

## **JOINT SETTLEMENT OF COLLECTIVE, CLASS, AND PAGA REPRESENTATIVE ACTION SETTLEMENT AND RELEASE**

This Joint Stipulation of Class, Collective, and PAGA Representative Action Settlement and Release ("Settlement") is entered into by and between Plaintiffs Genevieve Basham, Jennifer Raper, and George Pepper ("Plaintiffs"), individually and on behalf of the Class (as defined herein), and Defendant Tailored Living Choices, LLC, ("Defendant" or "TLC") (collectively the "Parties") with regard to the following action pending in the United States District Court in the Northern District of California, Oakland Division, with the title *Genevieve Basham, et al. v. Tailored Living Choices, LLC, and DOES 1 through 50, inclusive*, Case No. 4:23-cv-02678-DMR, subject to the terms and conditions herein and the approval of the Court pursuant to the Federal Rules of Civil Procedure. Capitalized terms used herein shall have the meanings set forth in Section 1 or as defined elsewhere in this Settlement.

### **1. DEFINITIONS**

1.1 "Action" means the civil action entitled *Genevieve Basham, et al. v. Tailored Living Choices, LLC, and DOES 1 through 50, inclusive*, Case No. 4:23-cv-02678-DMR, pending in the United States District Court in the Northern District of California, Oakland Division.

#### **1.2 Class Definitions**

1.2.1 "Settlement Class" or "Class" means all current and former employees of TLC who performed work as an instructional assistant for TLC at any time from June 29, 2017, through the date the Court grants Preliminary Approval of the Settlement. The term "Class Member(s)" refers to individual(s) who are among those included in this definition.

1.2.2 "Waiting Time Subclass" means all members of the Class who were employed by TLC at any time between June 29, 2017, through the present, and separated from their employment with Defendant at any time from June 29, 2018, through the date of Preliminary Approval of the Settlement.

1.2.3 "FLSA Collective" means all current and former employees of TLC who performed work as an instructional assistant at any time between December 1, 2020, through the date of Preliminary Approval of the Settlement.

1.3 "Class Counsel" means the attorneys for the Settlement Class members, who are Vilmarie Cordero and Taylor M. Gee of GrahamHollis APC, 3555 Fifth Avenue, San Diego, California 92103.

1.4 "Class Counsel Attorney Fees" means the attorneys' fees incurred and to be incurred by Class Counsel in the Action

1.5 "Class Counsel Costs" means all costs incurred and to be incurred by Class Counsel in this Action. Defendant will not object to a reasonable request from Plaintiff's counsel to be reimbursed for actual out-of-pocket costs not to exceed \$35,000.

1.6 “Class Notice” means the Court-approved Notice of Proposed Class Action Settlement, substantially in the form attached hereto as **Exhibit A** and incorporated by reference herein.

1.7 “Class Representatives” or “Plaintiffs” means Genevieve Basham, Jennifer Raper, and George Pepper, collectively.

1.8 “Class Representative Service Award” means the sums to be paid from the Gross Settlement Amount to Plaintiffs Genevieve Basham, Jennifer Raper, and George Pepper in recognition for their efforts in obtaining the benefits of this Settlement.

1.9 “Court” means the United States District Court for the Northern District of California, Honorable Donna M. Ryu presiding.

1.10 “Defendant” means TLC, and its present and former officers, directors, members, managers, shareholders, agents, parents, subsidiaries, affiliates, insurers, operators, partners, joint ventures, franchisees, franchisors, consultants, attorneys, successors, or assignees.

1.11 “Defendant’s Counsel” means the attorneys for the Defendant, who are Sharon Ongerth Rossi and Whitney R. Miner of Rogers Joseph O’Donnel, 311 California Street, San Francisco, California 94104.

1.12 “Effective Date” means the date of the Final Approval Date if there are no objections to the Settlement. If there is any objection to the Settlement, “Effective Date” means the date on which the Court’s order granting Final Approval is no longer appealable or the final resolution of any appeal in any favor of approving the Settlement.

1.13 “Final Approval” means the final formal court order and judgment signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving the Settlement.

1.14 “Final Approval Date” means the date upon which the Court enters Final Approval, after having determined that the Settlement is fair, adequate, and reasonable to the Class as a whole in accordance with Federal Rule of Civil Procedure 23, the FLSA, and PAGA. ,

1.15 “Final Approval Hearing” means the hearing set by the Court to: (1) determine whether the Court should give Final Approval to this Settlement; (2) consider any objections made; (3) consider the request for attorney’s fees and costs submitted by Class Counsel; (4) consider the Settlement Administrator’s Fees; (e) consider the PAGA Payment to the LWDA; and (5) consider the request for the Class Representative Service Award to Plaintiffs. The Final Approval hearing shall occur after distribution of the Notice Packet and after the Class has had a secondary opportunity to opt in to the FLSA Settlement, opt out of the California Settlement, and submit timely objections to the California Settlement.

1.16 “FLSA Collective Settlement Check” means a separate check that shall be disseminated by the Administrator to FLSA Collective Members.

1.17 “Individual Settlement Payment(s)” means the portion of the Net Settlement Amount that each Participating Class member shall be entitled to receive pursuant to this Settlement.

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

1.19 “Gross Settlement Amount” (GSA) means the maximum gross settlement amount sum of Five Hundred and Eighty Thousand (\$580,000) that Defendant shall be required to pay pursuant to this Settlement on a non-reversionary basis, which shall include: (1) all Individual Settlement Payments to Class members; (2) the PAGA Payment; (3) the Class Representative Service Awards; (4) Class Counsel’s Attorney’s Fees and Costs; and (5) all Settlement Administrator’s Fees. The Maximum Settlement Amount does not include Defendant’s share of all state and federal payroll taxes and withholdings such as FICA, FUTA, UI, ETT, and SDI (“Payroll Taxes”) on the portion of Individual Settlement Payments allocated to wages made pursuant to this Settlement, which will be paid separate and apart from the Maximum Settlement Amount.

1.20 “Net Settlement Fund” (NSF) means the portion of the GSA available for distribution to Participating Class members after the deduction of the Court-approved (1) attorney’s fees, (2) costs to Class Counsel, (3) Settlement Administrator’s Fees, (4) Class Representatives Service Awards, and (5) PAGA Payment from the GSA.

1.21 “Non-Participating California Settlement Class Member” means a Class Member who submits a valid Request for Exclusion from the portion of the Settlement resolving their California State Claims.

1.22 “Notice Packet” means the Class Notice, and the secondary FLSA Opt-In form approved by the Court which shall be mailed to all Class Members by the Settlement Administrator.

1.23 “Objection/Request for Exclusion Deadline” means the forty-five (45) calendar days after the Settlement Administrator first mails the Notice Packet to Class Members, by which date Class Members who wish to object to or exclude themselves from the Settlement must submit a timely and valid written objection or Request for Exclusion.

1.24 “PAGA Employees” means all current and former employees of TLC who performed work as an instructional assistant for TLC at any time between October 29, 2020 through the date the Court grants preliminary approval of the Settlement. All PAGA Employees will receive their pro-rata share of the PAGA Payment regardless of whether they opt in or opt out of any other aspect of the Settlement.

1.25 “PAGA Period” means October 29, 2020, through the date of Preliminary Approval of the Settlement.

1.26 “PAGA Payment” means the \$20,000 payment from the GSA in exchange for the PAGA Release. The PAGA payment shall be allocated 75% to the LWDA and the remaining 25%

going to the PAGA Employees as defined herein. The PAGA payment shall be considered 100% penalties.

1.27 “Participating California Settlement Class Member” means a Class Member who does not submit a timely and valid Request for Exclusion and is entitled to receive his or her Individual Settlement Payment pursuant to the terms of the Settlement.

