

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Nancy Garcia (“Plaintiff”), individually and on behalf of all members of the Settlement Class, defined below, and Defendants Common Area Maintenance Services, Inc. and David Herrera (“Defendants”). Plaintiff and Defendants are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Ronald W. Makarem and Cameron A. Stewart of Makarem & Associates, APLC (“Class Counsel”). Defendants are represented by Amber S. Healy and Lauren D. Fierro of Atkinson, Andelson, Loya, Ruud & Romo.

Plaintiff filed a Class Action Complaint (“Complaint”) against Defendants on May 14, 2020, in Los Angeles Superior Court (“Court”), Case No. 20STCV19361 (“Class Action”). Plaintiff filed her First Amended Complaint (“FAC”) on August 4, 2020. The FAC alleges the following causes of action against Defendants: (1) failure to pay overtime wages; (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to furnish accurate wage statements; (5) failure to pay all wages earned; (6) failure to maintain required records; (7) failure to pay earned wages upon termination; and (8) violation of Business and Professions Code section 17200 (Unfair Competition).

Plaintiff filed a second lawsuit against Defendants on July 15, 2020, in Los Angeles Superior Court, Case No. 20STCV27465 (“PAGA Action”). In the PAGA Action Plaintiff asserts a single cause of action under the Labor Code’s Private Attorneys General Act, Labor Code sections 2698, *et seq.*

The Parties participated in a global mediation with an experienced and well-known employment/wage and hour mediator, Michael Young. Although the case did not settle at mediation, the Parties were subsequently able to reach a resolution with the assistance of Mr. Young. A global settlement was reached for Three Hundred and Seventy-Five Thousand Dollars and Zero Cents (\$375,000) (“Gross Settlement Amount”). Total Number of Class Members through January 18, 2022 were estimated to be 146 current and former hourly, non-exempt employees.

For settlement purposes, the Parties have stipulated for leave to file the Second Amended Complaint (“SAC”), which will add the PAGA cause of action to the Class Action. Thereafter, the Parties will file a stipulated dismissal of the PAGA Action on the basis that the PAGA claim was added to the Class Action. The Proposed SAC is attached hereto as **Exhibit A**. The SAC shall be referred to hereinafter as the “Operative Complaint.”

Given the risks and uncertainties of litigation, the Parties have agreed to settle this Lawsuit on the terms set forth herein and subject to the approval of the Court. Nothing herein shall be construed as an admission of any wrongdoing or of liability as the Settlement Agreement is intended solely to allow the Parties to buy their peace and resolve the disputed claims asserted in the Lawsuit.

1. Certification of Settlement Class. The Parties request the Court certify a Settlement Class as follows for the purposes of this Settlement:

2. Class Definition.

All current and former non-exempt employees who have worked for CAM Property Services, Inc. in California during the time period of May 14, 2016 through the earlier of either (1) preliminary approval or (2) whenever the workweeks for the Settlement Class exceed 12,597 (the “Class Period”).

3. Definition of Aggrieved Employee.

“Aggrieved Employee” means any person employed by CAM Services Inc. in California and classified as a non-exempt employee who worked for CAM Services Inc. during the period of April 28, 2019 to the present (“PAGA Period”).

If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this Settlement Agreement will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

4. Releases.

- A. **Releases by Settlement Class Members.** As of the Final Effective Date (as defined below), in exchange for the consideration set forth in this Settlement Agreement, each Settlement Class Member who does not validly opt-out, on behalf of themselves, and on behalf of all those who claim by and through them, or in their stead, including, but not limited to agents, attorneys, representatives, predecessors, successors and assigns, will forever release, acquit, and discharge, and covenant not to sue, Defendants, including its past and present divisions, d/b/a’s, parents, subsidiaries, predecessors, successors, assigns, and their respective shareholders, owners, officers, directors, employees, agents, trustees, attorneys, insurers, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, and privies (collectively the “Released Parties” and each a “Released Party” or “Releasee”) from liability for all claims, liens, demands, damages, penalties, fines, wages, liquidated damages, restitutionary amounts, attorneys’ fees and costs, interest, controversies, liabilities or causes of action arising under state, federal, administrative order, state or local law, and legal theories of relief alleged or otherwise raised in the Operative Complaint, or that have been asserted in the Operative Complaint, or which could have been asserted in the Operative Complaint based on the same facts and circumstances as alleged in the Operative Complaint, including: (i) meal period violations; (ii) rest period violations; (iii) failure to pay all overtime wages; (iv) minimum wage violations; (v) wage statement violations; (vi) waiting time penalties; (vii) failure to maintain records; and (viii) claims under Business and Professions Code § 17200. For members of the Settlement Class who do not validly opt out, the release period shall run for the duration of the Class Period.
- B. **Representative Plaintiff’s General Release.** As of the Final Effective Date (as defined below), Plaintiff will, for herself, and for her heirs, successors, predecessors, attorneys, agents, representatives and assigns, forever release the Released Parties from any and all charges, complaints, claims, liabilities,

obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages, penalties, liquidated damages, and attorneys' fees and costs actually incurred) of any nature whatsoever, from the beginning of time through the date of her signature on this Settlement Agreement, known or unknown, suspected or unsuspected, including but not limited to all claims arising out of, based upon, or relating to her employment with Defendants or the remuneration for such employment. Without limiting the generality of the foregoing, Plaintiff expressly releases all claims which were or could have been raised in the Operative Complaint and all claims or rights arising out of alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith or fair dealing (express or implied); any tort, including negligence, fraud, misrepresentation under California Labor Code 970, negligent infliction of emotional distress, intentional infliction of emotional distress, and defamation; any "retaliation" claims; any claims relating to any breach of public policy; any legal restrictions on Defendants' right to discharge employees or refuse to hire applicants; and any federal, state, or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) sections 503 and 504 of the Rehabilitation Act of 1973 (disability discrimination); (4) Equal Pay Act, 29 U.S.C. § 209(4)(1) (equal pay); (5) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability discrimination); (6) Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical leave); (7) California Fair Employment and Housing Act, Cal. Gov't Code § 12900 *et seq.* (discrimination or harassment in employment and/or housing, including discrimination or harassment based on race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, sex (including pregnancy), sexual orientation, genetic, or age, including retaliation for reporting discrimination or harassment); (8) California Family Rights Act, Cal. Gov't Code § 12945.1 *et seq.* (family/medical leave); (9) California Labor Code or any Industrial Welfare Commission Wage Order; (10) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (11) Executive Order 11141 (age discrimination); and (12) Employee Retirement Income Security Act, 29 U.S.C. § 1000 *et seq.* (employee benefits) (collectively, "Plaintiff's Released Claims"). Notwithstanding the foregoing, Plaintiff is not waiving any rights she has or may have to: (i) benefits or rights to benefits under any of Defendants' benefit plans that are otherwise applicable to Plaintiff (if any), however, the receipt of funds under the Settlement shall not entitle Plaintiff to any additional compensation or benefits of any kind under any of Defendants' compensation or benefits plans, nor will it entitle Plaintiff to any increased retirement or 401k plan benefits of any kind; (ii) benefits or rights to seek benefits under applicable workers' compensation, or unemployment insurance or indemnification statutes; (iii) claims which by law cannot be waived by signing this Settlement Agreement nor by law in any event; (iv) enforce this Settlement Agreement; or (v) challenge the validity of this Settlement Agreement.

- C. **Plaintiff's PAGA Release.** Plaintiff and her respective former and present spouses, representative, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns general, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the period of April 28, 2019 to present, including but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, worker's compensation benefits that arose at any time, or based on any occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.
- D. **Plaintiff's Waiver of Section 1542 With Respect to Plaintiff's Released Claims.** Plaintiff agrees there is a risk that each and every injury she may have allegedly or actually suffered by reason of the Released Parties' relationship with her might not now be known, and there is further risk that said injuries, whether known or unknown at the date of this Settlement Agreement, might possibly become progressively worse, and that as a result thereof further damages may be sustained by her. Nevertheless, Plaintiff desires to forever and fully release and discharge the Released Parties of all of Plaintiff's Released Claims, and understands that as of the Final Effective Date, no further claims for any of the Plaintiff's Released Claims that existed at the time of the execution of this Settlement Agreement may ever be asserted by her. As of the Final Effective Date, Plaintiff expressly waives and relinquishes all rights and benefits afforded by section 1542 of the Civil Code of the State of California with respect to the Released Claims, and does so understanding and acknowledging the significance of such specific waiver of section 1542. Section 1542 of the Civil Code of the State of California states as follows:

