

## JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Settlement Agreement is between Plaintiffs Zaid Hassan and Rebecca Cummins (collectively, “Plaintiffs” or respectively, “Plaintiff Hassan” and “Plaintiff Cummins”), on behalf of the Class (as defined below) and Defendant WestPac Labs, Inc. (“Defendant”).

### I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meaning:

- A. **Action**: The wage-and-hour class action and representative PAGA action lawsuit filed by Plaintiffs, entitled *Zaid Hassan v. WestPac Labs, Inc.*, Case No. 37-2021-00008722-CU-OE-CTL, in the Superior Court of California, County of San Diego.
- B. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this Settlement, which is currently estimated at \$11,500, shall not exceed \$15,000 and shall be paid from the Gross Settlement Amount. The Administration Costs are subject to approval by the Court.
- C. **Agreement, Settlement Agreement, or Settlement**: The settlement agreement in this document titled “Joint Stipulation and Settlement Agreement.”
- D. **Attorney Fee Award**: The amount, not to exceed thirty-five percent (35%) of the Gross Settlement Amount or \$420,000, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Gross Settlement Amount and will not be opposed by Defendant. The Attorney Fee Award is subject to approval by the Court.
- E. **Class**: All current and former hourly-paid or non-exempt employees of Defendant within the State of California at any time during the period from February 26, 2020, through June 28, 2022.
- F. **Class Counsel**: Douglas Han, Shunt Tatavos-Gharajeh, and Talia Lux of Justice Law Corporation.
- G. **Class Data**: The Class Data means information regarding Class Members that Defendant will compile from its available, existing, electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include each Class Member’s: (1) full name; (2) last-known address; (3) Social Security Number; and (4) relevant dates of employment.

- H. Class Member:** Each person eligible to participate in this Settlement who is a member of the Class, as defined above, or, if such person is incompetent or deceased, the person's legal guardian, executor, heir, or successor in interest.
- I. Class Notice:** The Notice of Class and Representative Action Settlement mutually agreed upon by the Parties and approved by the Court to be sent to Class Members following Preliminary Approval, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
- J. Class Period:** The time period from February 26, 2020, through June 28, 2022.
- K. Class Representatives or Plaintiffs:** Plaintiff Hassan and Plaintiff Cummins.
- L. Class Representative Enhancement Payments:** The amount the Court awards to Plaintiffs for their services as the Class Representatives, which will not exceed \$10,000 to each Plaintiff. This payment shall be paid from the Gross Settlement Amount and will not be opposed by Defendant. Class Representative Enhancement Payments are subject to approval of the Court.
- M. Complaint:** The operative First Amended Complaint in the Action.
- N. Cost Award:** The amount to be reimbursed to Class Counsel for payment of actual litigation costs subject to proof, which shall not exceed \$20,000. The Cost Award will be paid from the Gross Settlement Amount and will not be opposed by Defendant. The Cost Award is subject to approval by the Court.
- O. Counsel for Defendant:** Attorneys Camilo Echavarria, Vandana Kapur, and Raina Singer of Davis Wright Tremaine LLP.
- P. Court:** The State of California, San Diego County Superior Court.
- Q. Defendant:** WestPac Labs, Inc.
- R. Effective Final Settlement Date:** The date in which Defendant fully funds the Gross Settlement Amount after the Court's order granting Final Approval of this Agreement has become final. Such order becomes final upon the following events: (1) upon the Court issuing the Final Approval order granting approval of this Settlement Agreement if no objections to the settlement are filed, or if an objection is filed but is withdrawn prior to the Court's Final Approval Hearing; or (2) in the event there are written objections filed prior to the final approval hearing which are not thereafter withdrawn prior to the hearing, the later of the following events: (a) the day after the last day by which a notice of appeal of the order may be timely filed with the California Court of Appeal, and none is filed; (b) if an appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the last date for filing a request for further review of the Court of Appeal's decision passes and no further review

is requested; (c) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal's decision is requested, the day after the request for review is denied with prejudice and/or no further review of the order can be requested; or (d) if review is accepted, the day the Supreme Court of the State of California affirms the Settlement.

- S. **Exclusion Form**: The election not to participate (to "opt out" from) the Class Action Settlement, substantially similar to the form attached hereto as **Exhibit B**, subject to Court approval.
- T. **Final Judgment, Judgment, or Final Approval**: The order entered by the Court granting final approval of this Agreement, after having determined the Settlement is fair, adequate, and reasonable to the Class as a whole, following: (1) notice to the Class; (2) an opportunity to submit timely objections and exclusions to the Settlement; and (3) a hearing on the fairness of the terms of the Settlement.
- U. **Gross Settlement Amount**: The total value of the Settlement is a non-reversionary One Million Two Hundred Thousand Dollars (\$1,200,000). This is the gross amount Defendant can be required to pay under this Settlement Agreement, which includes: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (4) Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and Class Members, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer is not included in the Gross Settlement Amount and will be paid separate from and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason.
- V. **Individual Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement.
- W. **LWDA**: California Labor and Workforce Development Agency.
- X. **Net Settlement Amount**: The total amount of money available from the Gross Settlement Amount for distribution to Participating Class Members, which is the Gross Settlement Amount less the Attorney Fee Award, Cost Award, Class Representative Enhancement Payments, PAGA Payment, and Administration Costs.