1.28 Parties’ Counsel” means Class Counsel and Defendant’s Counsel.

1.29 “Preliminary Approval” means the entry of an order by the Court preliminarily approving the Settlement.

1.30 “Qualified Settlement Fund” or “QSF” means the account set up by the Settlement Administrator from which the Individual Settlement Payments to Participating California Settlement Class Members shall be made.

1.31 “Qualifying Workweek” means any week in which a Participating California Settlement Class Member actively worked at least one day of the week (i.e., was not on vacation or a leave of absence) as an Instructional Assistant during the Class Period, according to Defendant’s records.

1.32 Release Periods:

1.32.1 “California Claims Release Period” means from June 19, 2017 through the date of Preliminary Approval.

1.32.2 “FLSA Release Period” means from December 1, 2020 through the date of Preliminary Approval.

1.33 “PAGA Release Period” means from October 29, 2020 through the date of Preliminary Approval.

1.34 “Released Parties” means Defendant, and its current and former subsidiaries, affiliates, shareholders, members, employees, insurers, agents, predecessors, successors and assigns.

1.35 “Releases” means any and all Releases under this Settlement, as further described in Section 13 below. Final approval of the Settlement and Defendant’s payment of the entirety of the GSA to the Settlement Administrator is a condition precedent for any Release under the Settlement becoming effective.

1.36 “Request for Exclusion” means a letter or written request to be excluded from the Settlement submitted by a California Settlement Class Member to the Settlement Administrator and postmarked by the Objection/Request for Exclusion Deadline. The Request for Exclusion

must include the Class member's name and signature, current address, telephone number, and contain a statement to the effect of: "I wish to be excluded from the Basham Settlement."

1.37 "Settlement" means the terms and conditions set forth in this Joint Stipulation of Class and Collective Action and PAGA Representative Action Settlement and Release, including the disposition of the Released Claims, as defined herein.

1.38 "Settlement Administrator" means the third-party entity selected by the Parties to mail the Class Notice to California Settlement Class Members and perform all duties relating to the administration of the Settlement.

1.39 "Settlement Administration's Costs" means the actual and direct fees and expenses reasonably incurred by the Settlement Administrator in administering the Settlement.

## 2. PROCEDURAL HISTORY

2.1 Plaintiff Genevieve Basham, a former non-exempt Instructional Assistant employed by TLC, filed a class and representative action Complaint in the California Superior Court for the County of Napa on December 29, 2021 against TLC.

2.2 On April 27, 2023, Plaintiff Basham filed a First Amended Complaint, adding a collective action claims and Plaintiff Jennifer Raper. On May 30, 2023, Defendant removed the case to the United States District Court in the Northern District of California. On September 26, 2023, Plaintiff Basham and Plaintiff Raper filed a Second Amended Complaint, to further tailor their claims to rights afforded to personal attendants. On November 30, 2023, Plaintiffs filed their Third Amended Complaint, adding Plaintiff George Pepper. Plaintiffs' First through Third Amended Complaints are expressly incorporated by reference herein.

2.3 Plaintiffs moved to conditionally certify their FLSA claims on February 16, 2024; the Court granted the Plaintiffs' motion, in part, on February 8, 2024. As a result of the Court's order, FLSA Collective Members were provided with notice and an opportunity to opt-in to the FLSA aspect of the Action by submitting a Consent to Join form (attached hereto as **Exhibit A**), to a third-party administrator on or before June 17, 2024. (This Consent to Join form is also referred to generically throughout as an Opt-in form).

2.4 The Parties conducted written discovery before their first full-day mediation and voluntary settlement conference, and continued to conduct written discovery and depositions in advance of their second half-day mediation, which included Requests for Production of Documents, Special Interrogatories, and depositions of Plaintiff Genevieve Basham, Plaintiff Jennifer Raper, Plaintiff George Pepper, Defendant's Persons Most Knowledgeable, and Maria Fabian, as well as informal exchanges of information and documents relevant to the claims and defenses in this Action.

2.5 On May 28, 2024, the Parties participated in a mediation before class action mediator Daniel Turner. During mediation, the Parties engaged in good-faith, arm's-length negotiations. At the conclusion of the mediation, the Parties agreed to resolve the Action, subject to the execution of this comprehensive Settlement and entry of Preliminary Approval by the Court.



2.6 On June 13, 2024 the Parties informed the Court that they had resolved to settle the Action and requested that the Court vacate all deadlines while the Parties worked together to draft this Agreement. The Court issued an order granting that request on June 17, 2024.

2.7 As of June 17, 2024, the FLSA Collective Members identified on **Exhibit B** had submitted an Opt-In form to the third-party administrator.

### **3. THE PARTIES' POSITION IN THE ACTION**

3.1 Defendant denies any liability and wrongdoing of any kind associated with the claims alleged in the Action, and further denies that the Action is appropriate for class action or PAGA representative action treatment for any purpose other than this Settlement. Defendant in no way admits any violation of law or any liability whatsoever to Plaintiffs and/or the Class Members, or "aggrieved" employees, individually or collectively; all such liability being expressly denied. Defendant contends that it complied with all applicable Federal and California laws, including, but not limited to, the FLSA, California Labor Code, the IWC Wage Orders, and the California Business and Professions Code at all times.

3.2 This Settlement shall not be admissible or used for any purpose in any other action or proceeding to establish or infer liability or wrongdoing on the part of Defendant. Whether or not the Effective Date occurs, neither this Settlement nor any of its terms nor the Settlement itself will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other 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, joint employment, or damage; or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this Settlement or for Defendant to establish that a Class Member has resolved any of his/her claims released through this Settlement.

3.3 Plaintiffs believe that the Action is meritorious, and that class and collective action certification is appropriate. Class Counsel engaged in substantial investigation and thoroughly researched the relevant law for each of the causes of action alleged, and the defenses thereto. Class Counsel interviewed Class Members, conducted a comprehensive investigation into the facts of the Action, and reviewed and analyzed all of Defendant's applicable policies and practices, as well as the voluminous sample of time and pay records and other documents produced by Defendant.

3.4 Class Counsel weighed the monetary benefit of the Settlement to the Class against the expense and length of continued proceedings in the trial court and potentially the appellate court that would be necessary to prosecute the Action fully against Defendant. Class Counsel also considered the uncertain outcome and risk of any further litigation, especially in a complex action such as this case. Based on the data reviewed and Class Counsel's thorough investigation and evaluation of all known facts and circumstances underlying each cause of action, including the possible risk of significant delay and uncertainty associated with litigation, and the various defenses asserted by Defendant, Class Counsel believes that the Settlement is fair, reasonable, and adequate and is in the best interest of all Class Members.

3.5 Defendant and its counsel have similarly concluded that it is desirable that the Action be settled in the manner and upon the terms and conditions set forth in this Settlement to avoid further expense, inconvenience and distraction of further legal proceedings, as well as the uncertainty of the outcome of the Action. Defendant has determined that it is desirable and beneficial to put to rest the claims in the Action and Defendant agrees that the Settlement is fair, reasonable and adequate.

#### 4. SETTLEMENT COMPONENTS

4.1 **Gross Settlement Amount (GSA).** The GSA shall consist of the non-revisionary sum of Five Hundred and Eighty Thousand Dollars (\$580,000). The GSA shall be all-in with no reversion to Defendant. The GSA includes: (1) all Individual Settlement Payments to Participating California Settlement Class Members; (2) the PAGA Payment; (3) the Class Representative Service Award; (4) Class Counsel's Fees and Costs; and (5) all Settlement Administration Costs.