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

Thus, subject to and in accordance with this Settlement Agreement, even if Plaintiff may hereafter discover facts in addition to or different from those she now knows or believes to be true, Plaintiff shall be deemed to have fully, finally, and forever settled and released any and all of Plaintiff's Released Claims against the Released Parties, whether known or unknown, suspected or unsuspected, contingent or non-contingent, that now exist, upon any theory of law or equity, including without

limitation, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

- E. **Release by Aggrieved Employees:** All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.
- F. **Release by PAGA Counsel.** PAGA Counsel releases on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA fees incurred in connections with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.
- G. **Class Counsel's Release of Defendants.** As of the Final Effective Date (as defined below), and upon receipt by Class Counsel of the amounts approved by the Court for Class Counsel's fees and expenses, and except as otherwise provided by this Settlement Agreement, Class Counsel will waive any claim to costs or attorneys' fees or other expenses against Defendants and the Released Parties arising from or related to the Lawsuit, including but not limited to claims based on the California Labor Code, the California Code of Civil Procedure, and any other statute, law, or other legal or equitable authority or theory.

5. Settlement Payment. In exchange for the releases set forth in this Settlement Agreement, Defendant Common Area Maintenance, Inc. agrees to pay Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00) (the "Gross Settlement Amount") in full and complete settlement of this matter, as follows:

- A. Defendant Common Area Maintenance, Inc. will fund the Gross Settlement Amount in full the later of ninety (90) days after the Court's Final Approval or May 24, 2023. The payment shall be made to the Qualified Settlement Fund ("QSF") established by the Settlement Administrator.
- B. **Final Effective Date.** "Final Effective Date" shall mean that full payment of the Gross Settlement Amount is received and the later of: (i) if no timely objections are filed, or are withdrawn prior to Final Approval, then the date of Final Approval; or (ii) if a Class Member files an objection and/or intervenes in the Settlement, the Effective Date shall be the sixty-fifth (65) calendar day after the date of Final Approval, provided no appeal is initiated by an objector and/or intervenor; or (iii) if a timely appeal is initiated by an objector and/or intervenor, then the Effective Date will be the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final judicial approval of the Settlement provided that the final resolution does not result in a material alteration of the terms of this Settlement Agreement. In the event that the Settlement

Agreement is not granted Final Approval, or does not become Final, any funds deposited into the QSF by Defendants shall be returned within fifteen (15) days of a Court Order or other decision denying final approval of the Settlement Agreement.

- C. As of January 18, 2022, Defendants represented that there were approximately 11,451 workweeks during the Class Period. If the actual number of workweeks during the Class Period is more than Ten Percent (10%) greater than 11,451 (i.e., the workweeks are equal to or exceed 12,597), Defendants may choose to have the release period run through the date of preliminary approval or whenever the workweeks are equal to or exceed 12,597, whichever comes first. In the event that the Defendants elect to extend the workweeks beyond the 12,597 workweeks, the Gross Settlement Amount shall be increased by the percentage difference between the 10% increase and the actual increase (i.e., if the number of workweeks increases by 11%, Defendants shall increase the Gross Settlement Amount by 1%).
- D. This is not a “claims made” settlement. This is an all-in, common fund, non-reversionary settlement. The Gross Settlement Amount includes:
- (1) All payments to the Settlement Class, inclusive of the individual employee’s (Class Member’s) share of his/her payroll tax withholdings only;
 - (2) **Third-Party Administration Expenses.** All fees and expenses of the settlement administrator associated with the administration of the settlement not to exceed, Twenty Thousand Dollars and Zero Cents (\$20,000.00);
 - (3) **Enhancement Award for Plaintiff.** Plaintiff may petition the Court to approve an Enhancement Award in an amount up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for Plaintiff’s efforts on behalf of the Settlement Class in this Action, including assisting in the investigation, discovery and consulting with Class Counsel and providing crucial documents to Class Counsel. Defendants shall not oppose any request by Plaintiff for an incentive Award in such an amount. Any Enhancement Award approved by the Court shall be paid to Plaintiff from the Gross Settlement Amount and shall be in addition to any distribution to which she may otherwise be entitled as a Settlement Class Member. The Enhancement Award shall not be considered wages, and the Settlement Administrator shall issue Plaintiff an IRS Form 1099 reflecting such payment. Plaintiff shall be responsible for the payment of any and all taxes with respect to her Enhancement Award and shall hold Defendant harmless from any and all liability with regard thereto. Plaintiff’s Enhancement Award, subject to Court approval, is also in recognition of Plaintiff’s general release of claims including a Civil Code section 1542 waiver. In the event that the Court reduces or does not approve the requested Enhancement Award, the Settlement Agreement remains in full force and effect, and it shall remain binding, and any unapproved amount shall be reallocated among the Class Members who did not opt-out of the Settlement;

