

CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

This Class and Representative Action Settlement Agreement (“Agreement”) is made by and between Plaintiff Ernest Gonzales (“Plaintiff”) individually and as a representative of the Class Members defined below and on behalf of the State of California’s Labor and Development Agency (“LWDA”), and Defendant Draper and Kramer Mortgage Corp. (“Defendant”). Plaintiff and Defendant collectively are referred to in this Agreement as the “Parties.”

I. RECITALS

1. On June 10, 2019, Plaintiff filed a putative class action lawsuit against Defendant in the Superior Court of the State of California, County of Los Angeles, Case No. 19STCV20063 (the “Action”). Plaintiff’s Complaint alleged causes of action for:

- a. Failure to pay wages in violation of California Labor Code §§ 510, 1194, 1194.2, 1197, and 1198, and the applicable IWC Wage Order;
- b. Failure to provide meal periods in violation of California Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order;
- c. Failure to permit rest breaks in violation of California Labor Code § 226.7 and the applicable IWC Wage Order;
- d. Failure to provide accurate itemized wage statements in violation of Labor Code § 226;
- e. Failure to pay all wages due upon separation of employment in violation of Labor Code §§ 201, 202, and 203; and
- f. Violation of Business and Professions Code §§ 17200 *et seq.*

2. On August 23, 2019, Plaintiff filed a First Amended Complaint (hereinafter, the operative “Complaint”) seeking penalties under the Private Attorneys General Act of 2004 for alleged violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198.

3. Defendant has denied and continues to deny each of the claims and contentions alleged in the Action. Plaintiff has challenged and continues to challenge each of Defendant’s asserted defenses.

4. On August 26, 2020, the Parties participated in an all-day mediation of the Action but were unable to reach a resolution of the dispute.

5. On January 25, 2022, after the Parties engaged in formal and informal discovery, the Parties participated in a second, all-day mediation of the Action, presided over by Cynthia Remmers, Esq., a respected wage and hour class action mediator (the “Mediator”).

6. During the mediation, the Parties agreed to settle the Action. The Parties entered into an agreement in the form of a binding Memorandum of Understanding on or about February 4, 2022, signed by all Parties and their respective counsel of record as of that date.

7. This Agreement, once signed by all parties and their counsel, replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties. This Agreement also represents a compromise and settlement of highly disputed claims and defenses. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action have merit, that Defendant bears any liability to Plaintiff or any putative class member, that the Action is suitable for class litigation, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of a class only for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to oppose a motion for certification of any class for any reason and reserves all available defenses to the claims in the Action. Likewise, if for any reason the settlement does not become effective, Plaintiff reserves the right to prosecute the Action, bring a motion for class certification, and otherwise reserves all rights relating to his claims.

Based on these aforementioned Recitals, which are a part of this Agreement, the Parties agree as follows:

II. DEFINITIONS

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

1. **"Settlement Class"** means all individuals who are or were previously employed as loan officers by Defendant in California during the period of June 10, 2015 to January 25, 2022.
2. **"PAGA Group"** means all individuals who are or were previously employed as loan officers by Defendant in California during the period of June 10, 2018 to January 25, 2022.
3. **"Class Counsel"** means the law firms of Aegis Law Firm, PC and Lebe Law, APLC.
4. **"Class Counsel Fees Payment"** and **"Class Counsel Litigation Expenses Payment"** collectively mean the amount to be paid to Class Counsel as approved by the Court, to compensate them for their legal work in connection with the Action, including their pre-filing investigation, the filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and for related litigation expenses billed in connection with the Action.

5. “**Class Data**” means, for each Class Member, their name; last-known mailing address; Social Security number; their employee identification number (if any); and the number of workweeks that they worked for Defendant during the Class Period.

6. “**Class Members**” refers collectively to members of the Settlement Class.

7. “**PAGA Group Members**” refers collectively to members of the PAGA Group.

8. “**Class Notice**” or “**Class Notice Packet**” means the Notice of Pendency of Class Action Settlement and Final Hearing Date as evidenced by Exhibit A to this Agreement and incorporated by reference into this Agreement, subject to the Court’s approval.

9. “**Class Period**” means the period of time from June 10, 2015 through January 25, 2022.

10. “**PAGA Period**” means the period of time from June 10, 2018 through January 25, 2022.

11. “**Class Representative Service Payment**” means the service payment made to Plaintiff in his capacity as a Class Representative that accounts for the time, risks, and burdens carried in this Action and the benefits provided to counsel and the Class throughout the litigation, as well as Plaintiff’s general release of claims against Defendant as defined below.

12. “**Court**” means the Los Angeles County Superior Court where the Action is currently pending, which is where Plaintiff will move for settlement approval.

13. “**Defendant’s Counsel**” means McDermott Will & Emery LLP.

14. “**Settlement Effective Date**” means the date by which all of the following have occurred:

- a. This Agreement has been executed by all Parties and their counsel;
- b. The Court has given preliminary approval to the Settlement;
- c. The Class Notice has been sent to Class Members;
- d. The Court has held a Final Approval Hearing certifying the class, approving the Settlement and entering Judgment; and
- e. One day after the 60-day period for filing any appeal has expired, if no appeal has been filed by a Class Member who made a timely, valid objection to the Settlement; or, if an appeal is timely filed by same, then one day after the Settlement is subsequently approved following the appeal and there is no possibility of any subsequent appeal or other judicial review.

15. “**Election Not to Participate in Settlement**” means the written request by a Class Member to exclude themselves from the Settlement submitted in accordance with the instructions in the Class Notice.

16. **“Final Approval Hearing”** means the hearing to be conducted by the Court to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

17. **“Gross Settlement Amount”** means the “all-in” amount to be paid by Defendant as provided by this Agreement. This amount is an all-in amount without any reversion to Defendant and shall be inclusive of all payments contemplated in this resolution in this Agreement, including court-approved Settlement Administrator’s fees and expenses, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and payment to the LWDA. The employer’s share of payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate from and in addition to the Gross Settlement Amount.

18. **“Judgment”** means the Final Approval Order and Judgment entered by the Court materially in the form evidenced by Exhibit C to this Agreement and incorporated by reference into this Agreement.

19. **“LWDA”** means the California Labor and Workforce Development Agency.

20. **“Net Settlement Amount”** means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payment, the Class Counsel Fees and Expenses Payment, the LWDA payment, and the Settlement Administrator’s fees and expenses.

21. **“LWDA Payment”** means 75% of the \$20,000 allocated to the settlement of PAGA claims which, subject to Court approval, will be paid to the LWDA as provided by this Agreement.

22. **“Non-Participating Class Member”** means a Class Member who submits a valid and timely Election Not to Participate in Settlement.

23. **“Participating Class Member”** means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.

24. **“Preliminary Approval of the Settlement”** means the Court’s entry of an Order approving this Agreement, and the exhibits thereto, and setting a hearing for Final Approval of the Settlement.

25. **“Plaintiff”** means Plaintiff Ernest Gonzales.

26. **“Released Class Claims”** are defined as any and all federal, state, local and common law claims for unpaid wages and overtime compensation (including but not limited to any claims based on working “off-the-clock”), unpaid minimum wages, unpaid rest break premiums, unpaid meal period premiums, waiting time penalties, wage statement penalties, any and all claims for civil penalties (including those asserted under PAGA) based on any of the acts alleged in the Action or arising out of the facts, matters, transactions or occurrences set forth in the Action as set forth above. Released Class Claims shall also include any and all claims for attorneys’ fees, costs, expenses, interest, penalties, liquidated damages, and any other damages or relief that have been or could have been asserted by any Class Member arising out of the facts,

matters, transactions or occurrences set forth in the Action. Specifically excluded from the Released Class Claims are claims that: (1) cannot be waived as a matter of law, such as claims for unemployment insurance, workers' compensation and vested benefits covered by ERISA; (2) claims for wrongful termination, discrimination, retaliation and harassment under any state or federal civil rights law, including Title VII and California's Fair Employment and Housing Act; and (3) claims outside the temporal scope of the Release Period.

27. **"Released PAGA Claims"** are defined as the claims asserted by the PAGA Group for alleged violations of the California Labor Code and IWC Wage Order provisions identified in the PAGA notices Plaintiff sent to the LWDA and further identified in the operative Complaint in the Action that are alleged to have occurred during the PAGA Period, including alleged violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198 ("Released PAGA Claims").

28. **"Released Parties"** means Defendant, and its parents, subsidiaries, affiliates, related entities, predecessors or successors in interest, and each of their respective owners, officers, directors, shareholders, partners, members, managing agents, employees, consultants, attorneys, joint venturers, agents, successors, assigns, insurers, or reinsurers of any of them, and other related persons and entities.

29. **"Release Period"** for the Released Class Claims means the period of time from June 10, 2015 through January 25, 2022, unless the total number of unique Workweeks implicated for the Settlement Period exceeds 5,631 by more than 10% (i.e., by 564 or more additional Workweeks), in which case the end date of the Release Period shall be shortened accordingly so that the number of actual Workweeks does not exceed 5,631 by more than 10%. Workweeks covered by Individual Releases executed by Class Members will be excluded from the Workweek count. However, all class members who signed an individual release shall receive at least some consideration to bind the Class Release on them.

30. **"Plaintiff's Released Claims"** are defined as all claims released by Plaintiff consistent with a full, general release of all claims. Plaintiff expressly waives any right under California Civil Code section 1542. Plaintiff's Released Claims exclude any claims for workers' compensation or any other claim that cannot be released as a matter of law.

31. **"Individual Releases"** are defined as all claims released by Class Members consistent with the individual settlement agreements between Class Members and Defendant.

32. **"Settlement"** means the disposition of the Action and all related claims effectuated by this Agreement.

