

## **RELEASE AND SETTLEMENT AGREEMENT**

This Release and Settlement Agreement (“Agreement”) is made and entered into by and between Plaintiff Josephina Valdez (“Plaintiff”), individually and on behalf of the Class set forth herein, and Defendants PRO Unlimited, Inc. (“PRO”) and Genentech USA, Inc. (“Genentech”) (PRO, Genentech, and the parties released by this Agreement shall be referred to as “Defendants”). Plaintiff and Defendants are collectively referred to as the “Parties.” The Parties hereby agree that the Action as defined and described below shall be settled on the terms and conditions set forth herein and that this Agreement is intended to be a full and final resolution of the Action and Released Claims as detailed below.

A. WHEREAS, on February 27, 2019, the Plaintiff filed a Complaint entitled *Josephina Valdez, an individual, on behalf of herself and all others similarly situated v. PRO Unlimited, Inc., a New York corporation; PRO Unlimited Global Solutions, Inc., a Delaware corporation; Genentech USA, Inc., a Delaware Corporation; and Does 1 through 10, inclusive*, in the San Francisco County Superior Court, Case No. CGC-19-574146. Plaintiff filed a First Amended Complaint on April 24, 2019, which is the operative complaint. The original Complaint and First Amended Complaint will be referred to herein as “Action”. In the Action, Plaintiff alleges eight causes of action against Defendants and Does 1 through 10, for: (1) failure to pay regular wages (Cal. Labor Code §§ 216, 218.5, 227.3); (2) failure to pay overtime wages (Cal. Labor Code §§ 510, 1194, 1198); (3) failure to pay all wages due upon termination (Cal. Labor Code §§ 201-203); (4) failure to provide meal periods (Cal. Labor Code §§ 512, 226.7, and the applicable Wage Order); (5) failure to authorize and permit rest periods (Cal. Labor Code § 226.7 and the applicable Wage Order); (6) failure to furnish timely and accurate wage statements (Cal. Labor Code § 226); (7) violation of California’s Unfair Competition Law (“UCL”) (Cal. Bus. & Prof. Code § 17200 *et seq.*); and (8) violation of Private Attorneys General Act (“PAGA”) (Cal. Labor Code § 2698 *et seq.*). The Action was pleaded by Plaintiff on her own behalf, as well as on behalf of all current and former hourly-paid or non-exempt employees of Defendants who worked in California at any time from February 28, 2015 to final judgment, as Pharma/Biotech/Med also referred to as Consultant Case Manager or a position with similar duties and/or job titles (collectively “Covered Positions”). Plaintiff seeks the recovery of damages, restitution, equitable/injunctive/declaratory relief, liquidated damages, statutory penalties, civil penalties, interest, costs, and attorneys’ fees.

B. WHEREAS, on October 9, 2019, the Court granted the Parties’ Stipulation to dismiss without prejudice defendant PRO Unlimited Global Solutions, Inc. because it did not employ Plaintiff or any of the putative class members.

C. WHEREAS, the Parties participated in a mediation session with respected mediator Tripper Ortman on January 10, 2020, where the Parties entered into a Memorandum of Understanding to settle this Action and which contains the essential terms of a settlement agreement, subject to execution of this Release and Settlement Agreement and approval by the San Francisco County Superior Court.

D. WHEREAS, Plaintiff is represented in the Action by David Markham, Maggie Realin, and Lisa Brevard of The Markham Law Firm, 750 B. Street, Suite 1950, San Diego, CA 92101, and Walter Haines of United Employees Law Group, 5500 Bolsa Avenue, Suite 201, Huntington Beach, CA 92649 (collectively, “Class Counsel”).

**E.** WHEREAS, Defendant PRO is represented by Alison Tsao, Leah Cameron, and Candace DesBaillets of Carothers DiSante & Freudenberger LLP, 600 Montgomery St., Ste. 440, San Francisco, CA 94111; Defendant Genentech is represented by Jessica Perry and Hannah Ghaffari of Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, CA 94025 (collectively “Defendants’ Counsel”).

**F.** WHEREAS, Defendants deny all of the allegations in the Action. Notwithstanding, in the interest of avoiding further litigation, Defendants desire to fully and finally settle the Action and Released Claims.

**G.** WHEREAS, in order to avoid the expense of further litigation, and the uncertainty as to any recovery, the Parties wish to effectuate a full and complete resolution of the Action as set forth in this Agreement.

**H.** WHEREAS, the Parties acknowledge that the execution of this Agreement is the result of compromise and negotiations between the Parties, that this Agreement is entered into in good faith by the Parties, and that this Agreement shall never be considered at any time or for any purpose as an admission of liability by Defendants.

**I.** WHEREAS, Plaintiff represents that she is satisfied that Class Counsel have used their best efforts to pursue and resolve her claims against Defendants in a manner that is fair to her; and WHEREAS, Plaintiff represents that she has been provided the opportunity to discuss all aspects of her claims and those asserted in the Action, as well as this Agreement, with Class Counsel, and understands that she is waiving significant legal rights by signing this Agreement, and enters into this Agreement voluntarily, with a full understanding of, and agreement with, all of its terms.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises made by Plaintiff, on the one hand, and Defendants, on the other hand, as more fully detailed below, the Parties agree as follows:

### **1. Parties**

**1.1** Defendants as referenced herein and as released in the settlement will include PRO Unlimited Global Solutions, Inc. (“PUGS”), PRO Unlimited, Inc., Genentech USA, Inc., and their present and former officers, directors, members, managers, employees, shareholders, agents, parents, subsidiaries, insurers and reinsurers, attorneys, accountants, auditors, operators, partners, joint venturers, successors, or assignees (hereafter “Released Parties”).

**1.2** For purposes of the settlement set forth herein only, the Parties agree that the San Francisco County Superior Court shall certify a settlement class as set forth below (the “Class”) for settlement purposes only. The members of the Class are referred to in this Agreement as the “Class Members.” The “Class Period” shall mean the period from February 28, 2015 through the date of preliminary approval of this Agreement by the Court. The Parties

agree to the designation of all counsel of record for Plaintiff in this case, "Class Counsel," as counsel for the Settlement Class Members.

**1.3** For purposes of the settlement set forth herein only, the Parties agree that the Court shall certify one Class defined as follows:

All persons who are or have been employed by Defendants as non-exempt hourly employees in the State of California between February 28, 2015 and the date of preliminary approval of this Agreement by the Court, who worked for Defendants as Pharma/Biotech/Med also referred to as Consultant Case Manager in California or a position with similar duties and/or job titles.

