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19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **FOR THE COUNTY OF SAN JOAQUIN**

21 ADAM LOERA, MIGUEL DIAZ, DAVID)
22 STARR, SUDIPA BISTA and RICK ZURLO,)
23 individually, on behalf of other members of the)
24 general public similarly situated, and on behalf of)
25 aggrieved employees pursuant to the Private)
26 Attorneys General Act (“PAGA”);)

27 Plaintiffs,

28 v.

29 TRUGREEN, INC., a Delaware corporation;)
30 TRUGREEN LIMITED PARTNERSHIP, a)
31 Delaware limited partnership; and DOES 1)
32 through 100, inclusive;)

33 Defendants.

CASE NO.: STK-CV-UOE-2022-0005745

Assigned for All Purposes to:
Honorable Barbara Kronlund
Department 10D

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE**

Complaint Filed: July 11, 2022

1 of California Labor Code § 226(a) (non-compliant wage statements); 7) violation for California Labor
2 Code §§ 2800 and 2802 (unreimbursed business expenses); and 8) violation of California Business &
3 Professions Code § 17200, *et seq.*

4 2. On August 13, 2021, Plaintiffs Sudipa Bista and Rick Zurlo gave notice to the Labor and
5 Workforce Development Agency as a prerequisite to the filing of the representative action under
6 California Labor Code § 2698 *et seq.* (or PAGA) (“PAGA NOTICE”).

7 3. On October 21, 2021, Plaintiffs Sudipa Bista and Rick Zurlo filed a representative action
8 under California Labor Code § 2698 *et seq.* (or PAGA) against Defendant in the Superior Court for the
9 State of California, County of Sacramento, entitled *Vanessa Samaniego, individually, and on behalf of*
10 *aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”); v. TruGreen, Inc., a*
11 *Delaware Corporation; TruGreen Limited Partnership, a Delaware limited partnership, and DOES 1*
12 *through 100, inclusive*, Case No. 34-2021-00310112, seeking civil penalties for various California
13 Labor Code violations.

14 4. On August 26, 2021, Defendant filed a Petition for Removal of Plaintiffs Adam Loera
15 and Miguel Diaz’s class action to the United States District Court for the Eastern District of California,
16 Case No. 2:21-cv-01536-MCE-KJN. On December 17, 2021, Defendant filed a Petition for Removal
17 of Plaintiffs Sudipa Bista and Rick Zurlo’s PAGA action to the United States District Court for the
18 Eastern District of California, Case No. 2:21-cv-02339-KJM-KJN. On May 17, 2022, pursuant to the
19 Parties’ stipulation, these matters were consolidated for all purposes before Judge Morrison C. England,
20 Jr., Case No. 2:21-cv-015360-MCE-KJN.

21 5. Following mediation of the two actions, for purposes of settlement, the Parties agreed to
22 file a Rule 41 dismissal of the pending federal action without prejudice. The Parties then agreed to
23 subsequently file a combined Class Action and PAGA action preserving the statute of limitations on the
24 class and PAGA claims from the original federal action.

25 6. On July 11, 2022, Plaintiffs filed this action in San Joaquin County Superior Court
26 entitled *Adam Loera et al., individually, and on behalf of other members of the general public similarly*
27 *situated. and on behalf of aggrieved employees pursuant to the Private Attorneys General Act*

1 (“PAGA”) v. TruGreen, Inc., a Delaware Corporation; TruGreen Limited Partnership, a Delaware
2 limited partnership, and DOES 1 through 100, inclusive, Case No. STK-CV-UOE-2022-0005745, for:
3 1) violation of California Labor Code §§ 510 and 1198 (unpaid overtime – including, but not limited to,
4 failure to pay overtime at the regular rate, failure to pay for any off-the-clock work, and improper
5 rounding); 2) violation of California Labor §§ 226.7 and 512(a) (unpaid meal period premiums); 3)
6 violation of California Labor Code § 226.7 (unpaid rest period premiums); 4) violation of California
7 Labor Code §§ 1194, 1197, and 1197.1, 5) violation of California Labor Code §§ 201 and 202 (final
8 wages not timely paid); 6) violation of California Labor Code § 226(a) (non-compliant wage
9 statements); 7) violation of California Labor Code §§ 2800 and 2802 (unreimbursed business expenses);
10 8) violation of California Labor Code §§ 2698 *et seq.* (Private Attorneys General Act of 2004); and 9)
11 violation of California Business & Professions Code § 17200, *et seq.* (“San Joaquin Action”).