4.1.1 **Escalator Provision.** Defendant estimates that as of the date of April 2, 2024, Class Members worked 40,650 Qualifying Workweeks since June 29, 2017. In the event the Qualifying Workweeks during the Class Period exceeds Defendant's estimate by 10 percent (e.g. exceeds 44,711 workweeks), Defendant shall have the option to (i) increase the GSA on a pro-rata basis equal to the percentage increase in the number of workweeks worked by California Settlement Class Members during the Class Period (for example if the actual workweeks exceed the estimate by 11 percent, the GSA would increase by 1%); or (ii) shorten any Release Period such that it ends on either April 2, 2024 or the date in which the total number of Qualifying Workweeks for Settlement Class Members exceeded 44,711 full work weeks. Under no circumstance will any Release Period go beyond the date of Preliminary Approval

4.1.2 **Payroll Taxes.** The GSA does not include the Payroll Taxes, which shall be paid by Defendant separately and apart from the GSA. The Payroll Taxes will be computed by the Settlement Administrator based on the amounts allocated as wages paid to the Participating Class Members. The Settlement Administrator shall be responsible for making all necessary payments and government filings in connection with such payments.

4.2 **Net Settlement Fund (NSF).** After deducting the Court-approved (1) attorney's fees and costs to be paid to Class Counsel, (2) Settlement Administrator's Fees, (3) Class

Representatives Service Awards, and (5) PAGA Payment from the GSA, the remaining amount shall be the NSF, which is currently estimated at \$266,666.67, as follows:

<b>NET SETTLEMENT FUND CALCULATION:</b>	<b>\$ 266,666.67</b>
GSA	\$ 580,000.00
CLASS COUNSEL FEES	\$ 193,333.33
CLASS COUNSEL COSTS	\$ 35,000.00
CLASS REP INCENTIVE AWARD	\$ 30,000.00
ADMIN COSTS	\$ 35,000.00
PAGA PAYMENT	\$ 20,000.00

4.2.1 The NSF shall be allocated amongst the three types of Individual Settlement Payments that Class Members are eligible to receive: (1) The California Settlement Class Payment (2) California Waiting Time Subclass Payment; and (3) The FLSA Collective Settlement Payments. Specifically, the NSF will be allocated as follows:

- (a) The California Settlement Class. The California Settlement Class will be allocated forty percent (40%) of the Net Settlement Fund, currently estimated at \$106,666.67 (the “California Settlement Class Allocation”).
- (b) The Waiting Time Subclass. The Waiting Time Penalties Subclass will be allocated thirty percent (30%) of the Net Settlement Amount, currently estimated at \$80,000.00 (the “Waiting Time Subclass Allocation”).
- (c) The FLSA Collective. The FLSA Collective will be allocated thirty percent (30%) of the Net Settlement Amount, currently estimated at \$80,000 (“FLSA Allocation”).

4.3 **Calculation of Individual Settlement Payments.** The Settlement Administrator shall have the authority and obligation to calculate the amounts of Individual Settlement Payments in accordance with the methodology set forth in this Settlement and any Orders of the Court. The Settlement Administrator will distribute among Class Members on a pro rata basis considering number of Qualifying Workweeks each class member who is eligible to receive an Individual Settlement Payment worked Member during the relevant period to the Qualifying Workweeks worked by others who are eligible to receive Settlement Payments for the same relevant period, as set forth below.

4.3.1 The California Settlement Class. The Parties agree that the Individual Settlement Payments due to the California Settlement Class will be calculated based on the respective number of Qualifying Workweeks each Participating California Settlement Class Member worked during the California Class Release Period. Workweeks of Non-Participating California Settlement Class Members will not be included in the total number of workweeks for purposes of calculating and distributing the Individual Settlement Payments to Participating California Settlement Class Members. Each Participating California Settlement Class Member



shall be entitled to a pro rata share of the California Settlement Class Allocation based on the ratio of the total number of Qualifying Workweeks that he or she worked during the California Claims Class Release Period to the total number of Qualifying Workweeks that all Participating California Settlement Class Members worked.

- (a) Thus, the Individual Settlement Payments shall be calculated using the formula described below:

Individual Settlement Payments = (California Settlement Class Allocation) x (Participating California Settlement Class Member's Qualifying Workweeks/Total No. of Qualifying Workweeks for All Participating California Settlement Class Members)

- (b) Subject to approval by the court, the amounts paid to the California Settlement Class members shall be classified as 30% wages, 25% interest, and 45% statutory penalties, for tax related purposes.

4.3.2 The Waiting Time Subclass. The Waiting Time Subclass members will be each entitled to receive an equal amount of the Waiting Time Subclass Allocation. The Waiting Time Penalties allocation shall be considered 100% penalties for tax purposes.

4.3.3 FLSA Collective. The Settlement Administrator will calculate the individual FLSA Collective members payments based on the respective number of Qualifying Workweeks each FLSA Collective Member worked during the FLSA Release Period.

- (a) Each FLSA Collective Member will be sent a separate FLSA Collective Settlement Check which includes their FLSA Settlement Allocation; FLSA Settlement Checks will be sent to FLSA Collective Members even if they (1) submitted a Request For Exclusion from the California Claims aspect of the Settlement; and/or (2) have not previously submitted a Consent to Join the FLSA aspect of the Action or otherwise opted in to the FLSA Settlement. To opt in, FLSA Collective members must either submit an Opt-In form or cash the FLSA Collective Settlement Check within the cashing deadline.
- (b) Every FLSA Collective Settlement Check will state the following on the back of the check:

**If you opted-in to the FLSA Collective by submitting a Consent to Join Form and/or by endorsing, cashing, or depositing this check, you fully and completely release all FLSA claims alleged against Released Parties under the FLSA that are explained in the Class Notice and covered by the Settlement Agreement in *Basham, et al. v.***

**TLC, U.S. Dist. Court, N.D Cal. Case No. 4:23-cv-02678-DMR.”**

- (c) Subject to approval by the court, the amounts paid to the Participating FLSA Collective members shall be classified as 50%, wages, 25% liquidated damages, and 25% interest, for tax-related purposes
- (d) To the extent an FLSA Collective member fails to submit an Opt-In form or cash his or her FLSA Collective Settlement Check within the cashing deadline, he/she will receive his/her share of the California Settlement Class Allocation and Waiting Time Subclass Allocation, if applicable, and his/her release will not include FLSA claims.
- (e) Any uncashed FLSA Collective Settlement Checks shall be redistributed pro rata among all other FLSA Collective members that previously cashed their checks within the cashing deadline. The FLSA Collective members who receive a second FLSA Collective Settlement Checks will have 180 days from the mailing of the second settlement Check to cash their checks.

4.3.4 The portions of any Settlement Payment allocated to wages shall be reported on an IRS Form W-2, and the portion allocated to interest, statutory penalties and any other non-wage payments shall be reported on an IRS Form 1099. Defendant's share of payroll taxes on the amount allocated to payment of wages shall be paid separately and apart from the Gross Settlement Amount.

4.3.5 If the Court does not approve the allocation of the NSF as set forth in this Agreement, the parties will meet and confer regarding the allocation, and will engage the mediator if necessary, to reach a mutually acceptable allocation, including how the NSF is allocated between wages and non-wages for tax purposes.

**4.4 Class Counsel's Attorney's Fees.** Defendant will not object to a request of attorney's fees by Plaintiffs' counsel of up to or 1/3 of the GSA (i.e., up to \$193,333.34).

4.4.1 The amount paid for Class Counsel's Attorney's Fees and Costs shall constitute full satisfaction of any obligation to pay any amounts to any person, attorney or law firm for attorney's fees, expenses or costs in the Action incurred by any attorney on behalf of Plaintiffs and Class Members, and shall relieve Released Parties of all claims or liability to any attorney or law firm for any attorney's fees, expenses and/or costs that may be claimed on behalf of Plaintiff and/or the Class Members.