33. **"Settlement Administrator"** means Phoenix Settlement Administrators, which will be responsible for the administration of the Settlement, and all related matters, and which will perform the following duties: (i) establish a Settlement Fund; (ii) prepare the Class Notice, in both English and Spanish, including the number of Workweeks for each Class Member based on data provided by Defendant; (iii) mail the Class Notice to Class Members and perform address searches and re-mailings as necessary; (iv) receive and track returned Objections, and Elections Not to

Participate in Settlement; (v) notify the Parties of timely and untimely Objections and Elections Not to Participate in Settlement; (vii) notify the Parties of any disputes regarding the number of Workweeks by Participating Class Members and resolve any disputes resulting from same; (viii) calculate the amounts due to each Class Member pursuant to the Settlement, and the amount of Employee Taxes and Employer Taxes; (ix) provide settlement payments and IRS W-2 and 1099 Forms to Participating Class Members, and to the relevant taxing authorities, and make all required withholdings and tax payments; (x) make all other required settlement payments pursuant to the terms of the Settlement and as directed by the Court; and (xi) perform such other duties as are described in this Agreement and/or as are customarily performed by settlement administrators, including provision of settlement documents and information, including any Judgment obtained, on the settlement administrator's website.

34. **“Settlement Fund”** shall mean the Qualified Settlement Fund established by the Settlement Administrator for the benefit of the Class Members, from which payments will be made in accordance with this Agreement.

35. **“Settlement Share”** means each Participating Class Member's share of the Net Settlement Amount as provided by this Agreement.

36. **“PAGA Share”** means each PAGA Group member's share of the Net Settlement Amount as provided by this Agreement.

37. **“Workweek”** is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class was employed at least one day during any such workweek. Workweeks covered by Individual Releases executed by Class Members will be excluded from the workweek count. However, all class members who signed Individual Releases shall receive at least some consideration to bind the Class Release on them.

III. SETTLEMENT TERMS AND CONDITIONS

1. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is \$350,000. The Gross Settlement Amount will be disbursed in accordance with the terms of this Agreement, without the need for any Class Member to submit a claim form. None of the Gross Settlement Amount will revert to Defendant. The employer's share of payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate from and in addition to the Gross Settlement Amount.

2. **Class Representative Service Payment.** In addition to his Settlement Share, Plaintiff will apply to the Court for a Class Representative Service Payment of not more than \$10,000. Defendant will not oppose such an application for a Class Representative Service Payments to Plaintiff. The Settlement Administrator will pay the Class Representative Service Payment approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Representative Service Payment of less than \$10,000 for Plaintiff, the other terms of the settlement will remain in effect and the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions will not be

taken from the Class Representative Service Payment and instead a Form 1099 will be issued to Plaintiff with respect to his payment. Plaintiff shall be solely responsible for any tax obligations with respect to this payment. To receive this court-approved payment, the Plaintiff agrees to a California Civil Code section 1542 waiver and a general release of all claims that may be released upon the Settlement Effective Date. Plaintiff also agrees to provide completed IRS Forms W-9 in order to receive these payments.

3. **Class Counsel Payment.** Class Counsel will collectively apply to the Court for an award of not more than \$116,666.67 (1/3 of the Gross Settlement Amount) as their Class Counsel Fees Payment for work performed, and an amount for all expenses incurred as documented in Class Counsel's respective billing records as their Class Counsel Litigation Expenses. Defendant will not oppose Plaintiff's request for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. The Settlement Administrator will pay the amounts approved by the Court (but not more than \$116,666.67 for the Class Counsel Fees Payment) out of the Gross Settlement Amount. If the Court approves a Class Counsel Fees Payment of less than \$116,666.67 or a Class Counsel Litigation Expenses Payment less than the total amount requested by Plaintiff, the other terms of the settlement will remain in effect and the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions, if any, will not be taken from the Class Counsel Fees Payment or Class Counsel Expenses Payment; instead Forms 1099 will be issued to Class Counsel with respect to the payments respectively received by them. The payment of Class Counsel's fees and costs shall be made to Class Counsel by the Settlement Administrator in accordance with this Agreement. Class Counsel agrees to provide completed IRS Forms W-9 in order to receive these payments.

4. **PAGA Payment.** The Parties will seek approval from the Court, after providing the Settlement Agreement to the LWDA, for a PAGA payment of \$20,000 out of the Gross Settlement Amount, which shall be allocated \$15,000 to the LWDA (the "LWDA Payment") as the LWDA's 75% share of the civil penalties paid under this Agreement pursuant to the PAGA and the remaining 25% (\$5,000) to the Net Settlement Amount for distribution to the PAGA Group members to account for their PAGA Shares. If the Court approves a PAGA Payment of less than \$20,000, the other terms of the settlement will remain in effect and the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. In the event the LWDA or the Court rejects this allocation, the Parties will meet and confer with the Court and the LWDA to reach a penalty allocation acceptable to all parties that does not materially alter the terms of Settlement, nor require Defendant to pay more than the Gross Settlement Fund.

5. **To the Settlement Administrator.** The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses that are documented and approved by the Court in an amount not to exceed \$6,500. These reasonable fees and costs shall include all costs of administering the Settlement, including but not limited, to all tax document preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees associated with preparing, issuing and mailing any and all notices and other correspondence to Class Members, including an English and Spanish-language version of the Class Notice; all costs and fees associated with computing, processing, reviewing, and paying the Settlement Shares, and resolving disputed claims; all costs and fees associated with calculating tax

withholdings and payroll taxes and making related payment to federal state tax authorities and issuing tax forms relating to payments made under the Settlement; all fees and costs associated with any other payments to be made out of or into the Settlement Fund; all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course of administering disbursements from the Settlement Fund; and any other costs and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement. To the extent the fees and expenses that are documented and approved by the Court are less than \$6,500 the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. In the event the Defendant voids the settlement under Section IV, Paragraph 4, below, or the Settlement Effective Date is not reached due to the Court not granting final approval or reversal of final approval on appeal, payment of the Settlement Administrator's fees and Settlement Administrator expenses shall be split equally between Plaintiff and Defendant (50% by Plaintiff; 50% by Defendant).

6. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member. No claim form will be required for a Participating Class Member to receive payment.

7. **Calculation of Settlement Share.** The value of each Participating Class Member's Settlement Share will be based on the number of each Participating Class Member's Workweeks. Specifically, the Net Settlement Amount less 25% of the approved PAGA Payment will be divided by the total number of Workweeks at issue for all Class Members, and then taking that number and multiplying it by the number of Workweeks at issue for each respective Participating Class Member.

8. **PAGA Share.** The value of each PAGA Group member's PAGA Share will be based on the number of each PAGA Group member's Workweeks during the PAGA Period. Specifically, 25% of the approved PAGA Payment allocated to the Net Settlement Amount will be divided by the total number of Workweeks at issue for all PAGA Group members and then taking that number and multiplying it by the number of Workweeks at issue for each respective PAGA Group member. The PAGA Group's PAGA Share payment will be 100% penalties. Accordingly, each PAGA Group member's PAGA Share shall not be subject to wage withholdings, and shall be reported on IRS Form 1099 and shall be paid for from the Net Settlement Amount.

9. **Allocation of Settlement Share.** The Settlement Share paid to each Participating Class Member, shall be allocated as follows:

- a. 60 percent of each Participating Class Member's Settlement Share, is in settlement of wage claims (the "Wage Portion"). Accordingly, the Wage Portion is subject to applicable wage withholdings, and shall be reported on IRS Form W-2 and shall be paid for from the Net Settlement Amount.

- b. 40 percent of each Participating Class Member's Settlement Share, is in settlement of claims for interest (20 percent) and penalties (20 percent) allegedly due to employees (the "Non-Wage Portion").

10. **Effect of Non-Participating Class Members.** Non-Participating Class Members will still receive their PAGA Share. However, Non-Participating Class Members will not receive their Settlement Share and their Election Not to Participate in Settlement will reduce neither the Gross Settlement Amount nor the Net Settlement Amount. Their respective Settlement Shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Settlement Shares.

11. **Class End Date Modification.** Defendant represented that as of January 25, 2022, there was approximately 65 Class Members who collectively worked 5,631 workweeks during the Class Period. Defendant will provide a declaration as to the number of Class Members and workweeks worked by the Class Members and the PAGA Group during the California Class Period prior to the filing of the motion for preliminary approval. If the total number of workweeks worked by Class Members, as of January 25, 2022, exceeds 5,631 by more than 10% (i.e., by 564 or more additional workweeks), then the end date of the Release Period shall be reduced accordingly so that the number of actual workweeks does not exceed 5,631 by more than 10% and the definitions set forth in Paragraph 2 for Class Members and the PAGA Group will be modified accordingly to account for the new end dates.

12. **Appointment of Settlement Administrator.** The Parties will ask the Court to appoint Phoenix Settlement Administrators as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. In the event the Court does not approve the appointment of Phoenix Settlement Administrators the parties will meet and confer to select an alternate Settlement Administrator. The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members, including both English and Spanish versions of the Notice; conducting a National Change of Address search on any Class Notice Packet returned by the U.S. Postal Service as non-deliverable, and re-mailing the Class Notice Packet to the Class Member's new address; setting up a toll-free telephone number to receive calls from Class Members; setting up and maintaining a case-specific page on the Settlement Administrator's website with key settlement dates, deadlines, and documents, including the final approval order and judgment; receiving and reviewing for validity completed Elections Not to Participate in Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of completed Elections Not to Participate in Settlement; calculating Settlement Shares and PAGA Shares; maintaining the Settlement Fund account in an interest-bearing account; issuing the checks to effectuate the payments due under the Settlement, providing periodic updates on the status of uncashed checks, issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the authority to resolve all disputes concerning the calculation of a Participating Class Member's Settlement Share, subject to the dollar limitations and calculations set forth in this Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount. The Settlement Administrator

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

IV. PROCEDURE FOR APPROVING SETTLEMENT

1. Motion for Preliminary Approval of Settlement by the Court.

- a. Within ten (10) days of the execution of this Settlement Agreement, Class Counsel shall draft and file a motion for preliminary approval.
- b. Class Counsel agree to provide to Defendant's Counsel for review the draft Preliminary Approval Motion and the draft Motion for Final Approval at least three (3) business days before the filing of the motion(s). Class Counsel agrees not to file either motion without providing Defendant an opportunity to review drafts of the filings. Class Counsel agrees to confer with Defendant's Counsel to resolve any disputes before filing the motion(s).
- c. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an Order Granting Preliminary Approval of the Settlement substantially in the form evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
- d. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of the Released Class Claims or Released PAGA Claims to be granted by Participating Class Members, or the PAGA Group or the binding effect of the Settlement on same), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval.