- Y. Notice Packet:** The Class Notice and Exclusion Form are collectively known as the Notice Packet.
- Z. PAGA:** The Labor Code Private Attorneys General Act of 2004 (Labor Code, §§ 2698, *et seq.*).
- AA. PAGA Notice:** The PAGA Notice refers to the pre-filing notice of alleged Labor Code violations served by Plaintiff Hassan on the LWDA and Defendant on February 26, 2021.
- BB. PAGA Payment:** The PAGA Payment consists of \$100,000 of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Action. Seventy-five percent (75%) of the PAGA Payment (\$75,000) shall be paid to the LWDA, and twenty-five percent (25%) of which (\$25,000) shall be distributed to Class Members, on a pro rata basis, as set forth below.
- CC. PAGA Released Claims:** PAGA Released Claims means all allegations and claims for civil penalties pursuant to PAGA based on any and all underlying Labor Code violations alleged in the Complaint or in the PAGA Notice that arose during the Class Period. This includes the alleged violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226(e), 226.3, 226.7, 246, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802.
- DD. Participating Class Members:** All Class Members who do not submit a valid and timely request to exclude themselves from the Released Claims of this Settlement.
- EE. Parties:** Plaintiffs, individually on behalf of themselves, on behalf of all Class Members, and on behalf of the interests of the State of California, and Defendant.
- FF. Preliminary Approval or Preliminary Approval Order:** The order entered by the Court granting preliminary approval of this Agreement, including approval of the Parties' Agreement that specifies the content of the Notice Packet and the manner in which the Notice Packet will be provided to the Class and responded to by the Class.
- GG. Qualified Settlement Fund or QSF:** A fund within the meaning of Treasury Regulation section 1.46B-1, 26 C.F.R. sections 1.468B-1, *et seq.*, that is established by the Settlement Administrator for the benefit of Participating Class Members, Plaintiffs, and Class Counsel.
- HH. Released Claims:** The Released Claims means any and all wage-and-hour claims, rights, demands, liabilities, and causes of action of every nature and description, under state or federal law, that were pled or that could have been

pled in the Complaint. The Released Claims are based upon, arise from, and/or are related to (but are in no way limited to) the following categories of allegations: (1) failure to pay minimum wages; (2) failure pay overtime wages; (3) failure to provide meal breaks or pay premium wages for noncompliant meal breaks; (4) failure to provide rest breaks or pay premium wages for noncompliant rest breaks; (5) failure to provide accurate itemized wage statements; (6) failure to reimburse business expenses; (7) failure to pay all wages due during employment and upon termination of employment; (8) failure to pay all sick time due in accordance with California law; (9) failure to keep accurate records; (10) failure to provide employees with one day of rest; (11) violation of California's unfair business practices laws; (12) violation of California's unfair competition laws; and (13) any potential penalties, interests, or attorneys' fees associated with these causes of action under California law.

- II. **Released Parties:** Defendant and its present and former members, owners, directors, officers, subsidiaries, parents, affiliates, successors, predecessors, related entities, and joint venturers, and each of their respective present and former officers, directors, stockholders, managers, agents, employees, assigns or legal representatives.
  
- JJ. **Response Deadline:** Forty-five (45) calendar days from the initial mailing of the Notice Packet.
  
- KK. **Settlement Administrator:** The third-party administrator agreed upon by Parties to administer this Settlement is Phoenix Class Action Settlement Administrators ("Phoenix").
  
- LL. **Weeks Worked:** This means all weeks during the Class Period that a Class Member worked as an hourly-paid or non-exempt employee in California for Defendant during the Class Period.

## II. **RECITALS**

- A. **Procedural History.** On February 26, 2021, Plaintiff Hassan provided written notice to the LWDA and Defendant of his claim that he was entitled to civil penalties under PAGA, including the specific provisions of the Labor Code he contends were violated and the theories supporting his contentions.

On March 1, 2021, Plaintiff Hassan filed a wage-and-hour class action lawsuit in the Superior Court of California, County of San Diego, Case Number 37-2021-00008722-CU-OE-CTL (the "Class Action Lawsuit"), alleging the following violations: (1) Labor Code sections 510 and 1198 (unpaid overtime); (2) Labor Code sections 226.7 and 512(a) (unpaid meal period premiums); (3) Labor Code sections 226.7 (unpaid rest period premiums); (4) Labor Code sections 1194 and 1197 (unpaid minimum wages); (5) Labor Code sections 201,202, and 203 (final wages not timely paid); (6) Labor Code section 226(a)

(noncompliant wage statements); (7) Labor Code sections 2800 and 2802 (unreimbursed business expenses); and (8) Business & Professions Code sections 17200, *et seq.*

On May 5, 2021, Plaintiff Hassan filed a representative PAGA action in the Superior Court of California, County of San Diego, Case Number 37-2021-00020092-CU-OE-CTL (the “PAGA Action”), predicated on the following claims: (1) failure to pay minimum and overtime wages; (2) failure to provide meal periods and rest breaks; (3) failure to timely pay wages during employment; (4) failure to timely pay wages upon termination; (5) failure to provide complete and accurate wage statements; and (6) failure to reimburse business expenses.