**2. Class Certification for Settlement Purposes Only**

For purposes of the settlement set forth herein only, Plaintiff contends and Defendants will not dispute the elements for certifying the Class. In the event the settlement is not approved by the Court and/or final judgment is not entered by the Court, this Agreement, inclusive of this Section, shall be rendered null and void.

**3. No Admission of Liability**

By this Agreement, no party admits any wrongdoing, fault, responsibility or liability, whether for acts or omissions asserted in the Action or that could have been asserted in any litigation or otherwise, and this Agreement and the payment of any monetary consideration shall not be construed to be an admission of wrongdoing, fault, responsibility or liability by any party. In particular, Defendants contend that they properly and timely paid Class Members for all compensable hours worked including accurate payments of any overtime compensation earned, provided accurate and proper pay stubs, provided legally compliant meal and rest periods, and paid all wages due and owing upon termination.

**4. Consideration**

**4.1** The Plaintiff and Class Counsel have conducted necessary discovery and performed a thorough analysis of the law and facts relating to the claims asserted in the Action. Based upon their investigation and discovery, and taking into account the sharply contested issues, the expense and time necessary to pursue the Action through certification and trial, the risks and costs of further prosecution of the Action, the uncertainties of complex litigation, the prior experience of Class Counsel in similar cases, and the substantial benefits to the Class Members, the Plaintiff and Class Counsel believe that a settlement with Defendants on the terms set forth herein is fair, reasonable, and adequate and in the best interest of the Class Members. Plaintiff, on her own behalf and on behalf of the Class Members, has agreed to settle the Action on the terms set forth herein.

**4.2** In addition to the other covenants, promises and agreements documented in this Agreement, Defendants agree to pay the amount of Four Hundred Thirty Eight Thousand U.S. Dollars and Zero Cents (\$438,000.00) ("Gross Settlement Amount"), which is an all-in amount with no reversion of any amount to Defendants. The Gross Settlement Amount represents the absolute maximum (and minimum) amount Defendants shall be required to pay

toward the settlement of the Action. The Gross Settlement Amount shall be divided between the Class and shall be used to cover all payments in connection with settlement of the Action, including payments to Class Members and payments toward all federal, state, local, or other employer and employee required payroll taxes; civil penalties to the Labor Workforce Development Agency (“LWDA”) and Class Members for PAGA claims; administration costs of the Settlement Administrator (defined in Section 10); attorneys’ fees and costs of Class Counsel (as defined in Section 7); and an enhancement payment to the Class Representative (as defined in Section 8). The Gross Settlement Amount shall be deposited into an account from which all amounts required under the Settlement Agreement shall be paid. This amount may be referred to herein as the “Settlement Fund.” Payment of the Gross Settlement Amount by Defendants is strictly for the purpose of compromising disputed matters and shall not be construed as compensation for purposes of determining eligibility for any employee benefit provided by Defendants or by law, including but not limited to vacation, holiday, sick leave, 401(k) deferred or matching funds, or other health and welfare benefit. The net amount of the Gross Settlement Amount remaining after payment of administration costs, civil penalties paid to the LWDA to settle the claims under PAGA, attorneys’ fees and costs, and the enhancement award (the “Net Settlement Amount” or “NSA”) shall be paid to Class Members as wages (including the employer and employee payroll taxes), interest, statutory penalties, and civil penalties in accordance with the terms of this Agreement.

#### **5. Effective Date**

“Effective Date” means the date that is the later of (a) if there are no objections or objections are withdrawn prior to the Court’s entry of an order and judgment finally approving this Agreement, then the date of entry by the Court of an order and judgment finally approving this Agreement, or (b) if there are objections to the settlement which are not withdrawn prior to entry by the Court of an order and judgment finally approving this Agreement: (i) expiration of all potential appeal periods without a notice of appeal being filed of the final approval order or judgment (i.e. the sixty-first day after service of the notice of entry of judgment); (ii) final affirmance of the final approval order and judgment by an appellate court as a result of any appeal(s), or final dismissal or denial of all such appeals (including any petitions for review, rehearing, certiorari, etc.); (iii) final disposition of any supplemental or subsequent proceedings in the Action, resulting from any appeal(s) which affirm and make final the final approval order and judgment.

#### **6. Settlement Relief & Payments to Class Members**

**6.1** Each Class Member who does not opt out (“Participating Class Members”) will receive a share of the Net Settlement Amount (“Settlement Share”). Settlement Shares will be determined as follows:

- a. “Individual Workweeks” will be the total number of weeks worked by an individual who was employed, or is employed, by Defendants as a Class Member, according to Defendants’ records. “Weeks worked” refers to any work week where the individual worked any day of that week, but does not include leaves of absence (if any).

- b. "Total Workweeks" will be the total of all Participating Class Members' Individual Workweeks, i.e., the number of weeks worked as a Class Member, according to Defendants' records.
- c. "Settlement Share" will be based on a ratio of the Total Workweeks to the Individual Workweeks, calculated by dividing the Individual Workweeks of a Participating Class Member by the Total Workweeks and multiplying this result by the Net Settlement Amount.

**6.2** Participating Class Members must cash or deposit their Settlement Share checks within one hundred eighty (180) calendar days after the checks are mailed to them ("Check Cashing Deadline"). If any checks remain uncashed or not deposited by the Check Cashing Deadline, then the Settlement Administrator will pay the funds represented by such unredeemed checks to the California Controller's Office Unclaimed Property Division, within ten (10) calendar days of the Check Chasing Deadline, with an identification of the Participating Class Member to whom the funds belong. In that event, any Participating Class Member who fails to cash or deposit a check will nevertheless be bound by the terms and releases of this Settlement.

