or Other Pleadings**

5 Class Counsel expressly agrees that prior to any filing concerning the terms herein, including
6 but not limited to the Motion for Preliminary Approval and the Motion for Final Approval, it shall
7 e-mail a draft of said motion and/or pleading to Defense Counsel at least 7 calendar days prior to its
8 filing.

9 **I. Counterparts**

10 This Agreement, and any amendments hereto, may be executed in any number of
11 counterparts, or signed electronically, each of which when executed and delivered shall be deemed
12 to be an original and all of which taken together shall constitute but one and the same instrument.
13 This Agreement will become effective on the date when the last person signs and dates it.

14 **J. Integration Clause**

15 This document, along with any exhibits attached hereto, constitutes the complete and entire
16 Agreement between the parties pertaining to the subject matter hereof, and the final, complete and
17 exclusive expression of the terms and conditions of their Agreement. Any and all prior agreements,
18 representations, negotiations, and understandings between the parties, oral or written, express or
19 implied, are hereby superseded and merged herein.

20 **IN WITNESS WHEREOF**, the parties hereto execute this Agreement and have caused this
21 Agreement to be executed by their duly authorized representatives.

22 **PLAINTIFF &
23 REPRESENTATIVE PLAINTIFF**

24 Date: 06/08/2021

Brenda Torres

25 BRENDA TORRES
26 Personally and as Representative Plaintiff

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**PLAINTIFF &
REPRESENTATIVE PLAINTIFF**

Date: 06/10/2021 _____

Salvador Orozco
SALVADOR OROZCO
Personally and as Representative Plaintiff

CALIFORNIA RICE CENTER, INC.

Date: _____

By: DAISUKE FUJISAWA
Its Authorized Representative

APPROVED AS TO FORM AND CONTENT

PAYNE NGUYEN, LLP

Date: June 10, 2021 _____

Cody Payne
CODY PAYNE, ESQ.
KIM NGUYEN, ESQ.
Attorneys for Plaintiffs and the Proposed Class

LANDEGGER RIVAS VERANO & DAVIS, ALC

Date: _____

ALFRED LANDEGGER, ESQ.
EVELYN ZARRAGA, ESQ.
Attorneys for Defendant
CALIFORNIA RICE CENTER, INC.

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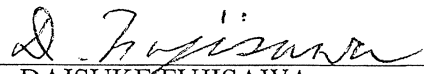
**PLAINTIFF &
REPRESENTATIVE PLAINTIFF**

Date: _____

SALVADOR OROZCO
Personally and as Representative Plaintiff

CALIFORNIA RICE CENTER, INC.

Date: 6/7/2021


By: DAISUKE FUJISAWA
Its Authorized Representative

APPROVED AS TO FORM AND CONTENT


PAYNE NGUYEN, LLP

Date: _____

CODY PAYNE, ESQ.
KIM NGUYEN, ESQ.
Attorneys for Plaintiffs and the Proposed Class

LANDEGGER RIVAS VERANO & DAVIS, ALC

Date: 6/7/2021


ALFRED LANDEGGER, ESQ.
EVELYN ZARRAGA, ESQ.
Attorneys for Defendant
CALIFORNIA RICE CENTER, INC.