On April 24, 2022, the Parties attended mediation for both cases with the mediator Lynn Frank that resulted in the settlement of both cases via a mediator’s proposal subject to the Court’s approval. Pursuant to the settlement, on or about May 25, 2022, Plaintiffs filed a Stipulation And Proposed Order To File A First Amended Complaint (the “Stipulation”) in the Class Action Lawsuit. The Stipulation seeks leave to file a First Amended Complaint for the wage-and-hour class action lawsuit that adds: (1) PAGA cause of action, (2) additional factual allegations and theories of liability; (3) Plaintiff Cummins as an additional plaintiff; (4) and adjusted the Class definition and “aggrieved employees” definitions to “all current and former hourly-paid or non-exempt employees of Defendants within the State of California, at any time during the period from February 26, 2020, through June 28, 2022 or the date of preliminary approval, whichever date is earlier.” Further, the Stipulation requires that Plaintiff will request dismissal of the PAGA Action, within ten (10) days of the execution and entry of the order granting the Stipulation. This Agreement is entered into with the understanding that the First Amended Complaint will be operative, and the PAGA Action will be dismissed with prejudice, by the time of the preliminary approval hearing.

**B. Investigation and Discovery.** The Parties conducted significant investigation and discovery of the facts and law both before and after the Action was filed. Defendant produced hundreds of documents relating to its policies, practices, and procedures regarding reimbursement of business expenses, paying non-exempt employees for all hours worked, meal and rest break policies, and payroll, timekeeping, and operational policies. As part of Defendant’s production, Plaintiffs also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiffs to understand the number of Weeks Worked during the Class Period. Plaintiffs also interviewed several Class Members who worked for Defendant throughout the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties’ positions and to compromise the issues on a fair and equitable basis.

- C. Benefits of Settlement to Class Members.** Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiffs and Class Counsel also considered the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel have conducted extensive settlement negotiations, including a formal mediation on April 24, 2022. Based on the foregoing, Plaintiffs and Class Counsel believe the settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
- D. Plaintiffs' Claims.** Plaintiffs assert that Defendant's defenses to the Action lack merit in whole or in part. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession, or indication by or against Plaintiffs, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. If this Settlement is approved, none of Plaintiffs, Class Members, or Class Counsel will oppose Defendant's efforts to use this Agreement to prove that Plaintiffs and Class Members have resolved and are forever barred from re-litigating the Released Claims.
- E. Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, make no concessions or admissions of liability of any sort, and contend that for any purpose other than settlement, the Action is not appropriate for class or representative treatment. Defendant asserts several defenses to the claims and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Defendant adopted a comprehensive timekeeping and meal period compliance program many years before the Complaint was filed which includes procedures to (1) encourage employees to report timekeeping and meal or rest period problems and (2) require supervisors and payroll employees to address and correct such problems. This uniquely demonstrates Defendant's good faith efforts to comply with California wage and hour laws. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiffs can serve as adequate Class Representatives. There has been no determination by any court as to the merits of the claims asserted by Plaintiffs against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.
- F. Defendant's Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of time,

energy, and resources of Defendant have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

### **III. SETTLEMENT TERMS AND CONDITIONS**

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, excluding Defendant's portion of payroll taxes, that Defendant is obligated to pay under this Settlement Agreement is One Million Two Hundred Thousand Dollars (\$1,200,000).
- B. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. The Parties stipulate and agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
- C. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiffs and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Action or in any other lawsuit or venue. If the Settlement does not become effective, Defendant reserves the right to contest any issues relating to class certification, liability, and damages.
- D. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiffs shall be appointed as the representatives for the Class.
- E. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree the Court appoint Class Counsel to represent the Class.
- F. Settlement Disbursement.** Subject to the terms and conditions of this Agreement, and the approval of the Court, the Settlement Administrator will disburse the Gross Settlement Amount as follows:
  - 1. To the Plaintiffs.** In addition to their Individual Settlement Shares, and subject to the Court's approval, Plaintiffs will each receive up to \$10,000 as the Class Representative Enhancement Payments. The Settlement Administrator will pay the Class Representative Enhancement Payments out of the Gross Settlement Amount. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payments. An IRS Form 1099 will be issued to Plaintiffs with respect to



their Class Representative Enhancement Payments. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payments and shall hold harmless Defendant, Class Counsel, and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payments. If the Court does not approve the entirety of the application for the Class Representative Enhancement Payments, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant, the Released Parties, or the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiffs, the difference shall become part of the Net Settlement Amount and will be distributed to Participating Class Members. If the Court reduces or does not approve the requested Class Representative Enhancement Payments, Plaintiffs or Class Counsel shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiffs seek, request, or demand an increase in the Gross Settlement Amount on that basis or any basis.

- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees not to oppose, a total Attorney Fee Award not to exceed thirty-five percent (35%) or \$420,000 of the Gross Settlement Amount and a Cost Award not to exceed \$20,000. The Settlement Administrator will pay the Court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator may purchase an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Fee and Cost Awards. If the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant, the Released Parties, or the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the Net Settlement Amount and will be distributed to Participating Class Members. If the Court reduces or does not approve the requested Attorney Fee Award or Cost Award, Plaintiffs or Class Counsel shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiffs seek, request, or demand an increase in the Gross Settlement Amount on that basis or any basis.
- 3. To the Settlement Administrator.** The Settlement Administrator will pay to itself Administration Costs approved by the Court that is currently

estimated at \$11,500 but shall not exceed \$15,000. This will be paid out of the Gross Settlement Amount. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the Net Settlement Amount and will be distributed to Participating Class Members. If the Court reduces or does not approve the requested Administration Costs, Plaintiffs or Class Counsel shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiffs seek, request, or demand an increase in the Gross Settlement Amount on that basis or any basis.