**6.3** Tax Treatment of the Settlement Payments: The individual settlement payments to Participating Class Members shall be apportioned as 50% for unpaid wages subject to reduction for income tax withholdings and payroll taxes (and to be reported on IRS Form W-2) and 50% to interest and civil and statutory penalties not subject to reduction for withholding or taxes (and to be reported on IRS Form 1099). The Parties each understand, agree and intend that the Settlement Fund will qualify and be characterized as a Qualified Settlement Fund ("QSF"), that the Settlement Fund will be taxed as a separate entity for purposes of all federal, state and local taxes, that they will treat the QSF on a basis consistent therewith, that the Settlement Fund will be characterized as the employer of all Participating Class Members for purposes of determining all tax obligations associated with any and all payments out of the Settlement Fund, and the Settlement Fund will bear full responsibility for all taxes associated with the Settlement Fund and settlement payments to Participating Class Members under the terms of this Agreement. The Settlement Administrator shall be responsible for ensuring that all taxes associated with the Agreement are timely paid to the appropriate tax authorities and for the filing of all Federal, state and local employment tax returns, income tax returns, and any other tax returns associated with employer and employee or other taxes associated with the payments to Class Members. As required by law, the Settlement Administrator shall be solely responsible for timely issuing an appropriate IRS Form W-2 to each Participating Class Member for the wages portion of his or her settlement payment, any required IRS Form 1099 for the interest and civil/statutory penalty portion of his or her settlement payment, and complying with any tax obligations of the Settlement Fund under Federal, state and/or local law. To verify the Settlement Administrator's compliance with the foregoing withholding and reporting requirements, as soon as administratively practicable, the Settlement Administrator shall furnish Defendants with copies of all tax returns and information returns filed by the Settlement Fund (including all 1099 and W-2 information returns), and a final accounting adequate to demonstrate full compliance with all tax withholding, payment, and reporting obligations. In addition, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this sub-paragraph. Such elections shall be made in compliance with the

procedures and requirements contained in applicable QSF regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver all necessary documentation for signature, as may be required, and thereafter to cause the appropriate filing of such documentation to occur. To the extent that, for any period of time, the Settlement Fund is not treated as a QSF by any party for any purpose, the Settlement Administrator shall promptly notify Class Counsel and Counsel for Defendants of that fact.

**6.4 Tax Liability:** Plaintiff, Class Counsel, Defendants, and Defendants' Counsel make no representations or warranties as to the tax consequences, treatment, or legal effect of any payments made under this Settlement Agreement, do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied on as such. Plaintiff and Class Members understand and agree that, except for Defendants' payment of the Employer Taxes, Plaintiff and Class Members will be solely responsible for correctly characterizing any compensation received under the settlement on his/her personal income tax returns and paying any and all taxes due for any and all amounts paid to them under the settlement.

**6.5 No Liability for Disbursements Related to the Settlement Fund:** Neither Defendants, Defendants' Counsel, Plaintiff, or Class Counsel shall have any responsibility or liability whatsoever with respect to the distribution of the Settlement Fund, the determination, administration, calculation or payment of claims, the payment, withholding, reporting and/or filing of any taxes related to the Settlement Fund, the payment of any taxes, distribution of residual settlement funds, or any losses incurred in connection with the foregoing. No person shall have any claim against Plaintiff, Class Counsel, the Settlement Administrator, Defendants, or Counsel for Defendants based upon the distributions made substantially in accordance with this Agreement, the allocation of the Settlement Fund among Class Members hereunder, and/or further orders of the Court.

## **7. Attorneys' Fees and Costs**

In consideration for settling this matter and in exchange for the release by the Class Members, and subject to final approval by the Court, Defendants agree not to oppose or impede a total award of attorneys' fees to Class Counsel ("Attorneys' Fees") in an amount not exceeding 33% of the Gross Settlement Amount, or \$144,540.00, to compensate and reimburse Class Counsel for all of the work already performed by Class Counsel in the Action and all of the work remaining to be performed by Class Counsel in securing approval of the settlement, and making sure that the settlement is fairly administered and implemented. Defendants further agree that Class Counsel also may be awarded a sum of up to \$25,000.00 to cover actual out-of-pocket costs as requested and supported as part of the final approval motion. Except as provided in this section, Plaintiff, Class Members and Defendants shall bear his, her, or its own attorneys' fees and costs. No attorneys' fees shall be paid or awarded to any Class Member who chooses to retain his or her own personal counsel. All amounts awarded as attorneys' fees or costs under this Agreement shall be paid by the Settlement Administrator out of the Gross Settlement Amount. The allowance, disallowance, or modification by the Court of the application of Class Counsel for an award of attorneys' fees and costs is not part of this Agreement and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. Any order or proceedings relating to the

attorneys' fee application by Class Counsel, or any appeal from any order relating thereto or modification or reversal thereof, shall not operate to terminate or cancel the Agreement, or affect or delay the finality of any order of final approval and judgment entered by the Court. Any amount disallowed by the Court in awarding Class Counsel's Attorneys' Fees shall be made part of the NSA.

#### **8. Class Representative Enhancement Award**

Defendants shall not contest a request by Plaintiff Josephina Valdez that the Court award her an enhancement award of up to \$7,500.00 to be paid by the Settlement Administrator from the Gross Settlement Amount for the time and effort Plaintiff expended in her role as a class representative. Any amount requested for an enhancement award by the Plaintiff that is not awarded by the Court shall be made part of the NSA. The enhancement award shall be reported on an IRS Form 1099.

#### **9. General Release of Plaintiff's Individual Claims**

Plaintiff Josephina Valdez also agrees, that if the settlement is granted preliminary and final approval by the Court, commencing from the date of her execution of the Agreement, she agrees to generally release all claims she may have against Defendants and the Released Parties, including but not limited to those encompassed by the Released Claims described in Section 21.1 of this Agreement. As of the Effective Date, Plaintiff Josephina Valdez generally releases and forever discharges the Released Parties (as defined in Section 1.1) from any and all claims, actions, causes of action, sums of money due, attorneys' fees and costs, suits, debts, covenants, contracts, agreements, promises, demands, employee benefits, civil penalties, statutory penalties or other amounts, or liabilities whatsoever, whether known or unknown, which she has ever had, now have, or might in the future have, for any conduct (including alleged omissions) arising between her and the Released Parties through the date final judgment is entered in the Action. This release includes, but is not limited to, (1) violation of Title VII of the Civil Rights Act of 1964; (2) violation of any order or regulation issued by the California Industrial Welfare Commission; (3) violation of the Fair Employment and Housing Act; (4) violation of the California Constitution; (5) violation of the Americans with Disabilities Act; (6) violation of the California Labor Code including claims arising under the Private Attorneys General Act ("PAGA"); (7) breach of contract; (8) wrongful termination or other tort; and (9) violation of California Business and Professions Code section 17200 *et seq.*, which have been or could have been brought against the Released Parties. This release specifically includes a waiver of all claims, known or unknown, to the greatest extent permitted by California Civil Code section 1542, 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."**

Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all Released Parties by Plaintiff, Plaintiff expressly acknowledges that this Agreement is intended to include in its effect, without limitation, all of Plaintiff's claims that Plaintiff does not know or suspect to exist in her favor against the Released Parties at the time of execution hereof, and that this Settlement Agreement contemplates the extinguishment of any such claims.