2. Notice to Class Members. After the Court enters its Order Granting Preliminary Approval of the Settlement, every Class Member will be sent the Class Notice Packet (which will include the Class Notice completed to reflect the Order Granting Preliminary Approval of the Settlement and showing the Class Member's Settlement Share) as follows:

- a. No later than 14 calendar days after the Court enters its Order Granting Preliminary Approval of the Settlement, Defendant will provide to the Settlement Administrator with each Class Member's Class Data. If any or all of the Class Data is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. The Settlement Administrator shall update addresses using the National Change of Address database. This information will otherwise remain confidential and will not be disclosed to anyone

(including Class Counsel, Plaintiff, or any other Class Members), except as required to applicable taxing authorities, in order to carry out the reasonable efforts described in this Agreement, or pursuant to Defendant's express written authorization or by order of the Court. All Class Data will be used for settlement notification and settlement administration, and shall not be used for any other purpose by Class Counsel. Except as specifically provided herein, the Class Data shall not be disclosed to Class Counsel, Plaintiff, or any other Class Members without the written consent of Defendant.

- b. Using best efforts to mail it as soon as possible, and in no event later than 14 calendar days after receiving the Class Data, the Settlement Administrator will mail the Class Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.
- c. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will promptly, and not longer than 10 calendar days from receipt of the returned packet, search for a more current address for the Class Member in the National Change of Address database and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the Class Data and otherwise work with Defendant to locate a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches in the National Change of Address database for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. Class Members for whom Class Notice Packets are re-mailed will have an additional 14 calendar days added to the response deadline. If the Class Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defendant's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties. Upon completion of these steps by the Settlement Administrator, the Parties shall be deemed to have satisfied their obligation to provide the Class Notice Packet to the affected Class Member.
- d. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.
- e. Not later than 5 calendar days before the date by which Plaintiff must file the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting

forth its compliance with its obligations under this Agreement and detailing the Elections Not to Participate in Settlement it received (including the numbers of valid and deficient Elections) and objections received. Prior to 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; Disputes as to Workweeks allocated to Class Members; Elections Not to Participate in Settlement.** Participating Class Members may submit objections to the Settlement. Class Members may also submit disputes as to workweeks allocated to them and Elections Not to Participate in Settlement pursuant to the following procedures:

- a. **Objections to Settlement and Disputes as to Workweeks.** The Class Notice will provide that only Participating Class Members who wish to object to the Settlement must submit to the Settlement Administrator not later than 45 calendar days (unless extended by remailing pursuant to Section 2(c) above) after the Settlement Administrator first mails the Class Notice Packets, written objections to the Settlement setting forth the grounds for the objection. The Settlement Administrator will submit any such objections to the Court as an exhibit to the Settlement Administrator's declaration in support of Plaintiff's Motion for Final Approval. If the 45th day falls on a Sunday or holiday, the deadline to object will be the next business day that is not a Sunday or holiday. The Parties may file a response to any objections submitted by objecting Class Members no later than ten (10) calendar days prior to the final approval hearing. A Participating Class Member who does not submit a written objection in the manner and by the deadline specified above will be deemed to have waived any objection and will be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, except that such Participating Class Member may attend the Final Approval Hearing and object, orally, without requiring prior submittal of a written objection. Non Participating Class Members shall have no ability to comment on or object to the Settlement. Each Participating Class Member shall also have 45 calendar days from the date of the initial mailing of the Class Notice Packet in which to dispute the number of workweeks the Class Notice allocates to them during the Class Period. If the 45th day falls on a Sunday or holiday, the deadline will be the next business day that is not a Sunday or holiday. Any dispute as to this allocation shall be resolved by the Settlement Administrator. In calculating each individual Class Member's settlement share of the Net Settlement Amount, Defendant's records regarding the employment tenure of Class Members shall be presumed to be correct. Class Members who challenge Defendant's records must submit a challenge in writing to the Settlement Administrator and will bear the burden of proof, *e.g.*, such a Class Member who fails to provide written documentation supporting a different number of Workweeks will have his or her challenge denied. Defendant will investigate the challenge and determine whether any correction (*e.g.*, to the number of Workweeks) for the Class Member making the challenge should be made. In no case will a challenge result in a payment by Defendant in

excess of the Gross Settlement Amount. Any Notice of Dispute shall be directed to the Settlement Administrator.

- b. **Election Not to Participate in Settlement.** The Class Notice also will provide that Class Members who wish to exclude themselves from the Settlement must mail or fax to the Settlement Administrator not later than 45 calendar days after the Settlement Administrator first mails the Class Notice Packets (unless extended by re-mailing pursuant to Section 2(c) above) a signed Election Not to Participate in Settlement. To be valid, an Election Not to Participate must be timely and must comply with the instructions in the Class Notice. The Election Not to Participate must: (1) state the Class Member's name, last four digits of their social security number address and telephone number, (2) unequivocally state that the Class Member requests exclusion from, or "opts out" of, the Settlement, (3) be dated, and (4) be signed by the Class Member. Elections Not to Participate must be made individually and cannot be made on behalf of a group of employees or on behalf of other Class Members. If a question is raised about the authenticity of a signed Election Not to Participate in Settlement, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Settlement and the Judgment, except for the PAGA component of the Settlement from which they (as the PAGA Group) cannot exclude themselves. Defendant will remain free to contest any claim brought by the Non-Participating Class Member that would have been barred by this Agreement, and nothing in this Agreement will constitute or be construed as a waiver of any defense Defendant has or could assert against such a claim. A Class Member who does not complete and mail a timely Election Not to Participate in Settlement in the manner and by the deadline specified above will automatically become a Participating Class Member and be bound by all terms and conditions of the Settlement, including the Released Class Claims by the Class, if the Settlement is approved by the Court, and by the Judgment, regardless of whether they objected to the Settlement. If a Class Member submits a deficient Election Not to Participate, the Settlement Administrator shall notify the Class Member of the deficiency within three (3) business days of receipt. The Class Member shall have until the end of the 45 day period following the initial mailing, plus three (3) business days to cure said deficiencies, at which point his or her Election Not to Participate will be rejected if not received. Class Members submitting untimely or deficient Elections Not to Participate shall be bound by the Settlement and its releases. Persons who submit an Election Not to Participate in Settlement shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement. All Participating Class Members who do not submit a valid and timely Election Not to Participate in Settlement will receive a Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Settlement, including without limitation, the release of the Released Class Claims by the Participating Class Members set forth in this Agreement. All PAGA Group members will receive a PAGA Share consisting of their share of the PAGA penalties, irrespective of

whether they opted-out of the class settlement, and will be bound by the PAGA Group's release.

- c. **Report.** Not later than 10 calendar days after the deadline for submission of Elections Not to Participate in Settlement, the Settlement Administrator will provide the Parties with a complete and accurate list of all Participating Class Members, and all Non-Participating Class Members. The list will contain only the Employee identification numbers, workweeks, and estimated payment amounts for these persons.

4. **Right of Defendant to Reject Settlement.** If more than three (3) Class Members submit timely, valid Elections Not to Participate in Settlement, Defendant will have the right in its sole discretion, to void the Settlement in which case this Agreement shall become null and void and be of no force and effect. Defendant shall pay the costs incurred by the Settlement Administrator prior to Defendant's election to void the settlement and the costs of notifying Class Members of the voided settlement.

5. **No Solicitation.** The Parties and their counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement. If a Class Member submits an Election Not to Participate in Settlement, Class Counsel will not solicit, or otherwise encourage that Non-Participating Class Member to participate in separate litigation against Defendant.

6. **Additional Briefing and Final Approval.**

- a. Class Counsel will file with the Court their application for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment no later than the date Plaintiff files his Motion for Final Approval, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.
- b. No later than 16 court days before the Final Approval Hearing, Plaintiff will file with the Court a motion for final approval of the Settlement, the PAGA Payment, and payment of the Settlement Administrator's reasonable fees and expenses. If any opposition is filed, then not later than 5 court days before the Final Approval Hearing, both Parties may file a reply in support of the motion for final approval of the Settlement, the PAGA Payment, and payment of the Settlement Administrator's reasonable fees and expenses; and Plaintiff and Class Counsel may also file a reply in support of their motion for the Class Representative Service Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment.
- c. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members or the PAGA Group), then the Parties shall work together in good faith to address any concerns

raised by the Court and propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiff and Class Counsel for the PAGA Payment, Class Representative Service Payment, the Class Counsel Fees Payment, or the Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Settlement within the meaning of this paragraph.

- d. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Parties will present for the Court's approval and entry the Judgment in the form attached hereto as Exhibit C. After entry of the Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

7. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiff and Participating Class Members who did not timely or validly submit an objection to the Settlement, Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The Judgment therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final.

8. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members or the PAGA Group), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later than fourteen days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payment or the Class Counsel Fees Payment or Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendant's obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.