**4. To Participating Class Members.** The Settlement Administrator will pay each Participating Class Member an Individual Settlement Share from the Net Settlement Amount.

**a. Individual Settlement Share Calculation.** The Individual Settlement Share is calculated based on each Participating Class Member's pro rata share of the Net Settlement Amount based on the Weeks Worked during the Class Period using the following formula: (i) the number of Weeks Worked by the Class Member as an hourly-paid or non-exempt employee during the Class Period, divided by (ii) the total number of Weeks Worked by all Participating Class Members collectively during the Class Period, which is then multiplied by the Net Settlement Amount. The Settlement Administrator will use the Class Data to calculate the number of Weeks Worked by each Class Member based on their dates of employment for purposes of this calculation.

**b. Tax Treatment for Individual Settlement Shares.** Each Participating Class Member's Individual Settlement Share will be apportioned as follows: twenty percent (20%) wages and eighty percent (80%) penalties and interests. The portion paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' share of payroll tax withholdings shall be withheld from each persons' Individual Settlement Share. Participating Class Members will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Shares and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual Settlement Shares.

5. **To Class Members.** The Settlement Administrator will pay each Class Member their portion of the twenty-five percent (25%) of the PAGA Payment (\$25,000) from the Gross Settlement Amount, regardless of whether the Class Members requests exclusion.
    - a. **25% of the PAGA Payment Calculation.** The portion of the PAGA Payment allocated to Class Members is calculated based on their Weeks Worked during the Class Period using the following formula: (i) the number of Weeks Worked by the Class Member as an hourly-paid or non-exempt employee during the Class Period, divided by (ii) the total number of Weeks Worked by all Class Members collectively during the Class Period, which is then multiplied by twenty-five percent (25%) of the PAGA Payment (\$25,000) allocated to Class Members. The Settlement Administrator will use the Class Data to calculate the number of Weeks Worked by each Class Member based on their dates of employment for purposes of this calculation.
    - b. **Tax Treatment for Twenty-Five Percent (25%) of the PAGA Payment.** Each Class Member's share of the PAGA Payment will be apportioned as one hundred percent (100%) penalties and shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Class Members will be responsible for the payment of any taxes and penalties assessed on their portion of the PAGA Payment and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of their portion of the PAGA Payment.
  6. **To the LWDA.** The Settlement Administrator will pay the LWDA seventy-five percent (75%) of the PAGA Payment (\$75,000).
  7. **To the Responsible Tax Authorities.** The Settlement Administrator will withhold the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll withholding taxes. The Settlement Administrator will submit Defendant's portion of payroll withholding tax calculation to Defendant for additional funding and forward those amounts along with each person's Individual Settlement Share withholdings to the appropriate taxing authorities.
- G. Appointment of Settlement Administrator.** The Settlement Administrator shall be responsible for: (1) preparing, printing, and mailing the Notice Packet to the Class Members; (2) keeping track of any objections or requests for exclusion from Class Members; (3) performing skip traces and re-mailing Notice

Packets and payments to Class Members under the Settlement; (4) calculating any and all payroll tax deductions as required by law; (5) calculating each Participating Class Member's Individual Settlement Share; (6) calculating each Class Member's portion of the PAGA Payment; (7) providing weekly status reports to the Parties' counsel, which is to include updates on any objections or requests for exclusion that have been received; (8) providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; (9) mailing Individual Settlement Shares to Participating Class Members; (10) mailing portions of the PAGA Payment to Class Members; (11) mailing the portion of the PAGA Payment to the LWDA; (12) distributing the Attorney Fee Award and Cost Award to Class Counsel; (13) distributing the Administration Costs to Settlement Administrator; (14) distributing the Class Representative Enhancement Payments to the Class Representatives; (15) printing and providing Participating Class Members, Class Members, and Plaintiffs with W-2s and 1099 forms as required under this Agreement and applicable law; (16) providing a due diligence declaration for submission to the Court upon the completion of the Settlement; (17) providing any funds remaining in the QSF as a result of uncashed checks to the California State Controller's Unclaimed Property Division in accordance with California Unclaimed Property Law, including the administration of related tax reimbursements; and (18) performing other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in Phoenix or otherwise have a relationship with Phoenix that could create a conflict of interest.

1. The Settlement Administrator shall be the only entity authorized to make withdrawals or payments from the QSF Account. The Settlement Administrator will: (a) acknowledge that it has fiduciary obligations to the Parties, and will attest that it will not allow any disbursements to be made from the QSF except as expressly authorized by this Agreement; (b) agree that it will receive no disbursements or fees from the QSF for actions undertaken or expenses incurred without prior approval by the Parties' counsel; and (c) acknowledge its obligations to return the entire QSF to Defendant (less any administrative expenses incurred by the Settlement Administrator) if this Agreement: (i) does not receive final approval by the Court; (ii) is materially modified or reversed on appeal; and/or (iii) is otherwise rendered null and void.
2. The Settlement Administrator shall report all payments to Plaintiffs, Participating Class Members, and Class Members to all required taxing and other authorities, withhold the standard employer's and employee's share of payroll taxes from the wage portion of each Individual Settlement Shares, and transmit these amounts to the taxing authorities, and issue IRS Forms W-2 and 1099s. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to the Court and the Parties' counsel. Settlement Administrator

shall also provide any and all documentation to Defendant necessary to demonstrate that all duties have been performed under this section.