- 4.4.2 If the amount awarded to Class Counsel for attorney's fees is less than the amount sought, the remainder will be retained in the NSA for distribution to Participating California Settlement Class Members.

4.5 **Class Counsel's Costs.** Class Counsel will request, and Defendant agrees not to object to, the reimbursement of all out-of-pocket litigation costs and expenses incurred in prosecuting the Action, in an amount not to exceed Thirty-Five Thousand Dollars (\$35,000), which shall be paid from the Maximum Settlement Amount. If the amount awarded to Class Counsel for reimbursement of litigation costs is less than the amount sought, the remainder will be retained in the Net Settlement Fund for distribution to Participating Class Members.

4.6 **Class Representatives Service Awards and Individual Releases.** Subject to Court approval and the execution of a general release in favor of the Released Parties, Plaintiff Genevieve Basham will be paid a Class Representative Service Award in an amount not to exceed Ten Thousand Dollars (\$10,000), Plaintiff Jennifer Raper will be paid a Class Representative Service Award in an amount not to exceed Ten Thousand Dollars (\$10,000), and Plaintiff George Pepper will be paid a Class Representative Service Award in an amount not to exceed Ten Thousand Dollars (\$10,000) from the Maximum Settlement Amount, in addition to their corresponding Individual Settlement Payment.

- 4.6.1 If the Court approves a Class Representative Service Award to Plaintiffs that is less than the amount sought, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

- 4.6.2 The Parties intend this payment to constitute a service payment in consideration for Plaintiffs' litigation efforts, and the work and time Plaintiffs put into this Action as Class Representatives.

- 4.6.3 **Release for the Individual Plaintiffs.** The Class Representatives Service Award is also provided in consideration for Plaintiffs' full and separate general release of any claims, liabilities, rights, demands, causes of action of every nature and description against the Released Parties regardless of whether such claims have been alleged in the Action, including any and all known or unknown claims, demands, rights, liabilities, causes of action, losses, debts, and expenses whether for wages, economic damages, non-economic damages, punitive damages, restitution, tort, contract, penalties, injunctive or declaratory relief, attorney's fees, costs, or other monies or remedies. This release by Plaintiffs includes all federal and state statutory claims, and federal and state common law claims (including but not limited to those for contract, tort, and equity), including, but not limited to, claims under the Americans with Disabilities Act, Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964 (as amended), 42 U.S.C. §1981, 42 U.S.C. § 1983, the Fair Labor Standards Act, the Employee Retirement Security Income Act of 1974, the California Constitution, the California Fair Employment and Housing Act, the California Unfair Competition Act (California Business and Professions Code section 17200, *et seq.*), the California Labor Code, the Fair Labor

Standards Act, and claims for additional compensation relating to stock options.

- 4.6.4 The Class Representatives themselves (and not on behalf of the Class or any other Class Member) shall release, acquit and discharge the Released Parties from any and all claims against the Released Parties of any kind whatsoever (upon any legal or equitable theory whether contractual, common law, constitutional, statutory, federal, state, local or otherwise), whether known or unknown, that arose, accrued or took place at any time on or prior to the date on which the full and general release is executed. Through the full and general release discussed in this Section, the Class Representatives will expressly waive the benefit of Section 1542 of the California Civil Code and acknowledges the language of Section 1542 of the California Civil Code, which provides:

**“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.”**

- 4.6.5 Because the Class Representative Service Award represents a payment to the Class Representatives for services to the Class and not wages, taxes will not be withheld from the Class Representatives Service Award.
- 4.6.6 Class Representatives assume full responsibility for paying all federal and state taxes and penalties, if any, due because of their receipt of the Class Representative Service Award.
- 4.6.7 Nothing in this Settlement, including, but not limited to, the release of claims provisions, will prevent Plaintiffs from filing a charge or complaint with, reporting possible violations of any law or regulation, making disclosures to, and/or participating in any investigation or proceeding conducted by the United States Equal Employment Opportunity Commission, National Labor Relations Board, and/or any other federal, state or local agency charged with the enforcement of any laws, although by signing this Settlement, Plaintiffs are waiving rights to individual relief based on claims asserted in such a charge or complaint, except where such a waiver of individual relief is prohibited.
- 4.6.8 The Class Representatives fully support the Settlement and believe the Settlement is fair, reasonable and adequate and in the best interest of the Class members.

4.7 **PAGA Payment.** Subject to Court approval, Twenty Thousand Dollars (\$20,000) will be allocated to cover all claims for civil penalties alleged in the Action and in consideration for the PAGA Release.

- 4.7.1 The PAGA Payment shall be allocated 75% to the LWDA, and the remaining 25% going to the PAGA Employees as defined above.
- 4.7.2 PAGA Employees shall receive a pro-rata portion of the 25% of the PAGA Payment according to their respective number of Qualifying Workweeks during the PAGA Period, as defined herein.
- 4.7.3 Every PAGA Employee will receive a PAGA settlement check regardless of whether they opt in or opt out of any other part of the Settlement. The PAGA Employees will have 180 days to cash their checks.
- 4.7.4 Every PAGA Employee will be bound by the PAGA Release, as defined in Section 13, regardless of whether they cash their PAGA settlement check.
- 4.7.5 Any uncashed PAGA settlement checks will be distributed to Legal Aid at Work as a *cy pres* award.

4.8 **Settlement Administrator's Costs:** The reasonable costs incurred by the Settlement Administrator in administering the settlement, as approved by the Court, shall be deducted from the Maximum Settlement Amount and are currently estimated not to exceed Thirty-Five Thousand Dollars (\$35,000) and shall be paid from the Maximum Settlement Amount ("Settlement Administration Cost Award").

## 5. SETTLEMENT APPROVAL

5.1 Solely for purposes of settling this Action, the Parties stipulate and agree that the prerequisites for establishing class certification with respect to the California Class and FLSA Collective have been met.

5.2 The Parties hereby agree that the formula for allocating the Individual Settlement Payments to the Class members under the terms of this Settlement is reasonable and that the individual payments provided are designed to provide an adequate, reasonable and fair settlement to the Participating Class Members. The Parties and their respective counsel believe that the Settlement is fair, reasonable, and adequate based on their own independent investigation and evaluation, and in light of all known facts, defenses, and circumstances.

5.3 The Parties and their counsel agree to the conditional certification of the Class for the sole purpose of effectuating this Settlement. Should, for whatever reason, the Settlement not become final, the fact that the Parties were willing to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in, this Action or any other legal proceeding in any jurisdiction. As is discussed elsewhere in this Settlement, Defendant expressly reserves the right to oppose class certification in this Action should the Settlement not become final.

5.4 The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including but not limited to, execution of such documents and to take such other actions as may reasonably be necessary to implement the terms of this Settlement.



5.5 Defendant agrees not to oppose Plaintiffs' Motion for Preliminary Approval unless the motion is inconsistent with the terms set forth in this Settlement.

## 6. SETTLEMENT ADMINISTRATION

6.1 Class Counsel has obtained multiple competing bids from potential settlement administrators. After consideration of those bids, the Parties have mutually agreed to select CPT Group, Inc as the Settlement Administrator. The Settlement Administrator will be responsible for timely and properly calculating the Individual Settlement Payments; mailing Notice Packets, preparing and mailing settlement checks and appropriate tax documents; withholding from Individual Settlement Payments payable to all applicable payroll and employment taxes, including all federal, state, and local income taxes, and to prepare and deliver the necessary tax documentation and, thereafter, to cause the appropriate deposits of withholding taxes and informational and other tax return filings to occur.

6.2 The Settlement Administration also includes, but is not limited to, generation of Individual Settlement Payment checks and related tax reporting forms, checking addresses against the National Change of Address database, skip-tracing using Accurant or similar skip-tracing procedures the Class members' contact information as necessary and as described herein, administration of uncashed checks, generation of checks to Class Counsel for attorneys' fees and costs and to Plaintiffs for their Class Representatives' Service Award, resolution of disputes concerning weeks worked, and such other duties as may be required for the administration of the Settlement.