9. **Timing of Provision of Settlement Shares and Other Payments.** Defendant will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. Defendant shall fund the Gross Settlement Amount within fifteen (15) calendar days of the Settlement Effective Date. Within fifteen (15) calendar days after Defendant funds the Gross

Settlement Amount, the Settlement Administrator will pay to Participating Class Members their Settlement Shares; to Plaintiff, his Class Representative Service Payment in addition to his Settlement Share and/or PAGA Share; to Class Counsel, their Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment; to the LWDA, the LWDA Payment; to the Settlement Administrator, its reasonable, court-approved fees and expenses; and to the PAGA Group, their PAGA Shares. Any delay by the Settlement Administrator in timely performing its duties under this, or any other Paragraph, will not constitute a breach of this Agreement by any Party and the Parties shall work together to reach a mutually-agreeable solution for any issues caused by such delay.

10. **Uncashed Settlement Share Checks or PAGA Share Checks.** A Participating Class Member or PAGA Group members must cash his or her Settlement Share check within 180 days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Participating Class Member or PAGA Group members at his or her correct address. If a Participating Class Member's Settlement Share check is not cashed within 180 days after its last mailing to the Participating Class Member, or a PAGA Group member's PAGA Share check is not cashed within 180 days after its last mailing to the PAGA Group, the funds from such uncashed checks will be paid to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., for the benefit of those Participating Class Members and PAGA Group members who did not cash their checks, until such time that they claim their property, within 30 days of expiration of the check void date. No funds from the Gross Settlement Amount will revert to Defendant. The Parties agree that this disposition results in no "unpaid residue" under California Code of Civil Procedure section 384.

11. **Final Report by Settlement Administrator to Court.** Within ten (10) calendar days after the 180 day check cashing period expires, the Settlement Administrator will serve on the Parties and file with the Court a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount pursuant to California Code of Civil Procedure section 384. Thereafter, the Court shall set a date for a final review hearing when the Parties shall report to the Court the total amount that was actually paid to the Participating Class Members, and PAGA Group members and the amount of the unclaimed funds sent to the Controller of the State of California to be held pursuant to Unclaimed Property Law, California Civil Code § 1500 et seq. for the benefit of Participating Class Members and PAGA Group members.

V. **RELEASE OF CLAIMS.**

1. **Participating Class Members and PAGA Group Members.** As of the date Defendant funds the Gross Settlement Amount, Plaintiff and the Participating Class Members shall release all Released Class Claims that occurred during the respective Release Period as to the Released Parties. As of the date Defendant funds the Gross Settlement Amount, all PAGA Group members shall release all Released PAGA Claims.

2. **Plaintiff's Release and Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payment, in addition to the Released Class Claims, Plaintiff hereby provides the Released Parties with a general release of any

and all claims, known or unknown, under California Civil Code Section 1542, that could have been brought against them, which will become effective on the Settlement Effective Date. Thus, even if Plaintiff discovers facts and/or claims in addition to or different from those that they now know or believe to be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain released and forever barred. Therefore, Plaintiff expressly waives and relinquishes the provisions, rights and benefits of section 1542 of the California Civil Code (or any other similar provision under federal or state law), which reads: **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.** This waiver is not a mere recital, but is a knowing waiver of rights and benefits. This is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein.

3. **Signatures of All Participating Class Members and the PAGA Group Unnecessary to Be Binding.** The Parties agree for settlement purposes only that, because the Class Members are so numerous, it is impossible or impracticable to have each Participating Class Member or PAGA Group member execute this Agreement. Accordingly, the Notices will advise all Class Members of the binding nature of their releases and, if the Court grants final approval of this Settlement Agreement, this Agreement shall have the same force and effect as if it were executed by each Participating Class Member or PAGA Group member.

VI. MISCELLANEOUS TERMS

1. **No Effect on Other Benefits.** The Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or Participating Class Members or the PAGA Group, who will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement. Neither the Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plan(s), policy(ies), or bonus program(s). Defendant retains the right to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Agreement.

2. **Limitation on Public Statements About Settlement.** Defendant, Defendant's Counsel of Record, Plaintiff, and Class Counsel will not engage in any type of publicity related to the Action or Settlement, including but not limited to posting the fact of the Action or settlement on any website (excluding the settlement website to be maintained by the Settlement Administrator for posting settlement-related information and documents, including the judgment if obtained),

issuing any type of press release regarding the Action or settlement, initiating any media coverage (digital, radio, satellite, print, recorded, social media, including Facebook, Twitter, Instagram, etc.) or responding to any request for comment about the Action or settlement by the press, or responding to any press inquiries regarding the Action or Settlement. Nothing in this paragraph shall prohibit Class Counsel or the Settlement Administrator from communicating with Class Members regarding the proposed settlement, or prohibit the Parties or their counsel from filing or otherwise submitting documents to courts in the Action, or counsel declarations in other actions in support of counsel adequacy, or prohibit the Settlement Administrator's issuance of the class notice to Class Members of their right to participate in the settlement and procedures related thereto, subject to Court's approval of such notification procedures.

3. No Admission of Liability or Class Certification for Other Purposes.

- a. Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims and defenses. Nothing in this Agreement or the negotiation thereof is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties, or an admission by Plaintiff that any of the claims were non-meritorious or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with interpreting, effectuating or enforcing the Settlement or Judgment pursuant to this Agreement).
- b. The Parties stipulate to the conditional certification of Class Members as defined herein for settlement purposes only, pursuant to California Rule of Court 3.769(d), and Code of Civil Procedure section 382. As set forth in the provisions below, the certification for settlement purposes is void and all terms of this Settlement are void if this Settlement is not approved by the Court.
- c. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiff or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

- d. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

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. **Non-Approval By The Court.** In the event that this Agreement is not approved by the Court, fails to become effective, or is reversed, withdrawn or materially modified by the Court or an appeal: (1) the Agreement shall have no force or effect; (2) the Agreement shall not be admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; (3) none of the parties to this Agreement will be deemed to have waived any claims, objections, defenses, or arguments with respect to the issue of class certification or the merits of Plaintiff's claims.

6. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of a Mediator of their choice for resolution.

7. **No Prior Assignments.** The Parties 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 and portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.

8. **No Tax Advice.** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. Plaintiff, Participating Class Members, and the PAGA Group understand and agree that except for Defendant's payment of the employer's portion of any payroll taxes, they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein.

9. **Modification of Agreement.** Except as expressly set forth hereinabove this Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives and approved by the Court.

10. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

11. **Severability.** The Parties to this Agreement agree, covenant, and represent that each and every provision of this Agreement shall be deemed to be contractual, and that they shall not be treated as mere recitals at any time or for any purpose. Therefore, the Parties further agree, covenant, and represent that each and every provision of this Agreement shall be considered severable, except for the release provisions of this Agreement. If a court of competent jurisdiction finds the release provisions of this Agreement to be unenforceable or invalid as against a Class Member, then this Agreement shall, at the option of Defendant, become voidable as to such Class Member and the payments made pursuant to this Agreement to that Class Member shall be returned to Defendant by that Class Member as to whom the release provisions have been found unenforceable or invalid. If a court of competent jurisdiction finds any provision, other than the release provisions of Section (V), or part thereof to be invalid or unenforceable for any reason, that provision, or part thereof, shall remain in full force and effect to the extent allowed by law, and all of the remaining provisions of this Agreement shall remain in full force and effect.

12. **Extensions of Time.** If either Party cannot reasonably comply with an obligation under this Agreement by the deadline set forth herein applicable to that obligation, that Party may apply to the Court for a reasonable extension of time to fulfill that obligation. Consent to such a request for an extension will not be unreasonably withheld by the other Party.

13. **No Waiver.** No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

14. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.

15. **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.

16. **Fair Settlement.** The Parties and their respective counsel 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, taking into account all relevant factors, current and potential.

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

18. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and Class:

Samuel Wong, Esq.
Jessica Campbell, Esq.
Joseph Szilagyi, Esq.
Aegis Law Firm, PC
9411 Irvine Center Dr., Suite 100
Irvine, CA 92618
Tel: (949) 379-6250
Email: swong@aegislawfirm.com
jcampbell@aegislawfirm.com
jszilagyi@aegislawfirm.com

Jonathan Lebe, Esq.
Lebe Law, APLC
777 S. Alameda St., 2nd Floor
Los Angeles, CA 90021
Tel: (213) 457-3068
Email: jon@lebelaw.com

To Defendant:

Ronald Holland, Esq.
Christopher Braham, Esq.
Philip Shecter, Esq.
McDermott Will & Emery, LLP
415 Mission Street, Suite 5600
San Francisco, CA 94117
Tel: (628) 218-3800
Email: rjholland@mwe.com
cbraham@mwe.com
pshecter@mwe.com

If the identity of the person(s) to be notified for any party changes, or their address changes, that party shall notify all other parties of said change in writing.

19. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

20. **Continuing Jurisdiction.** The Court that presides over the approval process of the settlement of the Action shall retain continuing jurisdiction over the Action under Code of Civil Procedure section 664.6 *et seq.* to ensure the continuing implementation of this Agreement, to enforce the settlement terms, and to resolve any breach of settlement terms. The Parties and their counsel further stipulate herein that the time within which to bring the Action to trial under Code of Civil Procedure section 583.310 shall be extended from the last date of any party or counsel signing the Memorandum of Understanding by all parties until the date of entry of the Final Approval Order and Judgment or, if not entered, the date the Memorandum of Understanding and this Settlement Agreement are no longer of any force or effect.

VII. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 3/16/2023 | 5:36 PM PDT

ERNEST GONZALES

DocuSigned by:
Ernest Gonzales
C2B151664C5842E...

Ernest Gonzales

Dated: _____

DRAPER AND KRAMER MORTGAGE CORP.