**10. Cost of Settlement Administrator**

The Parties have selected CPT Group, Inc. ("Settlement Administrator") to act as Settlement Administrator in this Action. The Settlement Administrator shall acknowledge that it has fiduciary obligations to the Class Representative, the Class, and Defendants. The Settlement Administrator shall attest that it will not allow any disbursements to be made from the Settlement Fund, except as expressly authorized by this Agreement or as ordered by the Court. The Settlement Administrator's cost to perform all necessary settlement administration duties is estimated to be \$11,750. These administration duties shall include, without limitation, mailing notices; performing address updates and verifications as necessary prior to the first mailing; performing a single address follow-up on any returned mail; posting settlement documents on a settlement website; the calculation, processing, and mailing of all Class Member settlement checks and tax forms to the Class Members and tax authorities, and responding to Class Member inquiries as necessary. All administration costs approved by the Court shall be paid out of the Gross Settlement Amount. If the costs of administration are less than \$11,750, the difference shall be included within the Net Settlement Sum to be distributed to Class Members and pay the employer's share of payroll taxes. If the costs of administration are greater than \$11,750, the amount that exceeds \$11,750 will be deducted from the Gross Settlement Amount, subject to the Parties' and the Court's approval.

**11. PAGA Penalties**

A total amount of \$30,000 will be allocated from the Gross Settlement Amount for payment of civil penalties under the Private Attorneys General Act (PAGA). Of that amount, seventy-five percent (75%), or \$22,500, shall be paid to the California Labor and Workforce Development Agency, no later than fifteen (15) calendar days after the Settlement Fund is deposited with the Settlement Administrator following the Effective Date of this Agreement. The remaining twenty-five percent (25%) or \$7,500 will be part of the Net Settlement Amount and distributed to participating Class Members as described in this Agreement. Class Counsel will take all action required by California Labor Code section 2699(l), and provide confirmation of same to Defendants' counsel at the time Class Counsel submits their Motion for Preliminary Approval.

**12. No Tax Advice Provided by Class Counsel or Defense Counsel**

Neither Class Counsel nor Defense Counsel intends anything contained herein (or in any other document pertaining to the Action) to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall it be relied upon as such. The tax issues for each Class Member are unique, and each Class Member is advised to obtain tax advice from his or her own tax advisor with respect to any payments resulting from this settlement.

**13. Prerequisite to Establishing Settlement Fund**

Prior to Defendants' deposit of any monies into the Settlement Fund, the Class Representative and Class Counsel agree to deliver to Counsel for Defendants an original and/or counterparts of this Agreement fully executed by Josephina Valdez and Class Counsel.

**14. Settlement Funding**

Within forty-five (45) calendar days after the Effective Date, PRO will deposit the sum of Four Hundred Thirty-Eight Thousand U.S. Dollars (\$438,000.00), with the Settlement Administrator. The Settlement Administrator shall place said amount in an account or accounts that is/are not market-dependent and that are federally guaranteed or federally insured to maintain the principal without any risk of loss whatsoever. All funds held by the Settlement Administrator shall remain subject to the jurisdiction of the Court until such time as such funds shall be disbursed pursuant to this Agreement and/or further order(s) of the Court. In no event shall the Settlement Administrator disburse any portion of the Settlement Fund before the Effective Date, and the Settlement Administrator shall transmit payment of court approved attorneys' fees and costs to Class Counsel, court approved enhancement award to Plaintiff, and settlement payments to Participating Class Members within sixty (60) calendar days of the Effective Date. The Settlement Administrator shall take payment of its administration costs within sixty (60) calendar days of the Effective Date. Under no circumstances shall the Settlement Administrator make any disbursement to Participating Class Members from the Settlement Fund until all timely and valid disputes and opt-out requests have been processed and accounted for and the obligations set forth herein have been satisfied. The Settlement Administrator shall make all required payments in accordance with the provisions of this Agreement or pursuant to any superseding Court order. Settlement Payments collectively paid to all Class Members shall not exceed the balance of the Net Settlement Amount.

**15. Resolution of Claim Disputes**

Class Members will have an opportunity to dispute the information provided in their Notice Packets. To the extent Class Members dispute the number of Workweeks on record, Class Members may produce evidence, such as payroll and/or human resources documents, to the Settlement Administrator showing that such information is inaccurate, within thirty (30) days after the Response Deadline, defined below. No Class Member may increase the size of his or her settlement payment by arguing that the Defendants' records are incorrect without providing documentation corroborating his or her position. The Settlement Administrator will decide the dispute and its decision shall be final, unless the Class Member appeals the decision to the Court. Defendant's records will be presumed correct, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and will make the final decision as to the merits of the dispute. All disputes will be decided within ten (10) business days upon receipt of the Class Member's dispute of his or her workweek information. The Settlement Administrator will notify the Class Member in writing by mail once a determination has been made on Class Member's dispute. If the Class Member submitted the dispute by email, the Administrator will also notify the Class Member of the determination by email. In the event that a Class Member appeals the decision of the Settlement Administrator to the Court, the Class Member must submit the appeal and any paperwork in support of the appeal at least ten (10) days prior to the final approval hearing, so that the Court may resolve any appeal at the final approval hearing.

**16. Right to Rescission**

Notwithstanding any other provision of this Agreement, Defendants will have, in their sole discretion, the right to void and withdraw from the Settlement if, at any time prior to Final Approval, ten percent (10%) or more of the Class Members opt out of the Settlement pursuant to Section 20 below. All signatories and their counsel agree not to encourage Opt-Outs. Class Counsel specifically agrees not to solicit Opt-Outs, directly or indirectly, through any means. The Named Plaintiff hereby agrees not to opt out. In the event of such a rescission, the fact that the Parties agreed to settle this case, the settlement documents and any communications regarding settlement shall not be admissible in any proceeding.

**17. Non-Approval of the Agreement**

If the Court should for any reason (a) not approve this Agreement, or (b) not enter a final approval order and judgment on this Agreement, or if (c) the final approval order and judgment is reversed, modified or declared or rendered void by a court of competent jurisdiction, then this Agreement shall be considered null and void, and neither this Agreement, nor any of the related negotiations or proceedings, shall be of any force or effect, and 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.

**18. Invalidation**

Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable. Invalidation of any material portion of this Agreement shall invalidate this settlement in its entirety, unless the Parties shall subsequently agree in writing, signed by their counsel of record, that the remaining provisions of the Agreement are to remain in full force and effect. However, if the Net Settlement Amount is paid out to Participating Class Members, the release set forth herein shall remain valid and binding against Class Members.