- (4) **Class Counsel’s Attorneys’ Fees and Expenses.** As part of the motion for final approval of the Class Settlement, Class Counsel may submit an application for an award of Class Counsel’s Attorneys’ Fees and Expenses with the fee portion not to exceed One-Third of the Gross Settlement Amount (*i.e.*, \$125,000.00) and the award of actual costs and expenses not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00). Defendants agree not to object to any such fee, cost or expense application in those amounts. The amount of Class Counsel’s Attorneys’ Fees and Expenses awarded by the Court shall be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall not constitute payment to any Settlement Class Members; and
- (5) **PAGA Distribution Amount.** Three Thousand Seven Hundred and Fifty Dollars and Zero Cents (\$3,750.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Pursuant to Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Two Thousand Eight Hundred and Twelve Dollars and Zero Cents (\$2,812.00) will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining twenty-five percent (25%), or Nine Hundred and Thirty-Eight Dollars and Zero Cents (\$938.00), will be paid to Settlement Class Members employed during the PAGA Period as the “PAGA Amount” as described below.

Employer’s Taxes. “Employer’s Taxes” shall mean and refer to Defendant Common Area Maintenance Services, Inc.’s share of payroll taxes (e.g. UI, ETT, Social Security and Medicare taxes) owed on the portion of any Class Participants Individual Settlement Amount that constitutes wages as allocated by the terms of this Stipulation. The Employer’s Taxes shall be paid separate and apart from the Gross Settlement Amount.

- E. **Confidential.** This settlement shall remain confidential until the Motion for Preliminary Approval is filed with the Court.

4. **Settlement Payment Procedures.** Settlement Class Members are not required to submit a claim form to receive their individual settlement payment (“Individual Settlement Shares”). Individual Settlement Shares will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for the following: (1) Settlement Administrator’s fees and expenses, (2) Plaintiff’s Enhancement Award, (3) Class Counsel’s attorneys’ fees, costs and expenses, and; (4) the PAGA penalties. The remaining amount shall be known as the “Net Settlement Fund.”
- B. From the Net Settlement Fund, the Settlement Administrator will calculate each Settlement Class Member’s Individual Settlement Share based on the following formula:
 - i. **Settlement Class Members:** Eighty Percent (80%) of the Net Settlement Fund shall be allocated to Settlement Class Members as follows: each

Settlement Class Member shall receive a proportionate settlement share based upon the number of workweeks worked during the Class Period, which shall be determined by multiplying the Net Settlement Fund by a fraction, the numerator of which is the Settlement Class Member's total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all participating Settlement Class Members during the Class Period.

- ii. Wage Statement Amount: Ten Percent (10%) of the Net Settlement Fund shall be designated as the "Wage Statement Amount." Each Settlement Class Member shall receive a share of the Wage Statement Amount proportionate to the number of workweeks worked during the time period May 14, 2019 through the end of the Class Period based on the pro rata number of weeks worked by all Class Members. The Wage Statement Amount for each Class Member shall be calculated by multiplying 10% of the Net Settlement Fund by a fraction, the numerator of which is the Settlement Class Member's gross number of workweeks worked during this period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class Members during this period.
- iii. Waiting Time Amount: Ten Percent (10%) of the Net Settlement Fund shall be designated as the "Waiting Time Amount." Each Settlement Class Member who separated their employment from Defendants at any time from May 14, 2017 through the end of the Class Period shall receive an equal share of the Waiting Time Amount. The total amount designated as "Waiting Time Amount" shall be divided equally among each participating Settlement Class Member who separated their employment from Defendants during this period.
- iv. PAGA Amount: In addition to the Net Settlement Fund, Three-Thousand Seven Hundred and Fifty Dollars and Zero Cents (\$3,750.00) of the Gross Settlement Amount has been designated as the "PAGA Amount" as mentioned above. Each Settlement Class Member who was employed by Defendants at any time from April 28, 2019 through the end of the Class Period shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked during this period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class Member's number of pay periods worked during this time period, and the denominator of which is the total number of pay periods worked by all participating Settlement Class Members during this time period.
- v. For purposes of calculations of each Settlement Class Members' Individual Settlement Share, in order for a week to count as a week worked for a particular Settlement Class Member, Defendants' payroll records must show that that Settlement Class Member worked at least one day during that week. The Settlement Administrator will be solely responsible for

determining each Settlement Class Members' proportionate share of the Net Settlement Amount.