## **H. Procedure for Approving Settlement.**

### **1. Motion for Preliminary Approval and Conditional Certification.**

- a.** Plaintiffs will move for an order (1) conditionally certifying the Class for settlement purposes only; (2) seeking Preliminary Approval of the Settlement; (3) setting a date for the Final Approval hearing; and (4) approving the Notice Packet.
- b.** Before or at the Preliminary Approval hearing, Plaintiffs will submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Settlement Administrator; approving the Notice Packet; and setting the Final Approval hearing.
- c.** Defendant agrees it will not oppose Plaintiffs' motion for Preliminary Approval of the Settlement so long as the motion is consistent with the terms of the Parties' Settlement Agreement and that Counsel for Defendant will be provided with sufficient time to review the motion for Preliminary Approval prior to its filing. Plaintiffs' counsel agrees to share with Counsel for Defendant a draft of the motions and memoranda at least five (5) court days prior to filing each motion.
- d.** The amounts of Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payments shall be determined by the Court, and the Court's determination on these amounts shall be final and binding. The Court's approval or denial of any amount requested for these items are not material conditions of this Agreement and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payments shall not operate to terminate or cancel this Settlement Agreement.
- e.** Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Agreement with prejudice, the Settlement will be null and void, and the Parties will have no further obligations under the Agreement.

2. **Notice to Class Members.** After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Notice Packet in accordance with the following procedure:
- a. **Class Data.** Within twenty-one (21) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver to the Class Data to the Settlement Administrator.
  - b. **Updating Addresses.** Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database (“NCOA”) to update and correct any known or identifiable address changes. The Settlement Administrator shall maintain the Class Data as private and confidential and take reasonable and necessary precautions to maintain the confidentiality of the Class Data. The Settlement Administrator shall not distribute or use the Class Data or any information contained for any purpose other than to administer this Settlement.
  - c. **Mailing.** Within fourteen (14) calendar days after Defendant’s deadline to provide the Class Data to the Settlement Administrator, the Settlement Administrator will mail the Notice Packet to all identified Class Members via first-class regular U.S. Mail.
  - d. **Remailing.** If a Notice Packet is returned because of an incorrect address, within ten (10) days from receipt of the returned Notice Packet, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Notice Packet to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum: (1) the tracking of all undelivered mail; (2) performing address searches for all mail returned without a forwarding address; and (3) promptly remailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Notice Packet shall be remailed to the original address. If the Notice Packet is remailed, the Settlement Administrator will note for its own records the date and address of each remailing. Those Class Members who receive a remailed Notice Packet, whether by skip-trace or forwarded mail, will have an additional ten (10) days to postmark an Exclusion Form or file and serve an objection to the Settlement or dispute the information provided in their Notice

Packet. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a remailed notice.

- e. Submitting Disputes.** Class Members may dispute the information provided in their Notice Packet, but must do so in writing, via first class mail, and it must be postmarked by the Response Deadline. To the extent Class Members dispute the number of weeks to which they have been credited or the amount of their Individual Settlement Share and/or portion of the PAGA Payment, Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible weeks that should be applied and/or the Individual Settlement Share and/or portion of the PAGA Payment to which the Class Member may be entitled.
- f. Deficient Exclusion Form.** If any Exclusion Form received is incomplete or deficient, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and allow fourteen (14) days to cure the deficiency. If after the cure period the Exclusion Form is not cured, it will be determined that the Class Member did not exclude himself or herself from the Settlement and will be bound by the Settlement.
- g. Weekly Reports.** The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform the Parties' counsel of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets remailed, and the number of Exclusion Forms received.
- h. Objections.** If the Settlement Administrator receives objections to the Settlement, the Settlement Administrator shall immediately, but in no event later than the business day after it receives such objections, notify the Parties' counsel of the objections and provide copies of the objections via email.
- i. Settlement Administrator's Declaration.** No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the

Final Approval hearing. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

### 3. **Objections to Settlement.**

- a. **Notice Packet.** The Notice Packet will provide that the Class Members who wish to object to the Settlement may do so in a written correspondence, which must be signed, dated, and mailed to the Settlement Administrator and postmarked no later than Response Deadline.
- b. **Format.** Any written objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.
- c. **Objectors' Appearances.** Class Members may (though are not required to) appear at the Final Approval hearing, either in person or through their own counsel. Class Members' timely and valid objections to the Settlement will be considered even if the objecting Class Members do not appear at the Final Approval Hearing. The failure to file and serve a written objection does not waive Class Members' right to appear at and make an oral objection at the Final Approval hearing. Finally, Class Members may appear at the Final Approval hearing even if they do not file objections to the Settlement.

### 4. **Request for Exclusion from the Settlement ("Opt-Out").**

- a. **Notice Packet.** The Notice Packet will provide Class Members with an Exclusion Form. Class Members who wish to exclude themselves from the Released Claims in the Settlement must mail the Exclusion Form to the Settlement Administrator. The written request for exclusion must: (a) include the Class Member's name, address, telephone number, and last four digits of the Social Security Number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member; and (d) be postmarked no later than the Response Deadline.