**19. Notification to the Class**

Within fifteen (15) calendar days after preliminary approval of this Agreement by the Court, Defendants will provide, via password protected means, to the Settlement Administrator all of the following information about each individual employed by Defendants who meet the Class Definition set forth in Section 1.3, in a format requested by the Settlement Administrator: (1) name; (2) last known mailing address; (3) social security number (specifically for purposes of conducting any necessary skip tracing of undelivered notices/packets, and performing tax reporting duties); (4) hire and termination dates, as applicable; and (5) number of work weeks as defined in Section 6.1(a). The Settlement Administrator will maintain the private information in a secure, password protected format and perform address updates and verifications as necessary prior to the first mailing. Within (30) calendar days of preliminary approval of the Court, the Settlement Administrator will send a Notice of Proposed Class Action Settlement (“Notice”) which will include an explanation of the process for opting out or objecting, attached as **Exhibit A** (to be drafted jointly by the Parties and approved by the Court) to each Class Member by first

class mail. The Settlement Administrator will perform one address follow-up on returned mail, and will re-mail Notices to an updated address (if any) within five (5) business days of receipt of the returned mail. The Parties intend that reasonable, but not extraordinary, means be used to locate Class Members. The Settlement Administrator will perform one skip-trace search for a more current address of the Class Member using the Class Member's social security number if the Notice is returned. If no address is found, no further action is required.

## **20. Settlement Administration Process**

**20.1** The Response Deadline means the deadline by which Class Members must postmark, email or fax to the Settlement Administrator Requests for Exclusion and Objections. The Response Deadline shall be sixty (60) calendar days from the date the Notice are first mailed by the Settlement Administrator unless the sixtieth (60th) calendar day falls on a Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline is extended from the date of remailing by the equivalent amount of time which has elapsed in the sixty (60) day period at the time of remailing if the Notice is returned as undeliverable, and the Settlement Administrator locates an updated address by performing the skip-trace search as described in paragraph 19, above (i.e. if an updated address is located and the Settlement Administrator re-mails the Notice on the fifteenth (15th) day of the sixty (60) day notice period, the Response Deadline for the Class Member will be extended by fifteen (15) days).

**20.2** Participating Class Members are all entitled to a Settlement Share. The Settlement Administrator shall be responsible for issuing the settlement payments and taking care of all required tax reporting. If requested by any party or the Court, the Settlement Administrator shall provide proof of payment to the Court.

**20.3** Opt-Outs not postmarked, emailed or faxed to the Settlement Administrator by the Response Deadline are untimely and not valid. A person wishing to opt out must state in writing his or her name, address and telephone number, must include the case name and/or case number, and must state that he or she wishes to be excluded from the settlement. Substantial compliance with this provision that contains the signature of the person wishing to opt out is sufficient, so long as the opt-out is timely. The Settlement Administrator will notify the Parties within three (3) business days of any opt-out received so that the Parties may review for substantial compliance and notify the Class Member of a deficiency if the opt-out cannot be accepted, if applicable. The Settlement Administrator shall notify the Class Member of the deficient opt-out, within three (3) business days of notification by the Parties that the opt-out cannot be accepted, if applicable. In this event, the Class Member shall have an additional amount of time to correct the deficient opt-out as has elapsed between the time the deficient opt-out was received by the Settlement Administrator and the time that the Class Member is notified of the deficiency (i.e. if seven (7) calendar days have elapsed between the time that the Settlement Administrator received the deficient opt-out and the time the Settlement Administrator sent notification of the deficiency, then the Class Member will have seven (7) calendar days added to the Response Deadline as specified in Paragraph 20.1). The Settlement Administrator will notify the Class Member of the deadline to timely correct the deficiency. The Settlement Administrator will notify the Class Member in writing by mail, and if the Class Member submitted the opt-out by email, the Administrator will also notify the Class Member of

the deficiency by email. At least twenty (20) court days prior to the final approval hearing, the Settlement Administrator will apprise Class Counsel and Defendant's Counsel of which Class Members have timely opted out. Any timely and valid opt-outs received will be filed as an exhibit to Class Counsel's and/or the Settlement Administrator's declaration in advance of the final approval hearing.

**20.4** All objections must be postmarked, emailed or faxed to the Settlement Administrator by the Response Deadline. The Settlement Administrator shall distribute all objections within one (1) business day of receipt to Class Counsel and Defendants' Counsel. Any timely and valid objections received will be filed as an exhibit to Class Counsel's and/or the Settlement Administrator's declaration in advance of the final approval hearing. Class Members who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the settlement, unless otherwise ordered by the Court. Only Class Members who do not opt out (i.e. Participating Class Members) may file objections. If a Class Member both objects to and opts out of the Settlement, the opt out will be deemed valid and the objection will be deemed invalid. If the Court grants final approval of the Settlement, any Class Member who submits a timely objection shall be bound by the terms of this Agreement. Class Counsel and Defense Counsel may, at least (5) court days (or such other number of days as the Court may specify) before the final approval hearing, file responses to any written objections filed with the Court. Objecting Class Members need not appear to have their objection considered. Class Members may appear in person at the final approval hearing to voice their objections, if any, to the Settlement, whether or not they submit a written objection.

**20.5** To state a valid objection, a Class Member must provide the following information in the objection: (a) the full name, address and telephone number of the Class Member; (b) a written statement of all grounds for the objection; (c) proof of membership in the Class; and (d) the signature of the Class Member or his/her counsel. Any objection to the requested attorneys' fees and/or costs must also comply with this provision. Substantial compliance with this provision that contains the signature of the person wishing to object and/or his or her counsel is sufficient, so long as the objection is timely. The Settlement Administrator will notify the Parties of any objection received (within one (1) business day as specified in Paragraph 20.4) so that the Parties may review for substantial compliance and notify the Class Member of a deficiency if the objection cannot be accepted, if applicable. The Settlement Administrator shall notify the Class Member of the deficient objection within three (3) business days of notification by the Parties that the objection cannot be accepted, if applicable. In this event, the Class Member shall have an additional amount of time to correct the deficient objection as has elapsed between the time the deficient objection was received by the Settlement Administrator and the time that the Class Member is notified of the deficiency (i.e. if seven (7) calendar days have elapsed between the time that the Settlement Administrator received the deficient objection and the time the Settlement Administrator sent notification of the deficiency, then the Class Member will have seven (7) calendar days added to the Response Deadline as specified in Paragraph 20.1). The Settlement Administrator will notify the Class Member of the deadline to timely correct the deficiency. The Settlement Administrator will notify the Class Member in writing by mail, and if the Class Member submitted the objection by email, the Administrator will also notify the Class Member of the deficiency by email.