- C. Within thirty (30) days after the Gross Settlement Amount has been fully funded with the Settlement Administrator by Defendant Common Area Maintenance Services, Inc., the Settlement Administrator will calculate Individual Settlement Share amounts and will prepare and mail settlement payments to Settlement Class Members.
- D. For purposes of calculating applicable taxes and withholdings for the Settlement Class Members, Ten percent (10%) of each Individual Settlement Share shall be designated as wages subject to W-2 reporting and normal payroll withholdings; Forty-five percent (45%) of each Individual Settlement Share shall be designated as penalties; the remaining forty-five (45%) of each Individual Settlement Share shall be designated as interest and subject to IRS Form 1099 reporting with no withholdings. Notwithstanding the treatment of the payments to each Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans. Defendants shall have no responsibility for the tax treatment of the non-wage components of the settlement payments.
- E. Settlement payment checks issued to Settlement Class Members that remain uncashed one hundred eighty (180) calendar days after such checks are mailed by the Settlement Administrator ("Check Expiration Date") shall become void, and the funds associated with such voided checks, plus any accrued interest that has not otherwise been distributed (together, "Unused Funds"), shall be distributed to Dress for Success Worldwide West, located at 1933 S. Broadway – 11th Floor, Los Angeles, CA 90007.
- F. The receipt of funds under the Settlement shall not entitle any Settlement Class Member to additional compensation or benefits of any kind under any of Defendants compensation or benefits plans, nor will it entitle any Settlement Class Member to any increased retirement or 401k plan benefits of any kind.
- G. Neither Plaintiff nor Defendants shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Class Counsel's Attorneys' Fees and Litigation Costs.** Defendants will not object to a request for a total award of attorneys' fees to Class Counsel of up to One-Third of the Gross Settlement Amount, which is currently estimated to be One Hundred Twenty-Five Thousand Dollars and Zero Cents (\$125,000.00), plus up to Thirty Thousand Dollars and Zero Cents (\$30,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date;

and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will file an application for attorneys' fees and costs concurrently with its motion for approval of settlement. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court. In the event that the Court reduces or does not approve Class Counsel's requested Fees and Expenses, the Settlement Agreement remains in full force and effect and shall remain binding, and any unapproved amount shall revert to the Net Settlement Fund (although Plaintiff shall retain the right to appeal any reduction in attorneys' fees or costs awarded)

6. **Plaintiff's Enhancement Award.** Defendants will not object to a request for a Class Representative Enhancement Award to Plaintiff in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) in exchange for her general release of her claims and waiver of Civil Code section 1542 with respect to the Released Claims, her time and risks in prosecuting this case, and her service to the Settlement Class. This payment will be in addition to Plaintiff's Individual Settlement Share as a Settlement Class Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Enhancement Award to the Plaintiff is for her service in connection with this Lawsuit and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Enhancement Award and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Enhancement Award does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Enhancement Award constitutes wages for income tax and withholding purposes. Plaintiff agrees to assume the responsibility of remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by Defendants from the Enhancement Award paid under this Settlement Agreement.

7. **Settlement Administrator.** The Parties have agreed to utilize Phoenix Class Action Administration as the third-party Settlement Administrator and will seek Court approval to pay up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) from the Gross Settlement Amount for its services. The Settlement Administrator shall be responsible for sending all required notices, calculating the Net Settlement Fund, calculating each Class Member's Individual Settlement Share amount, preparing all checks and mailings and disbursing all Unused Funds as set forth in Section 4(D). The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount only after checks have been mailed to all Settlement Class Members.

8. Within a reasonable time after execution of the Settlement Agreement, Plaintiff shall submit the Motion for Preliminary Approval of the Class Settlement. Each party shall cooperate to present the Class Settlement to the Court for preliminary approval in a timely fashion.

9. **Notice Procedures.** Following Preliminary Approval, the Settlement Class shall be notified as follows:

- A. Subject to Court Approval, the Class Notice and Notice of Estimated Individual Settlement Share attached hereto as **Exhibit B** and shall be provided in both English and Spanish.