6.3 The Settlement Administrator shall expressly agree to all the terms and conditions of this Settlement. All costs associated with administering the Settlement by the Settlement Administrator shall be compensated by the Settlement Administrator's Cost Award.

6.4 The Settlement Administrator is responsible for establishing the QSF. The QSF shall be an interest-bearing account within the meaning of Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, at a federally insured bank that is mutually acceptable to the Parties and the Settlement Administrator. The Settlement Administrator shall serve as a Trustee of the QSF and shall act as a fiduciary with handling of all tax-related issues, reporting, and payments. The Settlement Administrator shall act in a manner necessary to qualify and maintain the QSF as a Qualified Settlement Fund and the Parties shall cooperate to ensure such treatment and shall not take a position in any filing or before any tax authority inconsistent with such treatment. The Parties agree that the QSF shall be a non-reversionary fund and that under no circumstance will there be any reversion to Defendant of any of the funds from the QSF or the Maximum Settlement Amount.

6.5 The Settlement Administrator will ensure that the Individual Settlement Payments are calculated as described in Section 4.3 of this Settlement.

6.6 The Settlement Administrator will ensure that the Class Notice clearly:

6.6.1 Contains an estimated individual settlement payment, dates of employment, how to opt out of the Class Settlement, how to opt in to the

FLSA Collective (to the extent the FLSA Collective member has not formally opted-in), and how to object to the settlement.

6.6.2 Informs the California Settlement Class Members how to opt out, and the deadline to do so; and the fact that the California Settlement Class who does not participate in the Settlement will not be bound by the terms of the proposed California Claims Release, but will be bound by the PAGA Release and may be bound by the FLSA Release if they have previously opted in to the FLSA Collective or subsequently decide to opt in to the FLSA Collective by timely cashing their FLSA Collective Settlement Check.

6.7 The Settlement Administrator will ensure that every FLSA Collective Member will receive an initial FLSA Collective Settlement Check (separate from any other settlement check issued) which includes the language set forth in paragraph 4.3.3 above.

6.8 Class Members' settlement checks will not expire until at least 180 days after their issuance ("cashing deadline").

6.9 The Settlement Administrator will be responsible to redistribute the unclaimed settlement funds on a pro rata based on the number of workweeks, among those Class Members that previously cashed their settlement checks, if after the cashing deadline the amount of unclaimed funds exceed the costs of any potential re-distribution. Any settlement funds remaining after the re-distribution, will be distributed to the *cy pres* recipient: Legal Aid at Work, as provided in 11 of this Settlement.

6.10 The Settlement Administrator will also be responsible for issuing to the Participating California Settlement Class Members a form W-2 for the amount deemed "wages" and an IRS Form 1099 for the portions allocated to penalties and interest. The Settlement Administrator will inform the employer of its employer-side tax obligations and will coordinate with the employer on processing such tax payments.

## **7. NOTICE TO THE LWDA**

7.1 Plaintiff shall be responsible for submitting the settlement to the LWDA at the same time of filing the Motion for Preliminary Approval, in accordance with applicable requirements under PAGA. If the Court does not grant the Motion for Preliminary Approval and/or the Motion for Final Approval and/or if the LWDA objects to the PAGA Settlement Amount, the Parties agree to meet and confer to address the Court's and/or LWDA's concerns. If the parties are unable to agree upon a resolution, the Parties agree to seek the assistance of mediator Dan Turner.

## **8. NOTICE TO THE CLASS**

8.1 Within ten (10) business days following the Court's Order Granting Preliminary Approval of Settlement, Defendant shall provide the Settlement Administrator with a list containing the names, last known addresses, last known telephone numbers, Social Security numbers of all Class Members, the dates of employment of each California Settlement Class

member who worked for Defendant in California during the Class Period, the last date of employment for each California Settlement Class member and all other information necessary for the Settlement Administrator to calculate the number of Qualifying Workweeks worked by each California Settlement Class member, FLSA Collective member, and PAGA Employee; determine which California Settlement Class members qualifies for the California Waiting Time Subclass Allocation, and identify the Class members who have yet to opt in to the FLSA Collective (the "Class Data").

8.2 Defendant's Counsel shall meet and confer with the Settlement Administrator prior to the deadline to produce the Class Data to ensure that the format of the database will be acceptable to the Settlement Administrator. The Settlement Administrator shall not share the Class Data with anyone except as otherwise provided herein.

8.3 Prior to mailing the Notice Packet to California Settlement Class members, the Settlement Administrator shall perform a National Change of Address (NCOA) search and an Accurant (or substantially similar) in-depth skip-trace to obtain the best possible address for California Settlement Class members.

8.4 Within fourteen (14) calendar days after receipt of the Class Data from Defendant, the Settlement Administrator shall mail the Class Court-Approved Notice Packet to all California Settlement Class members by first-class, U.S. mail.

8.5 Attached to the Notice will be a secondary FLSA Consent Form (in the form approved by the Court.) The secondary FLSA Consent Form (also referred to herein generically as an Opt-In form) will only be mailed to those Class members who have not previously opted in to the FLSA Collective. Plaintiff will propose that the Court use the secondary FLSA Consent Form attached hereto as **Exhibit C** to this Agreement.

8.5.1 Any deficient Opt-In form that was originally submitted before the previously set June 17, 2024 Opt-In deadline shall be accepted and will be considered valid if it is signed.

8.5.2 Any FLSA Collective Class member who had previously submitted an Opt-In form, or that after receiving the Class Notice submits a signed FLSA Consent form, or who timely cashes their FLSA Collective Settlement Check will be deemed to have released their FLSA claims pursuant to the FLSA release below.

8.6 The envelope containing the Notice Packet shall bear the following phrase in bold type, **"RETURN SERVICE REQUESTED."** The envelope shall also bear the following phrase in the bottom, left-hand corner: **IMPORTANT- TAILORED LIVING SERVICES CLASS ACTION SETTLEMENT INFORMATION. PLEASE OPEN IMMEDIATELY.** Included within the Notice Packet shall be a pre-paid, pre-addressed envelope for the Class Member to return their FLSA Consent Form.

8.7 Content of the Class Notice. Plaintiff will propose that the Court use the Class Notice attached hereto as **Exhibit C** to this Agreement.

- 8.7.1 The Class Notice will include an estimated calculation of the Class members' estimated share of the Net Settlement Amount.
- 8.7.2 The Class Notice shall provide that California Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion to the Settlement Administrator postmarked by the Objection/Request for Exclusion Deadline—forty-five (45) calendar days following the initial mailing of the Class Notice.
- 8.7.3 The Class Notice shall also inform any California Settlement Class member who properly requests exclusion that they will not receive an Individual Settlement Payment and will not be bound by this Settlement or have any right to object, appeal, or comment thereon.
- 8.7.4 The Class Notice will also inform California Settlement Class members who do not submit a valid and timely Request for Exclusion that they shall be bound by the terms of the Settlement and any judgment entered in the Action once the Settlement receives Final Approval.
- 8.7.5 The Class Notice shall provide that California Settlement Class members who wish to object to the Settlement must file their written objection with the Court by the Objection/Request for Exclusion Deadline as well as mail a copy of their written objection to the Settlement Administrator postmarked no later than the Objection/Request for Exclusion Deadline.
- 8.7.6 The Class Notice shall provide that the FLSA Collective members who want to but have yet to opt in to the FLSA Collective must either (1) complete, sign and postmark their FLSA Consent Form by the response deadline—forty-five (45) calendar days following the initial mailing of the Class Notice—or (2) must cash their FLSA check by the cashing deadline.
- 8.7.7 The Class Notice shall also explain that FLSA Collective members who submitted a written Opt-In form at any point during the Action, or who timely cash their FLSA Settlement Check (which shall also be deemed as opting in) will release all FLSA claims alleged in the operative complaint, or which could have been alleged based on the facts actually alleged in any of the complaints or amended complaints filed in this Action, during the FLSA Collective Released Period as defined herein.
- 8.7.8 The Class Notice shall also explain that FLSA Collective members who do not opt-in and or who do not timely cash their FLSA Collective Settlement Check, will not be bound by the FLSA Claims Release (as defined herein) but will be bound by the Settlement and the State Law Claims Release unless they mail a timely and valid Request for Exclusion before the expiration of the Objection/Request for Exclusion Deadline.