## **21. Release By The Class**

**21.1** Upon entry of the final approval order and judgment, each Class Member who has not submitted a valid request for exclusion hereby releases Defendants, Released Parties, from any and all claims, causes of action, damages, civil and statutory penalties, interest, fines, debts, liens, liabilities, demands, obligations, attorneys' fees, costs, and any other form of relief or remedy in law or equity, whether known or unknown, suspected or unsuspected that existed or came into existence between February 28, 2015 and the date of preliminary approval of this Agreement by the Court, that were or could have been alleged based on the facts and claims pleaded in the Complaint, First Amended Complaint, and/or the LWDA Letter sent by Plaintiff on February 14, 2019, including but not limited to all claims for unpaid straight and overtime wages including but not limited to any "off-the-clock" work, time Class Members were "booting up" their computers, pre-shift or post-shift work, time Class Members were logged into any Finesse system or similar computer/phone systems for which they were not paid, meal premiums for failure to provide compliant meal periods, rest premiums for failure to provide compliant rest periods, failure to provide and maintain accurate itemized wage statements, failure to pay all wages owed at time of termination, civil penalties (under the Labor Code or PAGA), statutory penalties, waiting time penalties, all statutory and common law causes of action referenced in the Action and corresponding provisions of the applicable Industrial Welfare Commission Wage Orders, including but not limited to (i) Labor Code sections 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 226, 226(a), 226.3, 226.7, 227.3, 510, 558, 512, 1174, 1194, 1194(a), 1197, 1198, and 2698 *et seq.* (PAGA) (ii) failure to pay wages (including but not limited to overtime, double time, straight time, minimum wage, and/or off-the-clock time), (iii) failure to provide meal and rest break and associated premium payments, (iv) failure to provide and maintain accurate and itemized wage statements, (v) final pay, (vi) waiting time penalties, (vii) restitution, (viii) disgorgement, (ix) injunction, (x) civil penalties, (xi) statutory penalties, (xi) liquidated damages, (xii) any cause of action or claim under Business and Professions Code sections 17200, *et seq.* as it relates to the underlying Labor Code claims, (xiii) interest, (xiv) 29 C.F.R. 785.13, and (xv) costs and attorneys' fees ("Released Claims").

**21.2** In order to achieve a full and complete release of Defendants (and the Released Parties as defined in Section 1.1 above), execution of this Agreement by the Class Representative is intended to effectuate a release by each Participating Class Member (which includes any legal heirs and/or successors-in-interest of each Participating Class Member) and is intended to include in its effect all Released Claims as defined in Section 21.1 above as to all Participating Class Members.

**21.3** As to the Released Claims, Plaintiff, the Class, and each and every Participating Class Member shall be deemed to have acknowledged and agreed that: (1) their claims for compensation and any other payments and/or interest in the Action are disputed; and (2) the payments under settlement constitute full payment of any amounts allegedly due to them based on Released Claims. In light of the payment by Defendants of all amounts due to Participating Class Members for Released Claims, the Plaintiff, the Class, and each Class Member shall be deemed to have acknowledged and agreed that such payment shall constitute full payment of all Released Claims by Class Members for disputed wages allegedly owed by Defendants in this Action, which shall be deemed to have been paid in compliance with Labor Code section 206.5, which provides in pertinent part as follows:

**No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made.**

**22. Further Acts and Obligations**

**22.1** This Agreement is conditioned on the Court (1) entering the preliminary approval order (2) entering the final approval order and judgment in substantially the form submitted by the Parties, and (3) the settlement becoming final and effective.

**22.2 Duties of the Parties Prior to Preliminary Approval:** The Parties shall promptly submit this Agreement to the Court in the Action and request preliminary approval and determination by the Court as to its fairness, adequacy, and reasonableness. Due to the Stay-at-Home Order issued by authorities throughout California due to COVID-19, the Parties will request the Court decide Plaintiff's motion for preliminary approval on papers, without the necessity to appear at the hearing. If the Court nonetheless requires a hearing, the Parties request the Court's permission to appear telephonically. Promptly upon execution of this Agreement, the Parties shall apply to the Court for the entry of a preliminary order seeking:

- a.** Certification of this action under section 382 of the California Code of Civil Procedure and Rules 3.760, *et seq.* of the California Rules of Court as a class action for purposes of settlement only with respect to the proposed Class;
- b.** Approving the proposed Notice as to form and content;
- c.** Directing the mailing of the Notice to the Class Members;
- d.** Preliminarily approving the settlement subject only to the objections of Class Members and final review by the Court;
- e.** Preliminarily approving Class Counsel's request for attorneys' fees and costs subject to final review by the Court;
- f.** Preliminarily approving estimated costs of administration payable to the Settlement Administrator; and
- g.** Preliminarily approving Plaintiff Josephina Valdez's individual enhancement award.

Class Counsel will share the papers requesting preliminary approval of the settlement to Defendants' counsel at least three (3) business days prior to filing.

**22.3 Duties of the Parties Following Preliminary Approval:** In seeking final approval of the settlement provided for in this Agreement, Class Counsel will submit a proposed final approval order and judgment in a form approved by Defendants' Counsel:

- a. Approving the settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- b. Approving an award of attorneys' fees and reimbursement of costs for Class Counsel;
- c. Approving payment to the Settlement Administrator;
- d. Approving the enhancement award to Plaintiff Josephina Valdez;
- e. Permanently barring all Class Members who have not validly opted out of the Class and this settlement from prosecuting against the Released Parties any individual or class claims or representative actions covered by the definition of Released Claims set forth in Section 21.1 above;
- f. Waiving all rights of appeal; and
- g. Stating that the Court retains jurisdiction to enforce the Agreement pursuant to Rule 3.769(h) of the California Rules of Court and over the Parties and the Class Members.

Class Counsel will share the papers requesting final approval of the settlement with Defendants' Counsel at least three (3) business days prior to filing.

### **23. Parties' Authority**

The signatories hereto hereby represent that they are fully authorized to enter into this Agreement and bind the Parties to the terms and conditions hereof. Plaintiff further represents and warrants that she has not made an assignment or transfer of any claim or interest that is the subject matter of this Agreement or the subject matter of her claims, except as stated in this Agreement. The Parties further acknowledge that this is a material term of this Agreement, and that they would not have entered into this Agreement without it.