- b. No Opt Out From PAGA.** Class Members will not be able to exclude themselves from receiving their portion of the PAGA Payment. The Notice Packet will inform Class Members they cannot opt out of the PAGA portion of the settlement, even if they elect to opt out of the Released Claims from the Settlement.
  - c. Validity and Effect.** Any Class Member who returns a timely, valid, and executed Exclusion Form will not participate in or be bound by the Settlement and Judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely Exclusion Form will be included in the Settlement, will receive an Individual Settlement Share, and be bound by all terms and conditions of the Settlement. This will occur if the Settlement is approved by the Court and by the Judgment, regardless of whether he or she has objected.
  - d. Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the following: (1) the number of Notice Packets mailed to Class Members, the number of Notice Packets returned as undeliverable; (2) the number of Notice Packets re-mailed to Class Members; (3) the number of remailed Notice Packets returned as undeliverable; (4) the number of Class Members who objected to the Settlement and copies of their submitted objections; (5) the number of Class Members who returned valid requests for exclusion; and (6) the number of Class Members who returned invalid requests for exclusion.
  - e. Defendant's Option to Terminate.** If more than ten percent (10%) of the Class Members submit valid Exclusion Forms, Defendant, at its sole option, may withdraw from the Settlement and this Agreement is null and void.
- 5. No Solicitation of Objection or Requests for Exclusion.** The Parties and their respective counsel will not solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.
- 6. Motion for Final Approval.**
- a.** Class Counsel will file motions and memoranda in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) Attorney Fee Award; (2) Cost Award; (3) Administrative Costs; (4) Class Representative Enhancement Payments; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final

Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Participating Class Members and the PAGA Released Claims of the Class Members. Defendant agrees that it will not oppose Plaintiffs' motion for Final Approval of the Settlement so long as the motion is consistent with the terms of the Parties' Settlement Agreement and that Counsel for Defendant will be provided with sufficient time to review the motion for Final Approval prior to its filing. Plaintiffs' counsel agrees to share with Counsel for Defendant a draft of the motions and memoranda at least five (5) court days prior to filing each motion.

- b.** If the Court denies Final Approval of the Settlement with prejudice, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiffs and Class Counsel for the Class Representative Enhancement Payments, Attorney Fee Award, Cost Award, and/or Administration Costs will not constitute a material modification to the Settlement.
- c.** Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. The Effective Final Settlement Date shall operate to permanently bar and enjoin all Participating Class Members (excluding those who submit a valid and timely Exclusion Form) and Class Members from instituting, commencing, prosecuting, or pursuing, either directly or in any other capacity, any of the claims, damages, causes of action, or claims for attorneys' fees asserted in the Action or identified as Released Claims or PAGA Released Claims in this Agreement. Notwithstanding the entry of Final Judgment in the Action, the Court shall retain jurisdiction to interpret and enforce this Agreement pursuant to Code of Civil Procedure section 664.6. After Judgment, the Court shall have continuing jurisdiction over the Action for: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.

d. Except as to Class Members who timely submit a valid Exclusion Form, the Preliminary Approval Order and Final Judgment will contain provisions enjoining Plaintiffs, Participating Class Members, and the Class Members from prosecuting the claims released herein and enjoining Plaintiffs, Participating Class Members, and the Class Members from initiating or continuing other proceedings regarding the claims released herein, including but not limited to filing any claims for monetary relief of the Released Claims before the Division of Labor Standards and Enforcement (“DLSE”) or in any forum whatsoever. Inclusion of these provisions in the Order of Preliminary Approval Order and Final Judgment and Order of Final Approval is a material part of the consideration for this Settlement. After approval of this Agreement at the Final Approval Hearing and upon funding the Gross Settlement Amount, the Participating Class Members, Class Members, and the Class Representatives each release the Released Parties, and each of them, of and from any and all of the Released Claims and PAGA Released Claims.

7. **Vacating, Reversing, or Materially Modifying Judgment on Appeal.** If, after a Notice of Appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that Court’s decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but is not necessarily limited to, any alteration of the Gross Settlement Amount.

8. **Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court’s Final Approval Order and Judgment. The maximum amount Defendant can be required to pay under this Settlement for any purpose is the Gross Settlement Amount. The Settlement Administrator shall keep the Parties’ counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from the Parties’ counsel, except that names and private contact information of Class Members shall not be shared with Class Counsel. No person shall have any claim against the Parties, the Parties’ counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.

a. **Funding the Settlement:** No later than twenty-one (21) calendar days after: (a) the date the Final Approval of the Settlement can no longer be appealed; or (b) the date the Court enters judgment granting Final Approval of the Settlement if there are no objectors

and no Plaintiffs in intervention at the time the Court grants Final Approval of the Settlement, Defendant shall deposit the Gross Settlement Amount of One Million Two Hundred Thousand Dollars (\$1,200,000) by wiring the funds to the Settlement Administrator. Upon the Settlement Administrator's request, Defendant shall also provide any tax information the Settlement Administrator may need to calculate payments to Participating Class Members and Class Members.