## 8.8 Undeliverable Notices.

8.8.1 If a Class Notice is returned as undeliverable with a forwarding address provided by the United States Postal Service on or by the Objection/Request for Exclusion Deadline, the Settlement Administrator will promptly resend the Class Notice to that forwarding address along with a brief letter stating that the recipient of the Class Notice has until the original deadline set forth on the Class Notice, or ten (10) calendar days after the date of re-mailing of the Class Notice (whichever is later) to object or submit a Request for Exclusion. If any Class Notice is returned from any mailing and/or re-mailed, the Settlement Administrator will note for its own records and notify the Parties' Counsel of the date of such re-mailings as part of a weekly status report provided to the Parties.

8.8.2 If a Class Notice is returned as undeliverable without a forwarding address from its first mailing, the Settlement Administrator shall undertake reasonable efforts to locate a current address, including performing an Experian (or substantially similar) in-depth skip-trace or mass search on LexisNexis databases based on set criteria. If the Settlement Administrator obtains a more current address, the Settlement Administrator shall resend the Class Notice to that address along with a brief letter stating that the recipient of the Class Notice has until the original deadline set forth on the Class Notice or ten (10) calendar days after the date of re-mailing of the Class Notice (whichever is later) to submit a Request for Exclusion. No further action by the Settlement Administrator shall be required regarding undeliverable Class Notices.

8.9 The Settlement Administrator shall provide the Parties' Counsel with a weekly report showing: (1) the number of Class Notices mailed to California Settlement Class members; (2) the number of Class Notices returned as undeliverable; (3) the number of re-mailed Class Notices; (4) the number of California Settlement Class members who have submitted Requests for Exclusion; (5) the number of California Settlement Class members who have submitted objections; and (6) the number of California Settlement Class members who have disputed the number of Qualifying Workweeks being credited to that California Settlement Class member. Additionally, the Settlement Administrator shall provide the Parties' Counsel with any updated reports regarding the administration of the Settlement as needed or requested.

8.10 At least twenty-eight (28) calendar days prior to the Final Approval Hearing, the Settlement Administrator will provide a declaration specifying the due diligence the Settlement Administrator has undertaken with regard to the mailing of the Class Notice, including any attempts to obtain valid mailing addresses for and re-mailing of any returned Class Notices; verifying its Settlement Administrator's Fees; and reporting on the number of objections and exclusions submitted by California Settlement Class members, as well as any disputes (and explain the status of the disputes).



## 9. RESPONSES TO THE CLASS NOTICE

9.1 Resolution of Dispute. If a Class member wishes to dispute the number of Qualifying Workweeks stated in the Class Notice, the Class member must notify the Settlement Administrator no later than the Objection/Request for Exclusion Deadline—forty-five (45) calendar days from the mailing of the Class Notice or ten (10) calendar days after the date of re-mailing of the Class Notice (whichever is later).

9.1.1 The Class member must produce any available supporting evidence to the Settlement Administrator regarding the correct number of Qualifying Workweeks that the Class member contends worked for Defendant during the relevant period, as explained in the Class Notice.

9.1.2 The Settlement Administrator will notify the Parties' Counsel of any disputes via email. Defendant shall review its records and provide information to the Settlement Administrator in response to any such disputes. Defendant's records shall be presumed to be determinative, but the Settlement Administrator shall evaluate the evidence submitted by the Class member and make the decision as to which dates should be applied. The determination by the Settlement Administrator shall be final and binding.

9.2 Requests for Exclusion from Class. Any California Settlement Class member who wishes to validly exclude himself or herself from the California Claims aspect of this Settlement must send a Request for Exclusion to the Settlement Administrator, postmarked or faxed by no later than forty-five (45) calendar days after the date the Settlement Administrator initially mails the Class Notice to the California Settlement Class members or ten (10) calendar days after the Settlement Administrator re-mails the Notice to the California Settlement Class member, whichever is later (the "Request for Exclusion Deadline").

9.2.1 The date of the initial mailing of the Class Notice was postmarked shall be conclusively determined according to the records of the Settlement Administrator. Any California Settlement Class member who timely and validly submits a Request for Exclusion will not be entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this Settlement, and will not have any right to object to the Settlement or appeal the Court's Orders in this case.

9.2.2 Any California Settlement Class member who fails to timely submit a valid Request for Exclusion shall be deemed a Participating California Settlement Class Member whose rights and claims with respect to the issues raised in the Action are determined by the Court's Final Order Approving Settlement of Class Action, and by the other rulings in the Action. Thus, said Participating California Settlement Class Member's rights to pursue any claims released in this Settlement will be extinguished.

9.2.3 The Settlement Administrator will provide the Parties with the number of valid and timely Request for Exclusion letters received within seven (7) calendar days after the Objection/Exclusion Deadline.

9.3 Objections to Settlement: Any Class member who wishes to object to this Settlement, or any term of it, must not submit a Request for Exclusion letter.

9.3.1 The Class member must file their objection with the Court by the Objection/Request for Exclusion Deadline as well as mail a copy of their written objection to the Settlement Administrator postmarked no later than the Objection/Request for Exclusion Deadline (or ten (10) days after the Settlement Administrator re-mails the Notice to the California Settlement Class member, whichever is later), unless the Court orders otherwise.

9.3.2 The Settlement Administrator shall send any objections it receives to Defense Counsel and Class Counsel within three (3) business days of receipt. The Court retains final authority with respect to the consideration and admissibility of any California Settlement Class member objections.

9.4 The timeliness of a Class Member's Request for Exclusion or written objection shall be determined based on the postmarked date of mailing.

9.5 Encouragement of Class Members. The Parties to this Settlement and the counsel representing such Parties shall not, directly or indirectly, through any person, encourage or solicit any Class member to exclude himself or herself from this Settlement or to object to it. However, Class Counsel, Defense Counsel, and Defendant may respond to inquiries from Class members with truthful information and nothing that discourages participation.

## 10. SETTLEMENT FUNDING AND DISTRIBUTION SCHEDULE

10.1 **Settlement Funding Dates:** Defendant shall deposit into the QSF fifty percent (50%) of the GSA within seven (7) calendar days after the Court's Order granting Final Approval becomes final and the date for appeal has passed ("Initial Funding Date"). Defendant will fund the remainder of the GSA no later than thirty-five (35) days after the Initial Funding Date ("Remainder Funding Date").

10.2 **Settlement Disbursement Date:** No later than seven (7) calendar days after Defendant funds and deposits the entirety of the GSA into the QSF, the Settlement Administrator shall disburse: (a) Individual Settlement Payments to Participating Class Members; (b) the Class Representatives' Service Award; (c) the portion of the PAGA Payment to be made to the LWDA and to the PAGA Employees; (d) the Settlement Administrator's Costs; and (e) Class Counsel's Attorney's Fees and Costs, all as previously approved by the Court.