### **24. Mutual Full Cooperation**

The Parties agree to cooperate with each other fully to accomplish the terms of this Agreement, including but not limited to: (a) executing such documents and taking such other actions as reasonably may be necessary to implement the terms of this Agreement; and (b) continuing good faith efforts to effectuate settlement should the Court deny preliminary or any final approval. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as practicable after execution of this Agreement, Class Counsel shall, with the assistance and cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the Court's preliminary and final approval of this Agreement.

### **25. No Prior Assignments**

The Parties hereto represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

**26. No Collateral Attack**

This Agreement shall not be subject to collateral attack by any Class Member or any recipient of the Notice after entry of the final approval order and judgment. Such prohibited collateral attacks shall include but not be limited to claims that a Class Member's settlement payment was improperly determined, calculated or adjusted, or that the Class Member failed to receive timely notice of the procedure for disputing the calculation of individual Class Member settlement payments, or failed to submit a timely dispute for any reason.

**27. Public Statements**

**27.1 Confidentiality:** Neither Plaintiff nor Class Counsel shall hold a press conference or otherwise seek to affirmatively publicize the settlement in the media or on social media. If contacted by the media regarding settlement, Plaintiff and Class Counsel will state "It was a fair settlement and we are happy with the results" or something to that effect, and to refer the inquiring person to the public record. Neither side will initiate public comment. Notwithstanding the foregoing, either party shall be allowed to make disclosures related to this Agreement that are required by law, by rule or regulation, or by any governmental or judicial process, as reasonably determined by legal counsel for any party.

**27.2 Non-Disparagement:** Plaintiff hereby agrees on behalf of herself and her representatives and agents, that if the settlement is granted preliminary and final approval by the Court, she will not make any disparaging or defamatory comments to any third party concerning Defendants, or any of their predecessors, successors, assigns, directors, officers, agents, partners, owners, board of directors, attorneys, employees, former employees, subsidiaries, parents or other affiliated persons or entities, or concerning its or their methods of doing business, clients, or employment practices which would reasonably be expected to affect adversely the conduct of Defendants' business or their respective reputations. In response to any inquiry about Plaintiff Josephina Valdez's prior employment from an entity or person that identifies themselves as a prospective employer, Defendant PRO shall only report dates of employment, title, and last rate of pay at the end of Plaintiff's employment. Nothing herein is designed to prevent any Party to this Agreement from testifying truthfully in response to a formal legal subpoena. This Section does not apply to filings with the Court by Plaintiff in support of preliminary or final approval of the settlement.

**27.3 Confidentiality:** Further, neither Plaintiff nor Class Counsel shall voluntarily induce, aid, help, assist, cooperate in any manner or encourage any other person or entity with respect to any investigation, action or litigation against Defendants, the Released Parties, with respect to any Released Claims, charge, action or litigation that is based on events occurring prior to the date of the execution of this Agreement. This Section shall not be breached to the extent that disclosure of information is (1) required to obtain preliminary and final approvals of the Settlement by the Court, (2) in response to an order of a court of competent

jurisdiction or subpoena issued under authority thereof; (3) in response to an appropriate request from a local, state or federal agency; or (4) as otherwise required by law. In the event that Plaintiff receives a subpoena, court order, discovery request or other document compelling or attempting to compel disclosure of any information informally produced by Defendants, that is subject to mediation and/or settlement privilege and/or confidentiality or protective order, she shall give notice to Defendants within five (5) business days of its receipt and have her representative send a complete copy via electronic mail or fax to Defendants' Counsel (Attn: Alison L. Tsao, Esq., Carothers DiSante & Freudenberger LLP, 600 Montgomery St., Suite 440, San Francisco, California 94111, Phone: 415-981-3233; Email: atsao@cdflaborlaw.com; and Jessica Perry, Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, California 94025, Phone: 650-614-7400, Fax: 650-614-7401, email: jperry@orrick.com) to allow Defendants to assert whatever rights they have to prevent disclosure prior to any response by Plaintiff.

**27.4 Privacy of Documents and Information.** Plaintiff and Class Counsel agree that they will destroy all confidential documents and information provided to them by Defendants within thirty (30) days of the Effective Date, except for documents that must be saved for malpractice purposes or ethical rules governing attorney conduct in California and the United States. Plaintiff and Class Counsel further agree that none of the documents and information provided to them by Defendants shall be used for any purpose other than prosecution of the Action or the defense or prosecution of a malpractice action or defense of any state bar complaint.

**27.5 Materiality:** Plaintiff understands and agrees that this Section 27, and each of its subparts, is a material term of this Agreement, without which Defendants would not have given the consideration stated herein.

## **28. Termination of Settlement**

Subject to the obligation(s) of Mutual Full Cooperation as set out in paragraph 24, any Party may terminate this Agreement if the Court declines to (1) enter the preliminary approval order and final approval order and judgment, in substantially the form submitted by the Parties, or (2) if the Agreement does not become final because of appellate court action. The terminating Party shall give to the other parties (through its counsel) written notice of its decision to terminate no later than ten (10) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

- a.** The Agreement shall be terminated and shall have no force or effect and no party shall be bound by any of its terms;
- b.** If the settlement is terminated, Defendants shall have no obligation to make any payments to any party, Class Member or attorney, except that Defendants and Plaintiff shall equally share the expenses incurred by the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the settlement has been terminated;

- c. If Defendants exercise their option to rescind the Settlement Agreement pursuant to Section 16 and the settlement is terminated as a result, Defendants shall pay the expenses incurred by the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the settlement has been terminated;
- d. The preliminary approval order and/or final approval order and judgment shall be vacated;
- e. The Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the settlement; and
- f. Neither this Agreement nor any ancillary documents, actions, statements or filings in furtherance of settlement (including any matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

**29. Construction**

The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms'-length negotiations between the Parties and their attorneys. The provisions of this Agreement shall be construed as to their fair meaning and this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or her or its counsel participated in the drafting of this Agreement.

**30. All Parties and Agents Bound**

This Agreement is binding on each of the Parties' directors, officers, employees, affiliates, partners, subsidiaries, agents and attorneys and all of the signatories hereto.

**31. No Conflict**

Plaintiff has been represented by counsel of her own choosing and have no conflict of interest or have knowingly waived any conflict of interest.