By:
Title:
Authorized to sign on behalf of Defendant

Dated: 3/17/2023

AEGIS LAW FIRM, PC



Samuel Wong
Attorneys for Plaintiff

Dated: _____

LEBE LAW, APPC

Jon Lebe
Attorneys for Plaintiff

Dated: _____

MCDERMOTT WILL & EMERY LLP

Chris Braham
Attorneys for Defendant

VII. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 3/16/2023 | 5:36 PM PDT

ERNEST GONZALES

DocuSigned by:
Ernest Gonzales

C2B1516641C5842E...
Ernest Gonzales

Dated: _____

DRAPER AND KRAMER MORTGAGE CORP.

By:
Title:
Authorized to sign on behalf of Defendant

Dated: _____

AEGIS LAW FIRM, PC

Samuel Wong
Attorneys for Plaintiff

Dated: 3/21/23

LEBE LAW, APPC



Jon Lebe
Attorneys for Plaintiff

Dated: _____

MCDERMOTT WILL & EMERY LLP

Chris Braham
Attorneys for Defendant

VII. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

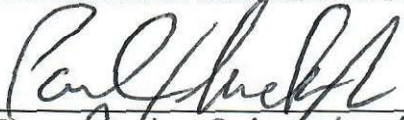
Dated: _____

ERNEST GONZALES

Ernest Gonzales

Dated: March 20, 2023

DRAPER AND KRAMER MORTGAGE CORP.


By: PAUL J. LUKEN JR
Title: CEO
Authorized to sign on behalf of Defendant

Dated: _____

AEGIS LAW FIRM, PC

Samuel Wong
Attorneys for Plaintiff


Dated: _____

LEBE LAW, APPC

Jon Lebe
Attorneys for Plaintiff

Dated: March 20, 2023

MCDERMOTT WILL & EMERY LLP



Chris Braham
Attorneys for Defendant

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

Ernest Gonzales v. Draper and Kramer Mortgage Corp.
Los Angeles Superior Court Case No. 19STCV20063

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	<p>To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<< [REDACTED] >>. See the explanation in Section 5 below.</p> <p>After final approval by the Court, your Settlement Share will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained on Page 7 of this Notice. In exchange for receiving your Settlement Share, you will release claims against Draper and Kramer Mortgage Corp. as detailed in Section 4, below.</p>
Exclude Yourself	<p>If you wish to exclude yourself from the Class Portion of the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion from the Class Portion of the Settlement, you will not receive money from the Class Portion of the Settlement, but will still receive your share of civil penalties under the PAGA Portion of the Settlement.</p> <p>Instructions are set forth in Section 7 below.</p>
Object	<p>If you do not exclude yourself from the Settlement, you may object to the Settlement.</p> <p>Instructions are set forth in Section 8 below.</p>

1. Why did I get this Notice?

A proposed class action and representative action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of Los Angeles (the “Court”) has been reached between Plaintiff Ernest Gonzales (“Plaintiff”) and Defendant Draper and Kramer Mortgage Corp. (“DKMC”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Settlement Class (collectively “Class Members”), which is defined as follows:

“Settlement Class” means all individuals who are or were previously employed as loan officers by DKMC in California during the period of June 10, 2015 to January 25, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action and representative action lawsuit about?

On June 10, 2019, Plaintiff filed a Complaint against DKMC (the “Action”) and a First Amended Complaint on August 23, 2019. The Action asserts claims that DKMC (a) failed to pay wages in violation of California Labor Code §§ 510, 1194, 1194.2, 1197, and 1198, and the applicable IWC Wage Order; (b) failed to provide meal periods in violation of California Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order; (c) failed to permit rest breaks in violation of California Labor Code § 226.7 and the applicable IWC Wage Order; (d) failed to provide accurate itemized wage statements in violation of Labor Code § 226; (e) failed to pay all wages due upon separation of employment in violation of Labor Code §§ 201, 202, and 203; (f) violated Business and Professions Code §§ 17200 *et seq.*; and (g) sought penalties pursuant to the Private Attorneys General Act, Cal. Labor Code §§ 2689 *et seq.* (“PAGA”) or alleged violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198. DKMC denied and continues to deny all claims asserted against it in the Action.

No court has made a ruling on the merits of the claims alleged in the Action and there has been no trial on the merits relating to any of the claims referenced above. DKMC denies the allegations and asserts that it has no liability to Plaintiff or the Class Members. Plaintiff believes that the claims have merit. Plaintiff and DKMC have agreed to settle, resolve and compromise the claims alleged in the Action in order to avoid the costs and risks of litigation. Further, Class Counsel believes that the Settlement is in the Class Members best interests. The Court has preliminarily approved the proposed Settlement. The Court will decide whether to give final approval to the Settlement at a hearing scheduled for [Insert Date], 2022. The final approval hearing date may change without further notice. You may contact Class Counsel, access the settlement administrator website at [insert web address here] or access the Court docket in this case to confirm that the date has not been changed.

3. What are the terms of the Settlement?

Gross Settlement Amount. Under the proposed settlement, DKMC has agreed to pay an “all inclusive” amount of Three Hundred and Fifty Thousand Dollars (\$350,000.00). This amount shall be referred to herein as the “Gross Settlement Amount”. The Gross Settlement Amount includes, amongst other things, the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, a payment to California’s Labor and Workforce Development Agency (“LWDA”) for its share of civil PAGA penalties (“LWDA Payment”), a payment to all individuals eligible to receive a share of civil PAGA penalties, a Service Award to Plaintiff to compensate him for undergoing the burden and expense of litigation, and any and all employer payroll and/or unemployment insurance tax obligations of DKMC with respect to the settlement payments made by the Settlement Administrator to Participating Class Members.

The following is a summary of the Settlement provisions. The specific and complete terms of the proposed Settlement are stated in the Stipulation for Class Action Settlement between Plaintiff and DKMC, a copy of which is filed with the Clerk of the Court. You can obtain a copy of the Settlement Agreement from the Settlement Website:

a. **Amounts to be Deducted From the Gross Settlement Amount.** The Settlement provides for certain payments to be deducted from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, which will not exceed Six Thousand Five Hundred Dollars (\$6,500.00). These costs include expenses arising out of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys' Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than \$116,666.67 (1/3 of the Gross Settlement Amount) and a Class Counsel Litigation Expense Payment for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payments. Class Representative Service Payments not to exceed Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, in recognition of his services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook by bringing the Action.
- PAGA Payment. A payment of \$20,000.00 relating to Plaintiff's claim under PAGA, \$15,000.00 of which will be paid to the State of California's LWDA for its 75% share of PAGA Penalties, and the remaining 25% of which (\$5,000.00) will be distributed to PAGA Group Members, regardless of whether they are a Participating Class Member or not, as part of the Net Settlement Amount.
- Employer Taxes. DKMC's share of payroll taxes from the payments to Class Members will be paid by DKMC separate from and in addition to the Gross Settlement Amount.

b. Calculation of Your Settlement Share

According to DKMC records, you were employed for [insert number] Workweeks total during the Settlement Release Period (*i.e.* June 10, 2015 through January 25, 2022). If you do not agree with the total number of Workweeks shown above, you must immediately provide documents supporting the total number of workweeks you claim you worked.

NOTE: DKMC's records will control unless you are able to provide documentation that establishes DKMC's records are in error. If there is a dispute about whether DKMC's information or yours is accurate, the Settlement Administrator will resolve the dispute and the Settlement Administrator's decision will be final.

Your share of the settlement proceeds ("Settlement Share") is calculated as follows:

The Net Settlement Amount less 25% of the approved PAGA Payment will be divided by the total number of Workweeks at issue for all Class Members, and then taking that number and multiplying it by the number of Workweeks at issue for you. If you previously signed an individual release with DKMC, the Workweeks covered by the individual release will be excluded from the Workweek count.

Based on this formula, your share of the settlement proceeds for the Released Class Claims will be approximately \$ [redacted]. This number is subject to change, based on the terms of the Court's final approval order.

Tax Matters. Sixty percent (60%) of each Settlement Share constitutes wages in the form of back-pay (and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment) and fourth percent (40%) of each Settlement Share constitutes interest, penalties and other non-wage payments (20% allocated to interest and 20% to penalties) (and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment). Neither Class Counsel nor DKMC's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment, if you do not make a valid and timely request to be excluded from the Settlement, you shall be deemed to release all Released Class Claims that occurred during the Release Period as to the Released Parties. Released Claims are defined as any and all federal, state, local and common law claims for unpaid wages and overtime compensation (including but not limited to any claims based on working "off-the-clock"), unpaid minimum wages, unpaid rest break premiums, unpaid meal period premiums, waiting time penalties, wage statement penalties, any and all claims for civil penalties (including those asserted under PAGA) based on any of the acts alleged in the Action or arising out of the facts, matters, transactions or occurrences set forth in the Action as set forth above and any other violation of any wage and hour, wage payment, wage deduction, meal and rest break, recordkeeping, unfair business practice or any other wage-related statutes, laws or regulations, including but not limited to the California Labor Code and IWC wage order provisions that are or could have been asserted by any Class Member arising out of the acts alleged in the Action or arising out of the facts, matters, transactions or occurrences set forth in the Action during the Class Period ("Released Class Claims"). Released Class Claims shall also include any and all claims for attorneys' fees, costs, expenses, interest, penalties, liquidated damages, punitive damages and any other damages or relief that have been or could have been asserted by any Class Member arising out of the acts alleged in the Action or arising out of the facts, matters, transactions or occurrences set forth in the Action. Specifically excluded from the Released Class Claims are claims that: (1) cannot be waived as a matter of law, such as claims for unemployment insurance, workers' compensation and vested benefits covered by ERISA; (2) claims for wrongful termination, discrimination, retaliation and harassment under any state or federal civil rights law, including Title VII and California's Fair Employment and Housing Act; and (3) claims outside the temporal scope of the California Class Period. The release will only become effective upon Defendant's funding of the Gross Settlement Amount.