10.3 The Settlement Administrator shall provide written and signed certification of the completion of the Settlement Disbursement procedures to Class Counsel and Defendant's Counsel within two-hundred-and-fifty (250) calendar days from the Settlement Disbursement Date if no re-distribution is necessary, or two-hundred-and-fifty (250) calendar days from the date any re-

distribution required under the Settlement is completed. Class Counsel shall file that written certification with the Court.

10.4 The following is a summary of the proposed timeline related to this Settlement:

<b>EVENT</b>	<b>DEADLINE</b>
Preliminary Approval of the Settlement by the Court	TBD
Defendant to provide Settlement Administrator with the list of California Settlement Class members and all required Class Data	10 business days after Preliminary Approval Order
Settlement Administrator to perform Accurint search and mail Notice to the Class members	14 calendar days after receiving the Class Data
Objections/Exclusion Deadline	45 calendar days after mailing of Notice
Settlement Administrator to provide the parties notice of the valid request of exclusion letters and objections received	7 calendar days after the Objection/Exclusion Deadline
Settlement Administrator to provide declaration of due diligence	28 calendar days prior to Final Approval Hearing
Final Approval Hearing	TBD
Effective Date of the Settlement	Date the Court enters the Final Approval Order and Judgment if there are no objections to the Settlement.
Initial Funding Date = 50% of the GSA	7 calendar days after Effective Date
Remainder Funding Date	35 calendar days after the Initial Funding Date
Settlement Administrator to Mail Individual Settlement Payments	7 calendar days after Defendant funds and deposits the entirety of the GSA into the QSF
Uncashed Checks Become Void	180 calendar days after mailing of the Individual Settlement Payment Checks or 180 calendar days from the mailing of any re-distribution checks
Settlement Administrator to Provide Certificate of Completion of Settlement	250 calendar days after the Settlement Disbursement Date, if no re-distribution is necessary, or 250 calendar days from the date

	of any re-distribution required by the Settlement
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## 11. DISPOSITION OF RETURNED AND UNCASHED CHECKS

11.1 This is a non-reversionary “all-in” settlement. No unclaimed amounts will revert to Defendant.

11.2 If any Individual Settlement Payments are returned as undeliverable, the Settlement Administrator will take all steps necessary to locate an updated mailing address for the Class member, including without limitation, using Experian (or substantially similar) in-depth skip-trace. In the event the Settlement Administrator is unable to locate an updated address, or the Individual Settlement Payments are returned as undeliverable after a second mailing, the amount of any returned checks shall return to the Net Settlement Fund.

11.3 Settlement Checks will not expire until at least one-hundred-and eighty (180) days after their issuance. Any funds from any uncashed checks shall return to the Net Settlement Fund.

11.4 Redistribution of Unclaimed Funds. Thirty (30) calendar days after the expiration of the one-hundred-and eighty (180) days deadline to cash the settlement checks, the Settlement Administrator will evaluate whether a re-distribution is necessary. A re-distribute will be necessary if the total amount of unclaimed settlement funds remaining in the Net Settlement Funds exceeds the costs of redistribution.

11.4.1 If necessary, the Settlement Administrator will re-distribute the remaining funds in the NSF on a pro rata based on the number of Qualifying Workweeks, among those Participating Settlement Class and FLSA Collective members that previously cashed their settlement checks.

11.4.2 If a re-distribution is not necessary, or if there are any remaining funds from uncashed or returned checks, the remainder funds will be distributed to the Legal Aid at Work as a *cy pres* award.

## 12. NO SPILLOVER OF RESIDUALS

12.1 Any residual amount of the Net Settlement Amount remaining after all Participating Class members’ claims are paid resulting from any returned or uncashed checks shall be distributed by the Settlement Administrator, as a *cy pres* award to Legal Aid at Work, a nonprofit organization that will benefit the class or similarly situated persons.

## 13. RELEASES

13.1 Settlement Payments made to Class Members pursuant to this Settlement are in consideration for the respective Class Members’ release of Released Parties set forth below.

13.2 **PAGA Release.** All PAGA Employees will release the Released Parties of all claims for civil penalties under PAGA for each and every Labor Code violation alleged in any



complaint or amended complaint filed in the Action, or which could have been alleged, based on the facts actually alleged, for the entirety of the PAGA Release Period. Inclusive in this release will be any potential derivative liability for civil penalties under the California Labor Code stemming from any actual or purported FLSA violations.

**13.3 California Claims Release.** Participating California Settlement Class Members (i.e., those who do not timely submit a Request for Exclusion) will release the Released Parties from any and all claims or causes of action based on California laws and regulations alleged in any of the complaints or amended complaints filed, or which could have been alleged based on the facts alleged in the Action, including claims for unpaid wages (minimum wage, overtime or otherwise), the scheduling and timing of breaks, payment for breaks, the timing of wage payments, reimbursement of expenses, and Defendant's record keeping practices, for the entirety of the California Claims Release Period. Inclusive in this release will be any derivative liability under the Business and Professions Code, including any derivative liability under California law stemming from any actual or purported violations of the FLSA.

**13.4 FLSA Claims Release.** FLSA Collective members who submit or who have previously submitted a written Opt-In form, or who cash their FLSA Settlement Check (which shall be deemed opting in) will release any and all claims or causes of action under the FLSA alleged in the operative complaint, or which could have been alleged based on the facts actually alleged in any of the complaints or amended complaints filed in this Action, for the entirety of the FLSA Release Period.

#### **14. TAXATION AND WITHHOLDING**

**14.1** The Settlement Administrator will be responsible for issuing to the Class Representatives, Class members, and Class Counsel any IRS Form W-2, IRS Form 1099, or any other tax forms as may be required by the Internal Revenue Code of 1986 (the "Code") and this Settlement for all amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and other legally required withholdings to the appropriate government authorities to pay for the employer's share of payroll taxes as set forth below. If the Code, the regulations promulgated thereunder, or other applicable tax law is changed after the date of this Settlement, the processes set forth in this section may be modified in a manner to bring Defendant into compliance with any such changes.

**14.2** Defendant's Counsel and Class Counsel make no warranty and have provided no advice regarding the tax treatment of Individual Settlement Payments to Participating California Settlement Class Members pursuant to the terms of this Settlement. All taxes, other than the



employer's share of payroll taxes, which are not a part of the Maximum Settlement Amount, are the sole responsibility of the Participating California Settlement Class Member.

14.3 No person shall have any claim against Defendant, Defendant's Counsel, Plaintiffs, the Class, Class Counsel or the Settlement Administrator based on mailings, distributions, and payments made in accordance with this Settlement of Settlement.

## **15. VOIDING THE AGREEMENT**

15.1 Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Action for settlement purposes only, this Settlement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Settlement on a conditional basis. This Settlement is contingent upon the approval and certification by the Court. This Agreement shall be enforceable pursuant to Code of Civil Procedure § 664.6.

15.1.1 Defendant represents that allowing FLSA Collective Members to consent and opt in to the FLSA aspect of the Settlement and effectively release their FLSA claims by virtue of cashing their FLSA Settlement Check is a material term of this Stipulated Settlement Agreement. If the Court does not finally approve this procedure, then Defendant has the option of voiding this Stipulated Settlement Agreement and resuming litigation. Defendant must exercise this right within five (5) business days after the Court's Order denying approval of this provision. If Defendant chooses to terminate the settlement pursuant to this provision, Defendant shall be responsible for all costs of claims administration incurred as of the termination date.

15.2 If the Effective Date does not occur, the fact that the Parties were willing to stipulate for the purposes of this Settlement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Effective Date does not occur, or if Disposition of this Action is not effectuated, any certification of the Class will be vacated and Plaintiffs, Defendant, and the Class will be returned to their positions with respect to the Action as if the Settlement had not been entered into.