**32. Notices**

Unless otherwise specifically provided, all notices, demands or other communications given shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To the Class:

David Markham, Esq.  
The Markham Law Firm

750 B. Street, Suite 1950  
San Diego, California 92101

Walter Haines, Esq.  
United Employees Law Group  
5500 Bolsa Avenue, Suite 201  
Huntington Beach, California 92649

To Counsel for PRO:

Alison L. Tsao, Esq.  
Carothers DiSante & Freudenberger LLP  
600 Montgomery St., Suite 440  
San Francisco, California 94111

To Counsel for Genentech:

Allison Riechert Giese, Esq.  
Orrick, Herrington & Sutcliffe LLP  
1000 Marsh Road  
Menlo Park, California 94025

**33. Captions and Interpretations**

Paragraph and Section titles or captions contained herein are inserted as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof. Each term of this is contractual and not merely a recital.

**34. Mutual Preparation**

The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed equally to the preparation of this Agreement.

**35. 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 Agreement, pending the Final Approval hearing to be conducted by the Court.

**36. Modifications**

This Agreement may not be changed, altered, or modified, except in writing and signed by the Parties. All material changes, alterations, or modifications must be approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto, and approved by the Court.

**37. Integration Clause**

This Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or that party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

**38. Binding on Assigns**

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

**39. Signatories**

It is agreed that because of the large number of Class Members, it is impossible or impractical to have each Class Member execute this Agreement. The Notice (as defined in Section 19) will advise all Class Members of the nature of the settlement and shall have the same force and effect as if this Agreement were executed by each Class Member.

**40. Counterparts**

This Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties.

**41. Admissibility**

Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any individual who requested to be excluded from the Class), Defendants, or their respective counsel in any other action or proceeding, provided, however, that nothing contained in this Section shall prevent this Agreement from being used, offered, or received in evidence to enforce its terms.

**42. Enforcement**

In the event that one or more of the Parties institutes any legal action or other proceeding against any other party or Parties to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions. The Parties jointly request and reserve the Court's continuing jurisdiction over the construction, interpretation, implementation, and enforcement of this Agreement and the final approval order and judgment, and over the administration and distribution of the settlement funds. All terms of this Agreement shall be governed by and interpreted according to the laws of the State of California, without giving effect to conflict of laws principles.

**43. Acknowledgment that the Settlement is Fair and Reasonable**

The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement. In addition, the Mediator may execute a declaration supporting the Settlement and the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

**44. Failure to Timely Object to Settlement**

Class Members who do not timely object to the Settlement, and do not seek intervention, shall have no right to appeal the final approval order and judgment.

**IN WITNESS WHEREOF, the Parties have executed this Agreement, or have caused this Agreement to be executed by their duly authorized and appointed representatives, and agree to be bound by its terms,**

PLAINTIFF

  
\_\_\_\_\_  
Josephina Valdez

Date: Aug 25, 2020

DEFENDANT PRO UNLIMITED, INC.

By: \_\_\_\_\_  
James Cahalan, General Counsel & Director of  
Global Compliance, PRO Unlimited, Inc.

Date: \_\_\_\_\_

DEFENDANT GENENTECH USA, INC.

By: \_\_\_\_\_  
Tracy Todd, Assistant General Counsel

Date: \_\_\_\_\_

APPROVED AS TO FORM AND TO CONTENT:

The Markham Law Firm

By:   
\_\_\_\_\_  
David Markham, Esq.  
Attorneys for Plaintiff and Proposed Counsel for the Class

Date: 8/25/2020

United Employees Law Group

By: Walter L. Haines | Date: August 25, 2020  
Walter L. Haines, Esq.  
Attorneys for Plaintiff and Proposed Counsel for the Class

Carothers DiSante & Freudenberger LLP

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Alison L. Tsao, Esq.  
Attorneys for Defendant PRO Unlimited, Inc.

Orrick, Herrington & Sutcliffe LLP

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Allison Riechert Giese, Esq.  
Attorneys for Defendant Genentech USA, Inc.

**43. Acknowledgment that the Settlement is Fair and Reasonable**

The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement. In addition, the Mediator may execute a declaration supporting the Settlement and the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

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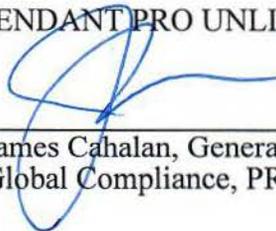
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PLAINTIFF

\_\_\_\_\_  
Josephina Valdez

Date: \_\_\_\_\_

DEFENDANT PRO UNLIMITED, INC.

By:  \_\_\_\_\_  
James Cahalan, General Counsel & Director of  
Global Compliance, PRO Unlimited, Inc.

Date: 8/25/2020

DEFENDANT GENENTECH USA, INC.

By: \_\_\_\_\_  
Tracy Todd, Assistant General Counsel

Date: \_\_\_\_\_

APPROVED AS TO FORM AND TO CONTENT:

The Markham Law Firm

By: \_\_\_\_\_  
David Markham, Esq.  
Attorneys for Plaintiff and Proposed Counsel for the Class

Date: \_\_\_\_\_

United Employees Law Group

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Walter L. Haines, Esq.  
Attorneys for Plaintiff and Proposed Counsel for the Class

Carothers DiSante & Freudenberger LLP

By:  \_\_\_\_\_ Date: August 25, 2020  
Alison L. Tsao, Esq.  
Attorneys for Defendant PRO Unlimited, Inc.

Orrick, Herrington & Sutcliffe LLP

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Allison Riechert Giese, Esq.  
Attorneys for Defendant Genentech USA, Inc.

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PLAINTIFF

\_\_\_\_\_  
Josephina Valdez

Date: \_\_\_\_\_

DEFENDANT PRO UNLIMITED, INC.

By: \_\_\_\_\_  
James Cahalan, General Counsel & Director of  
Global Compliance, PRO Unlimited, Inc.

Date: \_\_\_\_\_

DEFENDANT GENENTECH USA, INC.

By: Tracy Todd  
Tracy Todd, Assistant General Counsel

Date: 8/25/2020

**APPROVED AS TO FORM AND TO CONTENT:**

The Markham Law Firm

By: \_\_\_\_\_  
David Markham, Esq.  
Attorneys for Plaintiff and Proposed Counsel for the Class

Date: \_\_\_\_\_

United Employees Law Group

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Walter L. Haines, Esq.  
Attorneys for Plaintiff and Proposed Counsel for the Class

Carothers DiSante & Freudenberger LLP

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Alison L. Tsao, Esq.  
Attorneys for Defendant PRO Unlimited, Inc.

Orrick, Herrington & Sutcliffe LLP

By:  \_\_\_\_\_ Date: August 25, 2020  
Allison Riechert Giese, Esq.  
Attorneys for Defendant Genentech USA, Inc.