- b. **Disbursement**: Within fourteen (14) calendar days after the deadline to fund the Settlement, the Settlement Administrator shall calculate and disburse all payments due under the Settlement Agreement, including the Individual Settlement Shares, Attorney Fee Award, Cost Award, Class Representative Enhancement Payments, PAGA Payment, and Administration Costs. The Settlement Administrator will also forward a check for seventy-five percent (75%) of the PAGA Payment to the LWDA for settlement of the PAGA claim. After funding the Settlement, Defendant shall have no liability for PAGA claims by or on behalf of Class Members, which are released under this Agreement
- c. **QSF**: The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations section 1.4168B-1, 26 C.F.R. sections 1.468B-1, *et seq.* and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a QSF on the earliest date permitted as set forth in 26 C.F.R. section 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

9. **Void or Uncashed Checks.** Participating Class Members and Class Members must cash or deposit checks for their Individual Settlement Share and their employee portion of the PAGA Payment within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are returned as undeliverable and without a forwarding address, the Settlement Administrator will conduct a skip trace search to find the most up to date mailing address and re-mail the checks promptly. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of all uncashed

checks to the California State Controller's Unclaimed Property Division in accordance with California Unclaimed Property Law.

**10. Final Report by Settlement Administrator.** Within ten (10) calendar days after the disbursement of all funds and the following two hundred (200) calendar day period above, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of funds.

**11. Defendant's Legal Fees.** Defendant is responsible for paying for all of Defendant's own legal fees, costs, and expenses incurred in this Action outside of the Gross Settlement Amount.

- I. Release of Claims.** As of the Effective Final Settlement Date, in exchange for the consideration set forth in this Agreement, Plaintiffs and the Participating Class Members hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Released Claims against any and all Released Parties. The Settlement includes a release of all Released Claims during the Class Period by Participating Class Members. The Parties agree it is their intent that the terms set forth in this Agreement will release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and every Participating Class Member to obtain any recovery based on Released Claims.
- J. PAGA Released Claims.** As of the Effective Final Settlement Date, Plaintiffs, individually and on behalf of the State of California, and all Class Members, hereby do and shall be deemed to have fully, finally, and forever released, settled, relinquished, and discharged any and all of the Released Parties of and from any and all PAGA Released Claims. The Parties agree it is their intent the terms set forth in this Agreement will release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by the State of California and each and every Class Member to obtain any recovery based on the PAGA Released Claims. The release of the PAGA Released Claims is effective, regardless of whether the Class Member purports to submit a timely and valid request for exclusion.
- K. Plaintiffs' Release of Claims and General Release.** As of the Effective Final Settlement Date, and in exchange for the Class Representative Enhancement Payments to Plaintiffs in an amount not to exceed \$10,000 to each Plaintiff, in recognition of their work and efforts in obtaining the benefits for the Class and undertaking the risk for the payment of costs if this matter had not successfully resolved, Plaintiffs provide a general release of claims for themselves and their spouses, heirs, successors and assigns, and forever releases, remises, and discharges the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, known or unknown, suspected or

unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to his employment with Defendant or the remuneration for, or termination of, such employment. Plaintiffs' Release of Claims also includes a waiver of Civil Code section 1542, which provides as follows:

**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of 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.**

If any claim is not subject to release, Plaintiffs waive any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which Defendant or any of the other Released Parties identified in this Settlement Agreement is a party.

#### **L. Miscellaneous Terms**

**1. No Admission of Liability.** The Parties enter this Agreement to resolve the Action and to avoid the burden, expense, and risk of continued litigation. In entering this Agreement, Defendant does not admit, and specifically denies, it has: (a) violated any federal, state, or local law; (b) violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; (c) breached any contract; or (d) engaged in any other culpable, wrongful, or unlawful conduct with respect to its employees or any other person or entity. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings, payouts, or other events associated with it, shall be construed as an admission or concession by Defendant of any such violation(s) or failure(s) to comply with any applicable law by Defendant or any Released Parties. Except as necessary in a proceeding to approve, interpret, or enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local, or other applicable law. The Parties intend this Settlement to be contingent upon the Preliminary and Final Approval of this Agreement; and in the event Final Approval of this Agreement is not obtained, the Parties do not waive, and instead expressly reserve, their respective rights to prosecute and defend the Action as if this Agreement never existed. If Final Approval of this Agreement is denied by the Court, fails to become effective, or is reversed, withdrawn, or modified by the Court or any other court with jurisdiction over the Action, the Agreement shall become null and void *ab initio* and

shall have no bearing on, and shall not be admissible in connection with, further proceedings in the Action.

- 2. No Effect on Employee Benefits.** The Class Representative Enhancement Payments, Individual Settlement Shares, and the employee portion of the PAGA Payment paid to Plaintiffs, Participating Class Members, and/or the Class Members shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiffs, Participating Class Members, or Class Members. The Parties agree that any Class Representative Enhancement Payments, Individual Settlement Shares, and the employee portion of the PAGA Payment paid to Plaintiffs, Participating Class Members, and/or the Class Members under the terms of this Agreement do not represent any modification of Plaintiffs', Participating Class Members', or Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.
- 3. Publicity.** Plaintiffs and Class Counsel agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as Class Counsel, in declarations submitted to the Court in support of motions for Preliminary Approval, Final Approval, for attorneys' fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. Plaintiffs and Class Counsel agree to decline to respond to any media inquiries concerning the Settlement.
- 4. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- 5. Authorization to Enter Into Settlement Agreement.** The Parties warrant and represent they are authorized to take all appropriate action required or permitted to be taken under this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents,

supplemental provisions, and assistance of the Court will be consistent with this Agreement.