Additionally, individuals who are or previously were employed as non-exempt employees by DKMC in California at any time during the period of June 10, 2018 through January 25, 2022 ("PAGA Period"), will receive a pro rata payment of the \$5,000 allocated to these PAGA Group Members based on their respective number of workweeks during the PAGA Period. This payment is being provided to these individuals because it releases claims for civil penalties belonging to the State of California for alleged violations of the California Labor Code and IWC Wage Order provisions identified in the PAGA Notice sent to the LWDA and further identified in the operative complaint in the Action that are alleged to have occurred during the PAGA Period, including alleged violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198. The release will only become effective upon Defendant's funding of the Gross Settlement Amount.

5. How much will my payment be?

DKMC's records reflect that you have << _____ >> work-weeks/work-days worked during the Class Period (June 10, 2015 to January 25, 2022).

DKMC's records reflect that you have << _____ >> work-weeks/work-days worked during the PAGA Group Period (June 10, 2018 to January 25, 2022).

Based on this information, your estimated Settlement Share is << _____ >>. This is an estimate only, and your actual payment might be higher or lower.

If you wish to challenge the information set forth above, meaning you believe you worked a different number of workweeks or work-days during the relevant time period, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____, 2022 [forty-five (45) days after the Notice mailing].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. **If your address is incorrect or has changed, you must notify the Settlement Administrator.** The Settlement Administrator is: _____ (800) _____, fax.

The Court will hold a hearing on _____ to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few weeks after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Class Portion of the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Class Portion of the Settlement, and you will not be bound by the Class Release.** However, to the extent you are a PAGA Group Member, you may still receive a payment consisting of your share of the PAGA Penalties allocated to aggrieved employees for the release of your and other aggrieved employees' PAGA Claims.

To opt out of the Class portion of the Settlement, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked, emailed or faxed no later than _____, 2022 (45 days from the date of mailing of this Notice). The address for the Settlement Administrator is _____, / fax. The request for exclusion must state in substance: "I have read the Class Notice and I wish to opt out of the class action and settlement of the case *Gonzales v. Draper and Kramer Mortgage Corp.*" The request for exclusion must be dated and contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

The address for the Settlement Administrator is _____, / fax. Written requests for exclusion that are postmarked, or faxed after _____, 2022, or are incomplete or unsigned will

be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I object to the Settlement?

Any Class Member, who has not opted out of participating in the Settlement may object to the proposed Settlement, or any term of it, by filing with the Court a written statement of the grounds of your objection, signed by you or your attorney (retained at your own expense), along with all supporting papers. Your objections must be filed with the Court and postmarked on or before [Insert Date]. All such objections and written notices of intention to appear must be signed and must contain your current address and the address of your attorney, if any, and your telephone number, and the name of the case which is *Gonzales v. Draper and Kramer Mortgage Corp.*, Los Angeles Superior Court Case No. 19STCV20063. The objection should clearly explain why you object to the proposed Settlement and state whether you or your attorney intends to appear at the Final Approval Hearing. If you submit a timely and complete objection and written notice of intention to appear, you may appear personally or through an attorney, at your own expense, at the Final Approval hearing to present your objection directly to the Court. However, it is not necessary for you or your attorney to appear at the Final Approval Hearing in order for your objection to be considered by the Court. Also, you may appear at the Final Approval Hearing and present your objection whether or not you submitted a prior written objection. Any attorney who will represent you in objecting to the proposed Settlement must file a notice of appearance with the Court no later than forty-five (45) days after this Notice was initially mailed to you.

To object to the Class portion of the Settlement, you must not opt out of the Class portion of the Settlement. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

9. Who represents me?

Attorneys for Plaintiff and Class Members (“Class Counsel”) in the Action are:

Class Counsel:

Samuel Wong, Esq.
Jessica Campbell, Esq.
Joseph Szilagyi, Esq.
Aegis Law Firm, PC
9411 Irvine Center Dr., Suite 100
Irvine, CA 92618
Tel: (949) 379-6250
Email: swong@aegislawfirm.com
jcampbell@aegislawfirm.com
jszilagyi@aegislawfirm.com

Class Counsel:

Jonathan Lebe, Esq.
Lebe Law, APLC
777 S. Alameda St., 2nd Floor
Los Angeles, CA 90021
Tel: (213) 457-3068
Email: jon@lebelaw.com

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

The Court will hold a Final Approval Hearing at 00:00 AM/PM on _____, at the Los Angeles County Superior Court, located at 323 N Spring Street, Los Angeles, CA 90012 in Department _____ before Judge _____. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. This hearing may be rescheduled by the Court without further notice to you. If you plan to attend the Fairness Hearing,

you may contact the Settlement Administrator to confirm the date and time. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

Due to the COVID-19 pandemic, hearings may be conducted remotely with the assistance of a third-party service provider, CourtCall. Class members who wish to appear at the final fairness hearing should contact Class Counsel to arrange a telephonic appearance through CourtCall, at least three days before the hearing if possible. Any CourtCall fees for an appearance by an objecting class member will be paid by Class Counsel.

11. How do I get more information about the Settlement?

You may call or email the Settlement Administrator at _____ or write to *Gonzales v. Draper and Kramer Mortgage Corp. Litigation*, Settlement Administrator, c/o _____. or contact Class Counsel using the information in the section above.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by visiting the Settlement Administrator's website at _____, or writing to Class Counsel at the address or email addresses listed in Section 9 above.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

EXHIBIT B

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ERNEST GONZALES, individually and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

DRAPER AND KRAMER MORTGAGE)
CORP.; and DOES 1 through 20, inclusive,)

Defendants.)

Case No. 19STCV20063

[PROPOSED] PRELIMINARY APPROVAL ORDER

Hearing Date:
Hearing Time:

Judge: Hon. Yvette Palazuelos
Dept: 9

Complaint Filed: June 10, 2019
FAC Filed: August 23, 2019
Trial Date: Not Set

The Motion for Preliminary Approval of Class and Representative Action Settlement by Plaintiff Ernest Gonzales (“Plaintiff”) came on for hearing before this Court, the Honorable Yvette Palazuelos presiding. The Court, having considered the papers submitted in support of the motion, **HEREBY ORDERS THE FOLLOWING:**

1. The Court grants preliminary approval to the Settlement based on the terms set forth in Class and Representative Action Settlement Agreement (“Agreement”). This Order incorporates by reference the definitions in the Agreement, and all terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

1 2. The Settlement provides for Defendant Draper and Kramer Mortgage Corp.
2 (“Defendant”) to pay the Gross Settlement Amount of Three Hundred and Fifty Thousand
3 Dollars (\$350,000.00). The Court preliminarily finds that the Settlement is fair, adequate, and
4 reasonable to the Class, and preliminarily approves the terms of the Settlement. This preliminary
5 approval is subject to any objections of Class Members and final review by the Court.

6 3. A Final Approval Hearing shall be held before this Court on _____ at
7 _____ in Department 9 of the Superior Court of the State of California for the County
8 of Los Angeles, to determine all necessary matters concerning the Settlement, including:
9 whether the proposed settlement of the Action on the terms and conditions provided for in the
10 Settlement is fair, adequate, and reasonable and should be finally approved by the Court;
11 whether an Order Granting Final Approval should be entered; whether the plan of allocation
12 contained in the Settlement should be approved as fair, adequate, and reasonable to the Class
13 Members; and whether to finally approve the PAGA payment, the Class Counsel Fees Payment,
14 the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment to
15 the Plaintiff, and Settlement Administration Expenses. The motion for final approval and the
16 motion for award of attorneys’ fees and costs shall be filed no later than sixteen (16) court days
17 before the Final Approval Hearing.

18 4. The Court recognizes that Plaintiff and Defendant stipulate and agree to
19 certification of the Class for settlement purposes only. This stipulation will not be deemed
20 admissible in this or any other proceeding should this Settlement not become final. Whether or
21 not the settlement is finally approved, neither the Agreement, nor any document, statement,
22 proceeding or conduct related to the Agreement may be admitted in any proceeding as an
23 admission by Defendant or any of the Released Parties, Plaintiff, or any person within the
24 definition of the Class.

25 5. For settlement purposes only, the Court certifies the following Settlement Class:
26 “all individuals who are or were previously employed as loan officers by Defendant in California
27 during the period of June 10, 2015 to January 25, 2022.”
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1 6. The Court preliminarily approves Plaintiff as the representatives of the Class,
2 finding he is an adequate class representative with claims typical of the Settlement Class and no
3 conflicts of interests. The Court preliminarily approves the law firms of Aegis Law Firm, PC
4 and Lebe Law, APLC as co-counsel for the Class (“Class Counsel”), finding they are
5 experienced in class actions and representative actions, including wage and hour class actions,
6 and have diligently pursued the interests of the class members.

7 7. The Agreement specifies for an attorneys’ fees award not to exceed one-third 1/3
8 of the Gross Settlement Amount, an award of actual litigation expenses incurred, and a proposed
9 Class Representative Service Payment to Plaintiff in an amount not to exceed \$10,000. While
10 these awards appear to be within the range of reasonableness, the Court will make a final
11 determination on reasonableness of the amounts of attorneys’ fees and costs and the Class
12 Representative Service Payment at the Final Approval Hearing. Plaintiff will be required to
13 present evidence supporting these requests, including billing records, lodestar, time records for
14 *in camera* review, and declarations from Plaintiff, prior to final approval.