- B. Within twenty-one (21) days after entry of an order preliminarily approving this Settlement Agreement, Defendant Common Area Maintenance, Inc. will provide the Settlement Administrator with a Class List including the names, last known addresses, and social security numbers (in electronic format) of Settlement Class Members, as well as the total workweeks worked by each member of the Settlement Class during the Class Period, workweeks worked since May 14, 2016 through preliminary approval and/or workweeks exceed 12,597 workweeks, whichever comes first.
- C. Within fifteen (15) business days from receipt of the Class List, the Settlement Administrator shall: (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search; (iii) calculate initial estimates of Settlement Class Member’s respective Individual Settlement Shares; and (iv) mail the Notice Packet to each Settlement Class Member at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- D. The Settlement Administrator shall use its best professional efforts, including utilizing a “skip trace,” to track any Settlement Class Member’s mailing returned as undeliverable, and will re-send the Notice Packet promptly upon identifying updated mailing addresses through such efforts. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member.
- E. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member immediately and in any event within three (3) business days of obtaining the updated address. Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion or objection.
- F. **Opt-Out/Request for Exclusion Procedures.** All Settlement Class Members will automatically participate in the Settlement unless they affirmatively opt-out by submitting a timely request for exclusion. Any Settlement Class Member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty-five days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Request for Exclusion: (1) must contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class Member; (2) must be signed by the Settlement Class Member; (3) must contain a statement that the Settlement Class Member wishes to exclude himself or herself from the Settlement Class; and (4) must be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice.
 - ii. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted.
 - iii. Any Settlement Class Member who validly and timely requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement or have any right to object, appeal or comment thereon.
- G. **Objections.** Members of the Settlement Class who do not opt-out may object to this Settlement Agreement by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendants' counsel, and counsel shall file them with the Court). Class Counsel and/or Defendants shall file any responses with the Court on or before the deadline to file the Motion for Final Approval. To be valid, any written objection must (1) contain the objecting Settlement Class Member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class Member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Notwithstanding the foregoing, any Settlement Class Member who does not opt out of the Settlement may appear in person and be heard at the Final Approval Hearing.
- H. **Challenges to Individual Settlement Share Calculations.** Settlement Class Members will have the opportunity, should they disagree with Defendants' records regarding the number of eligible workweeks or other information stated in their Notice Packet, to challenge the data provided. In order to challenge Defendants' data, the Settlement Class Member shall provide documentation and/or an explanation demonstrating that Defendants' data is incorrect and evidencing the correct number of eligible workweeks or other information that the Settlement Class Member believes they should have been credited with. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.

- I. **Dispute Resolution.** The Settlement Administrator shall have the initial responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Individual Settlement Shares, the allocation of W-2 wages, and the number of Eligible Workweeks. Where the information submitted by Defendants from its records differs from the information submitted by the Settlement Class Member, the Settlement Administrator shall communicate with the Settlement Administrator, Class Counsel, and defense counsel to discuss and resolve the dispute, including providing all available relevant information to all counsel. The Parties will resolve all disputes jointly, which shall be final and binding on any Settlement Class Member disputes, and shall thereafter instruct the Settlement Administrator how to proceed in processing the disputed claim. If the Parties cannot reach an agreement, disputes shall be referred to the Settlement Administrator for a final determination and the Settlement Administrator's determination shall be binding upon the Settlement Class Member and the Parties.

10. **Right to Revoke.** Defendants shall have the right, at its sole discretion, to revoke this Settlement Agreement and stipulation (but not the obligation) if ten percent (10%) or more of the members of the Settlement Class timely Opt-Out from the settlement, by communicating that decision to both the Settlement Administrator and Class Counsel within fourteen (14) calendar days of the Response Deadline. Should Defendants exercise their right to revoke, Defendants will be solely responsible for the costs and fees incurred by the Settlement Administrator. Defendants agree that it will not take any actions to encourage or solicit Settlement Class Members to opt-out.

11. **Final Approval Process.** Following Preliminary Approval and the close of Response Deadline, Plaintiff shall apply to the Court for the entry of an Order:

- A. Granting Final Approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate to the Class Members;
- B. Approving Plaintiff's application for Settlement Administrator's fees and expenses, Plaintiff's Enhancement Award, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment; and
- C. Entering judgment pursuant to California Rule of Court 3.769, said judgment shall be posted on the website of the Settlement Administrator for a period sixty (60) days following entry of the judgment.