- 6. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
- 7. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.
- 8. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by the Parties or their successors-in-interest.
- 9. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- 10. No Prior Assignment.** Plaintiffs hereby represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 11. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the California, without giving effect to any conflict of law principles or choice of law principles.
- 12. Fair, Adequate, and Reasonable Settlement.** The Parties believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, considering all relevant factors, current, and potential.
- 13. No Tax or Legal Advice.** The Parties understand and agree the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement. The Parties understand and agree Plaintiffs, Class Counsel, Class Members, and Participating Class Members will assume any such tax obligations or



consequences that may arise from any disbursements made under this Agreement. The Parties also understand and agree Plaintiffs, Class Counsel, Class Members, and Participating Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree if any taxing body determines that additional taxes are due from any recipient of a disbursement under this agreement, such recipient assumes all responsibility for the payment of such taxes.

**14. Jurisdiction of the Superior Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.

**15. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. If any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

**16. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any party on the basis that the party was the drafter or participated in the drafting.

**17. Execution in Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

**18. Escalation Clause.** The Parties estimate the total Weeks Worked by Class Members during the Class Period is 48,000. If the number of Weeks Worked is determined to be more than ten percent (10%) of the 48,000 (*i.e.*, 52,800), the Gross Settlement Amount shall be increased on a pro-rata basis for any Weeks Worked added above the ten percent (10%).

**IV. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel execute this Agreement.

Dated: 06/14/2022, 2022

**ZAID HASSAN**

  
\_\_\_\_\_

Dated: \_\_\_\_\_, 2022

**REBECCA CUMMINS**

\_\_\_\_\_

Dated: \_\_\_\_\_, 2022

**WESTPAC LABS, INC.**

\_\_\_\_\_  
By:  
Title:

**APPROVED AS TO FORM AND CONTENT:**

Dated: \_\_\_\_\_, 2022

**JUSTICE LAW CORPORATION**

\_\_\_\_\_  
Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Talia Lux, Esq.  
Attorneys for Plaintiffs Zaid Hassan and Rebecca  
Cummins, on behalf of themselves and all others  
similarly situated

Dated: \_\_\_\_\_, 2022

**DAVIS WRIGHT TREMAINE LLP**

\_\_\_\_\_  
Camilo Echavarria, Esq.  
Vandana Kapur, Esq.  
Raina Singer, Esq.  
Attorneys for WestPac Labs, Inc.

**IV. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel execute this Agreement.

Dated: \_\_\_\_\_, 2022      **ZAID HASSAN**

\_\_\_\_\_

Dated: 06/13/2022, 2022      **REBECCA CUMMINS**


  
\_\_\_\_\_

Dated: \_\_\_\_\_, 2022      **WESTPAC LABS, INC.**

\_\_\_\_\_  
By:  
Title:

**APPROVED AS TO FORM AND CONTENT:**

Dated: June 15, 2022      **JUSTICE LAW CORPORATION**

  
\_\_\_\_\_

Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Talia Lux, Esq.  
Attorneys for Plaintiffs Zaid Hassan and Rebecca Cummins, on behalf of themselves and all others similarly situated

Dated: July 1, 2022      **DAVIS WRIGHT TREMAINE LLP**

  
\_\_\_\_\_

Camilo Echavarria, Esq.  
Vandana Kapur, Esq.  
Raina Singer, Esq.  
Attorneys for WestPac Labs, Inc.

**IV. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel execute this Agreement.


Dated: \_\_\_\_\_, 2022      **ZAID HASSAN**

\_\_\_\_\_

Dated: 06/13/2022, 2022      **REBECCA CUMMINS**

  
\_\_\_\_\_

Dated: 7/01/, 2022      **WESTPAC LABS, INC.**

  
By: KENNETH JOHNSON  
Title: SECRETARY / GENERAL COUNSEL

**APPROVED AS TO FORM AND CONTENT:**

Dated: June 15, 2022      **JUSTICE LAW CORPORATION**

  
\_\_\_\_\_

Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Talia Lux, Esq.  
Attorneys for Plaintiffs Zaid Hassan and Rebecca  
Cummins, on behalf of themselves and all others  
similarly situated

Dated: \_\_\_\_\_, 2022      **DAVIS WRIGHT TREMAINE LLP**

\_\_\_\_\_

Camilo Echavarria, Esq.  
Vandana Kapur, Esq.  
Raina Singer, Esq.  
Attorneys for WestPac Labs, Inc.

**IV. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel execute this Agreement.

Dated: 06/14/2022, 2022

**ZAID HASSAN**

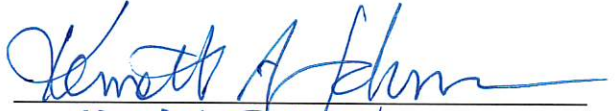


Dated: \_\_\_\_\_, 2022

**REBECCA CUMMINS**

Dated: 7/01/, 2022

**WESTPAC LABS, INC.**

  
By: KENNETH JOHNSON  
Title: SECRETARY GENERAL COUNSEL

**APPROVED AS TO FORM AND CONTENT:**

Dated: \_\_\_\_\_, 2022

**JUSTICE LAW CORPORATION**

---

Douglas Han, Esq.  
Shunt Tatavos-Gharajeh, Esq.  
Talia Lux, Esq.  
Attorneys for Plaintiffs Zaid Hassan and Rebecca  
Cummins, on behalf of themselves and all others  
similarly situated

Dated: \_\_\_\_\_, 2022

**DAVIS WRIGHT TREMAINE LLP**

---

Camilo Echavarria, Esq.  
Vandana Kapur, Esq.  
Raina Singer, Esq.  
Attorneys for WestPac Labs, Inc.