15.3 If the Effective Date does not occur, this Settlement and any of the related negotiations or proceedings shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. All Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. The fact that the Parties were willing to stipulate to class certification of all causes of action pled in the Action as part of the Settlement will have no bearing on, and will not be admissible in connection with, the issue of whether the Class should be certified by the Court in a non-settlement context in this Action or any other action. Defendant expressly reserves the right to challenge the propriety of class certification in the Action for any purpose if the Effective Date does not occur.

15.4 The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Settlement and shall otherwise use their respective best efforts to obtain Court approval and implement this Settlement. If the

Court does not grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a resolution, the Parties agree to seek the assistance of mediator Daniel Turner to resolve the dispute.

15.5 Defendant may void the Settlement if (a) more than five percent (5%) of the Class Members submit a timely and valid Request for Exclusion; or (b) if ten (10) or more members of the FLSA Collective either (i) seek to withdraw a prior opt-in ;or (ii) submit a valid Request for Exclusion from the Settlement. Defendant must exercise this right within ten (10) business days after the Claims Administrator has provided Defendant with the total number of Class Members who timely submitted Request for Exclusion. If Defendant chooses to terminate the settlement pursuant to this provision, Defendant shall be responsible for all costs of claims administration incurred as of the termination date.

## 16. MISCELLANEOUS PROVISIONS

16.1 All of Defendant's own legal fees, costs, and expenses incurred in this Action shall be borne by Defendant.

16.2 The Parties agree to cooperate in the Settlement Administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement.

16.3 The signatories hereto represent that they are fully authorized to enter into this Settlement and bind the Parties to the terms and conditions herein.

16.4 The Parties have cooperated in the negotiation and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Settlement.

16.5 **Mutual Full Cooperation:** The Parties agree to fully cooperate with each other to accomplish the terms of the Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of the Settlement. The Parties shall use their best efforts, including all efforts contemplated by the Settlement and any other efforts that may become necessary by order of the Court to effectuate the Settlement and the terms set forth herein. In the event the Parties are unable to reach a Settlement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of the Settlement, the Parties shall seek the assistance of the Court to resolve such disagreement.

16.6 **No Admission:** Nothing contained herein, nor the consummation of the Settlement, is to be construed as or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into the Settlement with the intention of avoiding further disputes and litigation with the attendant risk, inconvenience and expenses. This Settlement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408

and/or any other similar law, be inadmissible as evidence in any proceeding, except an action or proceeding to approve the Settlement, and/or interpret or enforce the Settlement.

**16.7 Construction:** The Parties agree that the terms and conditions of the Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Settlement shall not be construed in favor of or against any of the Parties by reason of the extent to which any Party participated in drafting the Settlement.

**16.8 Headings:** The descriptive heading of any section or paragraph of this Settlement is inserted for convenience of reference only and does not constitute a part of this Settlement and shall not be considered in interpreting this Settlement.

**16.9 Representation by Counsel:** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and that this Settlement has been executed with the consent and advice of counsel.

**16.10 No Reliance on Representations:** The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Settlement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Settlement, or with respect to any other matters. No representations, warranties, or inducements have been made to any party concerning this Settlement.

**16.11 Jurisdiction of the Court:** Except for those matters to be resolved by the Settlement Administrator as expressly stated, any dispute regarding the interpretation or validity of this Settlement, or relating to the Action or the Released Claims, shall be subject to the exclusive jurisdiction of the Court, and Plaintiffs, Class members, and Defendant agree to submit to the personal and exclusive jurisdiction of the Court. The Disposition entered by the Court will not adjudicate the merits of the Action or the liability of the Parties resulting from the allegations of the Action. The Court shall retain jurisdiction solely with respect to the interpretation, implementation, and enforcement of the terms of this Settlement and all orders, judgments entered in connection therewith, and post-judgment matters. After entry of the Final Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of: (i) enforcing this Settlement, (ii) addressing any claims administration matters that may arise; and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

**16.12 California Law Governs:** All terms of this Settlement and exhibits hereto shall be governed by and interpreted according to the laws of the State of California, regardless of its conflict of laws.

**16.13 Invalidity of Any Provision:** The Parties request that before declaring any provision of this Settlement of Settlement invalid, the Court shall first attempt to construe all provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions in this Settlement valid and enforceable.



**16.14 Amendment or Modification:** This Settlement may be amended or modified only by a written instrument signed by the Parties or their successors-in-interest.

**16.15 Interim Stay of Proceedings:** The Parties agree to hold in abeyance all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.

**16.16 Counterparts and Fax/Electronic Signatures:** This Settlement may be executed in counterparts, by facsimile 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. Any executed counterpart will be admissible in evidence to prove the existence and contents of this agreement. A faxed, scanned signature on this Settlement shall be as valid as an original signature.

**16.17 Entire Agreement:** This Settlement and Exhibits hereto constitute the entirety of the Settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties, and this Settlement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of prior agreements or proposals. The Parties expressly recognize that California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a) provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence and agree that no such extrinsic oral or written representations will modify, vary or contradict the terms of the Settlement. In case of any conflict between text contained in Sections 1 through 14 of this Settlement and text contained in the Exhibits to this Settlement, the former (*i.e.*, Sections 1 through 14) shall be controlling, unless the Exhibits are changed by or in response to a Court order. There are no restrictions, promises, representations, warranties, covenants, or undertakings governing the subject matter of this Settlement other than those expressly set forth or referred to herein.

**16.18 No Prior Assignments:** The Parties and the Parties' Counsel represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of liability, claim, demand, action, cause of action or right released and discharged in this Settlement of Settlement.

**16.19 Assignment:** None of the rights, commitments, or obligations recognized under this Settlement may be assigned by any Party, California Settlement Class member, Class Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this Settlement are for the sole benefit of the Parties under this Settlement and shall not be construed to confer any right or to avail any remedy to any other person.

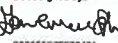
**16.20 Binding on Successors and Assigns:** This Settlement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties to this Settlement.

**16.21 Deadlines Falling on Weekends or Holidays:** To the extent that any deadline set forth in this Settlement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

**IT IS SO AGREED.**

Dated: November 13, 2024

**PLAINTIFF:**

DocuSigned by:  
  
033864C3F578431

\_\_\_\_\_  
GENEVIEVE BASHAM

Dated: 11/13, 2024

**PLAINTIFF:**

DocuSigned by:  
  
58CEA516CEAEE

\_\_\_\_\_  
JENNIFER RAPER

Dated: 11/13, 2024

**PLAINTIFF:**

DocuSigned by:  
  
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\_\_\_\_\_  
GEORGE PEPPER

Dated: Nov. 14, 2024

**DEFENDANT:**

TAILORED LIVING CHOICES, LLC

By: 

\_\_\_\_\_  
(Authorized Representative of Defendant)



APPROVED AS TO FORM AND CONTENT:

Dated: November 13, 2024

**CLASS COUNSEL:**  
**GRAHAM HOLLIS, APC**

By: *Vilmarie Cordero*

GRAHAM S.P. HOLLIS  
VILMARIE CORDERO  
TAYLOR M. GEE

Dated: \_\_\_\_\_, 2024

**DEFENDANT'S COUNSEL:**  
**ROGERS JOSEPH O'DONNELL**


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

SHARON O. ROSSI  
WHITNEY R. MINER

APPROVED AS TO FORM AND CONTENT:

Dated: November 13, 2024

**CLASS COUNSEL:**  
GRAHAM HOLLIS, APC

By:   
GRAHAM S.P. HOLLIS  
VILMARIE CORDERO  
TAYLOR M. GEE

November 14, 2024  
Dated: \_\_\_\_\_, 2024

**DEFENDANT'S COUNSEL:**  
ROGERS JOSEPH O'DONNELL

By:   
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SHARON O. ROSSI  
WHITNEY R. MINER