15 8. The Court hereby approves, as to form and content, the Class Notice attached as
16 Exhibit A to the Agreement. The Court finds that the distribution of the Class Notice
17 substantially in the manner and form set forth in the Agreement and this Order meets the
18 requirements of due process, is the best notice practicable under the circumstances, and shall
19 constitute due and sufficient notice to all persons entitled thereto.

20 9. The Court hereby approves on a preliminary basis the Gross Settlement Amount
21 as provided for in the Agreement. It appears to the Court on a preliminary basis that the
22 settlement amount and terms are fair, adequate, and reasonable as to all potential Class Members
23 when balanced against the probable outcome of further litigation relating to liability and
24 damages issues. It further appears that investigation and research have been conducted such that
25 counsel for the Parties at this time are able to reasonably evaluate their respective positions. It
26 further appears to the Court that settlement at this time will avoid substantial additional costs by
27 all Parties, as well as avoid the delay and risks that would be presented by the further prosecution
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1 of the Actions. It further appears that the Settlement has been reached as the result of intensive,
2 serious and non-collusive, arms-length negotiations before an experienced mediator.

3 10. The Court hereby appoints Phoenix Settlement Administrators as Settlement
4 Administrator. Within 14 days of this Order, Defendant will provide to the Settlement
5 Administrator an electronic database containing each Class Member's Class Data. No event later
6 than 14 days after receiving the Class Data, the Settlement Administrator will mail the Class
7 Notice Packets to all Class Members via first-class regular U.S. Mail to their last known address.

8 11. Any Settlement Class Member may choose to opt out of and be excluded from the
9 Settlement Class (the "Class Portion" of the Settlement) as provided in the Class Notice by
10 following the instructions for requesting exclusion from the Settlement Class that are set forth
11 in the Class Notice. All requests for exclusion must be submitted within forty-five (45) days
12 from the date the Class Notice is first mailed, unless extended by remailing, as provided in the
13 Settlement Agreement. Any such person who chooses to opt out of and be excluded from the
14 Settlement Class will not be entitled to any recovery of the Settlement Class funds under the
15 Settlement and will not be bound by the Class portion of the Settlement or have any right to
16 object, appeal, or comment thereon. Any written request to opt out must comply with the
17 instructions in the Class Notice and be signed by each such person opting out. Settlement Class
18 Members who have not validly requested exclusion shall be bound by all determinations of the
19 Court, the Agreement, and the Judgment.

20 12. Any Settlement Class Member who has not opted out may file a written objection
21 and/or appear at the final approval hearing and may object to the Class Portion of the Settlement.
22 Class Members will have forty-five (45) days from the date the Class Notices are mailed to
23 submit their written objections to the Settlement Administrator, unless extended by remailing,
24 as provided in the Settlement Agreement. Settlement Class Members who fail to timely submit
25 objections in the manner specified above shall be deemed to have waived any objections and
26 shall be foreclosed from making any written objection (whether by appeal or otherwise) to the
27 Settlement. However, Settlement Class Members who fail to timely submit a written objection
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1 may still appear at the Final Approval Hearing to object orally at the hearing, without requiring
2 prior submittal of a written objection.

3 13. The following dates shall govern for purposes of this Settlement:

Schedule for Execution of Settlement	
No later than 14 calendar days after the entry of this Order [by _____, 2022]	Last day for Defendant to provide class information to Settlement Administrator.
No more than 28 calendar days after the entry of this Order [by _____, 2022]	Last day for Settlement Administrator to mail Class Notice to Class Members.
No more than forty-five (45) days after mailing of Class Notice, unless extended by re-mailing [by _____, 2022]	Last day to object to or opt out of the Settlement.
No later than 5 calendar days prior to the filing of Plaintiffs' Final Approval Motion [by _____, 2022]	The Settlement Administrator shall provide Class Counsel and Defense Counsel with a declaration attesting to completion of the notice process.
No later than sixteen (16) court days before the Final Approval Hearing [by _____, 2022]	Last day to file papers in support of the Settlement and any application for reimbursement of attorneys' fees and expenses, Class Representatives' Service Awards, including any expenses associated with or incurred by the Settlement Administrator.
No later than ten (10) calendar days before the Final Approval Hearing [by _____, 2022].	Last day for Plaintiff's counsel and/or Defendant's counsel to file a response to any properly filed objection to the settlement by a Class Member.
_____, 2022 at _____	Final Approval Hearing.

21 14. The Settlement is not a concession or admission, and shall not be used against
22 Defendant as an admission or indication with respect to any claim of any fault or omission by
23 Defendant. Whether or not the Settlement is finally approved, neither the Settlement, nor any
24 document, statement, proceeding or conduct related to the Settlement, nor any reports or
25 accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received
26 as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited
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1 to, evidence of a presumption, concession, indication or admission by Defendant of any liability,
2 fault, wrongdoing, omission, concession, or damage.

3 15. In the event the Settlement does not become effective in accordance with the terms
4 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails
5 to become effective for any reason, this Order shall be rendered null and void and shall be
6 vacated, and the Parties shall revert to their respective positions as of before entering into the
7 Agreement.

8 16. The Court reserves the right to adjourn or continue the date of the final approval
9 hearing and all dates provided for in the Agreement without further notice to Class Members,
10 and retains jurisdiction to consider all further applications arising out of or connected with the
11 proposed Settlement.

12 **IT IS SO ORDERED.**

13 Dated: _____

HON. YVETTE PALAZUELOS
JUDGE OF THE SUPERIOR COURT

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EXHIBIT C

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ERNEST GONZALES, individually and on)
behalf of all others similarly situated,)

Plaintiff,)
v.)
DRAPER AND KRAMER MORTGAGE)
CORP.; and DOES 1 through 20, inclusive,)

Defendants.)

Case No. 19STCV20063

**[PROPOSED] FINAL APPROVAL OF
THE CLASS ACTION SETTLEMENT
AND APPROVAL OF THE PAGA
SETTLEMENT ORDER AND
JUDGMENT**

Hearing Date:
Hearing Time:

Judge: Hon. Yvette Palazuelos
Dept: 9

Complaint Filed: June 10, 2019
FAC Filed: August 23, 2019
Trial Date: Not Set

Plaintiff’s motion for an order finally approving the Class and Representative Action Settlement Agreement (“Agreement”) and motion for an award of attorneys’ fees and costs and Plaintiff’s service award duly came before this Court for hearing on _____.
[_____] appeared on behalf of Plaintiff Ernest Gonzales (“Plaintiff”).
[_____] appeared on behalf of Defendant Draper and Kramer Mortgage

1 Corp. (“Defendant”). The Parties now seek final approval of the Class Action Settlement and PAGA
2 Settlement.

3 **I.**

4 **FINDINGS**

5 Based on the oral and written argument and evidence presented in connection with the
6 motion, the Court makes the following findings:

7 1. All terms used herein shall have the same meaning as defined in the
8 Agreement.

9 2. This Court has jurisdiction over the subject matter of this litigation pending
10 in the California Superior Court for the County of Los Angeles, Case No. 19STCV20063, entitled
11 *Ernest Gonzales v. Draper and Kramer Mortgage Corp.*, and over all Parties to this litigation,
12 including the Class.

13 **Preliminary Approval of the Settlement**

14 3. On _____, the Court granted preliminary approval of a class-wide
15 settlement and approved certification of a provisional settlement class for settlement purposes only.
16 The Court confirms this Order and finally approves the settlement and the certification of the
17 Settlement Class and PAGA Group for purposes of the settlement.

18 4. The Court confirms the law firms of Aegis Law Firm, PC and Lebe Law,
19 APLC as co-counsel for the Class (“Class Counsel”). The Court finds that Class Counsel have the
20 sufficient experience, knowledge, and skill to promote and safeguard the interests of the Class, and
21 no conflicts of interest. The Court therefore finds that Plaintiff’s counsel satisfies the professional
22 and ethical obligations of Class Counsel.

23 **Notice to the Class**

24 5. In compliance with the Preliminary Approval Order, Class Notice was mailed
25 by first class mail to the Class Members at their last known addresses on _____.
26 Mailing of the Class Notice to their last known addresses was the best notice practicable under the
27 circumstances and was reasonably calculated to communicate actual notice of the litigation and the
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1 proposed settlement to the members of the Class. The Court finds that the Class Notice provided
2 fully satisfies the requirements of California Rules of Court, rule 3.769.

3 6. The deadline for opting out or objecting was _____. There was
4 an adequate interval between mailing of the notice and the response deadline to permit Class
5 Members to evaluate their options regarding the settlement and respond accordingly. ____Class
6 Members objected. _____Class Members requested exclusion from the settlement.

7 **Fairness Of The Settlement**

8 7. The Agreement provides for a Gross Settlement Amount of Three Hundred
9 and Fifty Thousand Dollars (\$350,000.00). The Agreement is entitled to a presumption of fairness.
10 (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

11 a. The Settlement was reached through arm’s-length bargaining
12 between the Parties, and with the assistance of an experienced mediator who specializes in wage
13 and hour class actions. There is no evidence of any collusion between the Parties in reaching the
14 proposed settlement.

15 b. The Parties’ investigation and discovery have been sufficient to allow
16 the Court and counsel to act intelligently.

17 c. Counsel for both parties are experienced in similar employment class
18 action litigation and have previously settled similar class claims on behalf of employees claiming
19 compensation. All counsel recommended approval of the Settlement.

20 d. The percentage of objectors and requests for exclusion is small. ____
21 objections were received. _____ requests for exclusion were received.

22 e. The participation rate is high. _____ Class Members will be
23 participating in the Settlement and will receive settlement payments.

24 8. The consideration to be given to the Class under the terms of the Agreement
25 is fair, reasonable and adequate considering the strengths and weaknesses of the claims asserted in
26 this Action and is fair, reasonable and adequate compensation for release of the Released Class
27 Claims given the uncertainties and risks of future litigation, and the delays which would ensue from
28 continued prosecution of the Action.