Plaintiff agrees to provide counsel for Defendants with a draft of the Motion for Final Approval at least two business days prior to filing the same with the Court for Defendants' review.

12. **No Right to Object to or Request Exclusion from the PAGA Settlement.** PAGA Settlement Members shall have no right to object to, opt out of, or otherwise exclude himself or herself from the settlement of the PAGA portion of the Released Claims.

13. **Non-Admission.** Defendants deny that they have engaged in any unlawful activity, that it has failed to comply with the law in any respect, that it has any liability to anyone under the claims

asserted in the Lawsuit, and that, but for this settlement, a class should not be certified in this Lawsuit. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability, fault or wrongdoing by Defendants. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

14. **Amendments or Modifications.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

15. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery or by e-mail at the addresses set forth on below, or such other addresses as the Parties may designate in writing from time to time:

if to Defendants:

Amber S. Healy
Atkinson, Andelson, Loya, Ruud & Romo APC
12800 Center Court Drive South, Suite 300
Cerritos, CA 90703-9364
AHealy@aalrr.com

if to Plaintiff:

Ronald W. Makarem
Makarem & Associates, APLC
11601 Wilshire Blvd., Suite 2440
Los Angeles, CA 90025-1760
Makarem@law-rm.com

16. **Voluntary Agreement.** The Parties acknowledge that they have entered into this Settlement Agreement voluntarily, on the basis of their own judgment and without coercion, duress, or undue influence of any Party, and not in reliance on any promises, representations, or statements made by the other Parties other than those contained in this Settlement Agreement. Each of the Parties hereto expressly waves any right he/it might ever have to claim that this Settlement Agreement was in any way induced by fraud.

17. **Opportunity to Consult with Counsel.** Prior to execution of this Settlement Agreement, each party has read this entire Settlement Agreement and has been given the opportunity to consult

with independent counsel of their choosing and to have such independent counsel advise as to the meaning of this Settlement Agreement and its legal effect.

18. **Authorization to Act.** The signatories hereby represent that they are fully authorized to enter into this Settlement and to bind the Parties hereto to the terms and conditions hereof.

19. **Mutual and Full Cooperation.** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may be reasonably necessary to implement the terms of this Settlement Agreement. The Parties shall use reasonable best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein.

20. **Fair Settlement and Cooperation in Drafting.** The Parties agree that this Settlement Agreement is the result of lengthy, intensive arms-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which that Party has participated in the drafting of this Settlement Agreement.

21. **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 Agreement 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 Agreement, or with respect to any such matters that would alter or change the terms of this Settlement Agreement. No representations, warranties, or inducements have been made to any party concerning this Settlement Agreement other than those expressly set forth or referred to herein.

22. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Settlement Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court may award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken and based on an alleged violation of any material term of the Settlement Agreement.

23. **Settlement Agreement Binding on Successors.** This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors in interest of each of the Parties.

24. **Meet and Confer Regarding Disputes.** Should any dispute arise among the Parties or their respective counsel regarding the implementation or interpretation of this Settlement Agreement, a representative of Class Counsel and defense counsel shall meet and confer in good faith in an attempt to resolve such disputes prior to submitting such disputes to the Court.

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

26. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof.

27. **Counterparts and Fax or Electronic Signatures.** This Settlement Agreement may be executed by the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

28. **No Collateral Attack.** This Settlement Agreement shall not be subject to collateral attack by any Settlement Class Member or any recipient of the Class Notice after the Final Effective Date. Such prohibited collateral attacks shall include but not be limited to claims that the Settlement Class Member failed for any reason to receive timely notice of the procedure for disputing the calculation of her or his Individual Settlement Shares.

29. **Governing Law.** This Settlement Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

EXECUTION BY PARTIES AND COUNSEL:

DATED: Nancy Garcia

By: _____
Plaintiff and Settlement Class Representative

DATED: David Herrera

By: _____
Defendant

DATED: CAM PROPERTY SERVICES, INC.

By: _____
By: David Herrera
Its: President

DATED: MAKAREM & ASSOCIATES, APLC

By: Cameron Stewart
Ronald Makarem
Cameron Stewart
Attorneys for Plaintiff and the Class

APPROVED AS TO FORM:

DATED: ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: _____
Amber S. Healy
Attorneys for Defendants