1 9. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Class Members.

3 **Attorneys' Fees and Litigation Expenses**

4 10. The Agreement provides for an award of up to 1/3 of the Gross Settlement
5 Amount, or no more than \$116,666.67, to Class Counsel as the Class Counsel Fees Payment in this
6 Action, subject to the Court's approval. The Agreement also provides for an award of Class
7 Counsel's reasonable actual litigation expenses incurred as the Class Counsel Litigation Expenses
8 Payment.

9 11. An award of \$116,666.67 for the Class Counsel Fees Payment is reasonable
10 in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the
11 results achieved by Class Counsel. The requested attorneys' fee award represents 1/3 of the
12 common fund, which is reasonable and within the range of fee awards in common fund cases, and
13 is supported by Class Counsel's lodestar. In the course of this litigation, Class Counsel incurred
14 \$_____ in litigation costs including in the form of court filing fees, document copying fees, legal
15 research charges, expert fees, mediation fees, and delivery charges. The Court approves the Class
16 Counsel Litigation Expenses Payment as reimbursement to Class Counsel for these costs, pursuant
17 to the terms of the Agreement.

18 **Class Representative Service Payment**

19 12. The Agreement provides for a service award not to exceed \$10,000 for
20 Plaintiff as the Class Representative Service Payment, subject to the Court's approval. The Court
21 finds that the amount of \$10,000 Plaintiff is reasonable in recognition of Plaintiff's services and
22 commitment to the litigation, the risks and burdens Plaintiff undertook by bringing this Action, and
23 for his general release of claims against Defendant and Civil Code section 1542 release.

24 **Settlement Administration Expenses**

25 13. The Agreement provides for Settlement Administration Expenses to be paid
26 in an amount not to exceed \$6,500. The Declaration of the Settlement Administrator provides that
27 the actual claims administration expenses were \$_____. The amount of this payment is
28 reasonable in light of the work performed by the Settlement Administrator including, sending the

1 Notice, processing opt outs, distributing settlement payments, and preparing tax documents. This
2 amount includes all costs and fees incurred to date, as well as estimated costs and fees involved in
3 completing the administration of the Settlement.

4 **II.**

5 **ORDERS**

6 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED,
7 ADJUDGED AND DECREED:

8 1. The Settlement Class is certified for the purposes of settlement only. The
9 Settlement Class is hereby defined as “all individuals who are or were previously employed as loan
10 officers by Defendant in California during the period of June 10, 2015 to January 25, 2022.” The
11 Class Period is defined as the period of June 10, 2015 to January 25, 2022.

12 2. The PAGA Group is certified for the purposes of settlement only. The PAGA
13 Group is hereby defined as “all individuals who are or were previously employed as loan officers
14 by Defendant in California during the period of June 10, 2018 to January 25, 2022.” The PAGA
15 Group Period is defined as the period of June 10, 2018 to January 25, 2022

16 3. Excluded from the Settlement Class are those ___ individuals who submitted
17 a valid and timely request for exclusion. Every person in the Class who did not opt out is a
18 Participating Class Member.

19 4. The Agreement is hereby approved as fair, reasonable, adequate, and in the
20 best interest of the Class.

21 5. The Parties are ordered to effectuate the Settlement in accordance with this
22 Order and the terms of the Agreement.

23 6. Class Counsel are awarded attorneys’ fees in the amount of \$ _____
24 and litigation expenses in the amount of \$ _____.

25 7. The payment of the Service Award to the Plaintiff in the amount of
26 \$ _____ is approved.

27 8. The payment of \$ _____ to the Settlement Administrator,
28 _____, for Settlement Administration Expenses is approved.

1 9. The PAGA component of the settlement allocating \$20,000 to resolve the
2 PAGA claim alleged in the Action is also hereby approved as fair, reasonable, and adequate. The
3 PAGA Payment shall allocate a 75% share to the LWDA (\$15,000), with the remainder to be
4 distributed among PAGA Group Members on a pro-rata basis based on their workweeks.

5 10. Final Judgment is hereby entered in this action. The Final Judgment shall
6 bind each Participating Class Member. The Final Judgment shall operate as a full release and
7 discharge of Defendant, and its parents, subsidiaries, affiliates, related entities, predecessors or
8 successors in interest, and each of their respective owners, officers, directors, shareholders, partners,
9 members, managing agents, employees, consultants, attorneys, joint venturers, agents, successors,
10 assigns, insurers, or reinsurers of any of them, and other related persons and entities (“Released
11 Parties”) from any and all Released Class Claims that occurred during the Class Period as to the
12 Participating Class Members. The Released Class Claims are defined as any and all state, local and
13 common law claims for unpaid wages and overtime compensation (including but not limited to any
14 claims based on working “off-the-clock”), unpaid minimum wages, unpaid rest break premiums,
15 unpaid meal period premiums, waiting time penalties, wage statement penalties, any and all claims
16 for civil penalties (including those asserted under PAGA) based on any of the acts alleged in the
17 Action or arising out of the facts, matters, transactions or occurrences set forth in the Action as set
18 forth above and any other violation of any wage and hour, wage payment, wage deduction, meal
19 and rest break, recordkeeping, unfair business practice or any other wage-related statutes, laws or
20 regulations, including but not limited to the California Labor Code and IWC wage order provisions
21 that are or could have been asserted by any Settlement Class Member arising out of the acts alleged
22 in the Action or arising out of the facts, matters, transactions or occurrences set forth in the Action
23 during the Class Period (“Released Class Claims”). Released Class Claims shall also include any
24 and all claims for attorneys’ fees, costs, expenses, interest, penalties, liquidated damages, punitive
25 damages and any other damages or relief that have been or could have been asserted by any
26 Settlement Class Member arising out of the acts alleged in the Action or arising out of the facts,
27 matters, transactions or occurrences set forth in the Action. Specifically excluded from the Released
28 Class Claims are claims that: (1) cannot be waived as a matter of law, such as claims for

1 unemployment insurance, workers' compensation and vested benefits covered by ERISA; (2) claims
2 for wrongful termination, discrimination, retaliation and harassment under any state or federal civil
3 rights law, including Title VII and California's Fair Employment and Housing Act; and (3) claims
4 outside the temporal scope of the Class Period.

5 11. The Final Judgment shall also operate as a full release and discharge of
6 Defendant, and the Released Parties from any and all Released PAGA Claims that occurred during
7 the PAGA Group Period as to the PAGA Group Members. "Released PAGA Claims" are defined
8 as the claims asserted by the PAGA Group Members for alleged violations of the California Labor
9 Code and IWC Wage Order provisions identified in the PAGA Notice sent to the LWDA and further
10 identified in the operative complaint in the Action that are alleged to have occurred during the PAGA
11 Group Period, including alleged violations of California Labor Code §§ 201, 202, 203, 204, 210,
12 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 1198
13 ("Released PAGA Claims").

14 12. In addition to the release given by each Participating Class Member, Plaintiff
15 also generally releases Defendant from any and all of the Plaintiff's Released Claims as defined in
16 the Agreement. This general release by Plaintiff also includes a waiver of rights under California
17 Civil Code Section 1542.

18 13. The Agreement is not an admission by Defendant or any of the other Released
19 Parties, nor is this Final Approval Order and Judgment a finding, of the validity of any claims in the
20 Action or of any wrongdoing by Defendant or any of the other Released Parties. Neither this Final
21 Approval Order, the Agreement, nor any document referred to herein, nor any action taken to carry
22 out the Settlement is, may be construed as, or may be used as an admission by or against Defendant
23 or any of the other Released Parties of any fault, wrongdoing or liability whatsoever. The entering
24 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not
25 in any event be construed as, or deemed to be evidence of, an admission or concession with regard
26 to the denials or defenses by Defendant or any of the other Released Parties and shall not be offered
27 in evidence in any action or proceeding against Defendant or any of the Released Parties in any
28 court, administrative agency or other tribunal for any purpose as an admission whatsoever other

1 than to enforce the provisions of this Final Approval Order and Judgment, the Agreement, or any
2 related agreement or release. Notwithstanding these restrictions, any of the Parties may file in the
3 Action or in any other proceeding this Final Approval Order and Judgment, the Agreement, or any
4 other papers and records on file in the Action as evidence of the Settlement to support a defense of
5 res judicata, collateral estoppel, release, or other theory of claim or issue preclusion or similar
6 defense as to the claims being released by the Settlement.

7 14. Notice of entry of this Final Approval Order and Judgment shall be given to
8 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send notice
9 of entry of this Final Approval Order and Judgment to individual Class Members and the Final
10 Approval Order and Judgment shall be posted on the Settlement Administrator's website as
11 indicated in the Class Notice.

12 15. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
13 interpret, implement, and enforce the Agreement pursuant to Code of Civil Procedure section 664.6,
14 to hear and resolve any contested challenge to a claim for settlement benefits, and to supervise and
15 adjudicate any dispute arising from or in connection with the distribution of settlement benefits.

16 13. If the Settlement does not become final and effective in accordance with the
17 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
18 Defendant consistent with the terms of the Settlement, then this Final Approval Order and Judgment,
19 and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

20 14. Plaintiff shall file a settlement administrator's declaration regarding the final
21 accounting of the settlement funds by _____.

22 15. Any uncashed settlement checks shall be transmitted to the California State
23 Controller within 30 days of the expiration of the 180-day check cashing period by the Settlement
24 Administrator, together with names, contact information and information regarding the amount of
25 their payment.

26
27 **IT IS SO ORDERED AND ADJUDGED. LET JUDGMENT BE FORTHWITH**
28 **ENTERED ACCORDINGLY.**

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DATED: _____, 2022

Hon. Yvette Palazuelos
Judge of the Superior Court