12 7. Defendant denies the validity of Plaintiffs’ claims set forth in the San Joaquin Action and
13 PAGA NOTICE, and has asserted numerous affirmative defenses. Notwithstanding, in the interest of
14 avoiding further litigation, Defendant desires to fully and finally settle all actual or potential claims by
15 the Class and aggrieved employees. For purposes of settlement only, the Parties agree that certification
16 of the class is appropriate and the requisites for establishing class certification are met.

17 8. Plaintiffs’ counsel in the San Joaquin Action, Justice Law Corporation (“Class Counsel”),
18 diligently investigated Plaintiffs’, the proposed Class’ and aggrieved employees’ claims against
19 Defendant, including any and all applicable defenses and the applicable law. The investigation included,
20 *inter alia*, the exchange of information pursuant to informal discovery methods and review of numerous
21 corporate policies and practices.

22 9. On May 31, 2022, the Parties participated in mediation before Marc J. Feder (the
23 “Mediator”), a respected mediator of wage and hour class actions. After a full day of negotiations and
24 a Mediator’s proposal, the Parties agreed to settle and stipulated to the material terms of this Stipulation
25 of Settlement now before this Court. The Mediator’s supervision of the mediation and negotiations was
26 critical in managing the expectations of the Parties and providing a useful and neutral analysis of the
27 issues and risks to both sides.

1 10. The settlement discussions during and after mediation were conducted at arm's-length
2 and this Stipulation of Settlement is the result of an informed and detailed analysis of Defendant's total
3 potential liability exposure in relation to the costs and risks associated with continued litigation.

4 11. Based on the data produced pursuant to discovery, as well as Class Counsel's own
5 independent investigation and evaluation, and the Mediator's efforts, Class Counsel believes that the
6 settlement with Defendant for the consideration and on the terms set forth in this Stipulation of
7 Settlement is fair, reasonable, and adequate and is in the best interest of the Class in light of all known
8 facts and circumstances.

9 12. This Stipulation of Settlement, and all associated exhibits and attachments, are made and
10 entered into by and between Plaintiffs, as individuals, and on behalf of all other members of the general
11 public similarly situated, aggrieved employees, and Defendant, and is subject to the terms and conditions
12 hereof, and to the Court's approval. The Parties expressly acknowledge that this Stipulation of
13 Settlement is entered solely for the purpose of compromising significantly disputed claims and that
14 nothing herein is an admission of liability or wrongdoing by Defendant. Accordingly, the Parties enter
15 this Stipulation of Settlement on a conditional basis. If the Court does not enter the Order of Final
16 Approval, the proposed judgment does not become a Final Judgment for any reason, and/or the Effective
17 Date does not occur, this Stipulation shall be deemed null and void ab initio, it shall be of no force or
18 effect whatsoever, and the Parties shall be returned to their original respective positions. This Stipulation
19 of Settlement shall not be referred to or utilized for any purpose whatsoever, and the negotiations, terms
20 and entry of the Stipulation shall remain subject to the provisions of Federal Rules of Evidence, Rule
21 408, California Evidence Code sections 1119 and 1152, and any other analogous rules of evidence that
22 are applicable.

23 13. Defendant denies all claims as to liability, damages, wages, penalties, interest, fees,
24 restitution, injunctive relief and all other forms of relief, as well as the class allegations asserted in the
25 San Joaquin Action and PAGA NOTICE. Defendant has agreed to resolve the San Joaquin Action via
26 this Stipulation, but to the extent this Stipulation of Settlement is deemed void or the Effective Date
27 does not occur, Defendant does not waive, but rather expressly reserves, all rights to challenge all such
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1 claims and allegations in the San Joaquin Action upon all procedural, meritorious, and factual grounds,
2 including, without limitation, the ability to challenge class treatment on any grounds, as well as asserting
3 any and all other privileges and potential defenses. The Class Representatives and Class Counsel (as
4 defined below) agree that Defendant retains and reserves these rights, and the Class Representative and
5 Class Counsel agree not to argue or present any argument, and hereby waive any argument that, based
6 on this Stipulation of Settlement, Defendant cannot contest class certification on any grounds
7 whatsoever, or assert any and all other privileges or potential defenses if the San Joaquin Action were
8 to proceed.

9 **DEFINITIONS**

10 The following definitions are applicable to this Stipulation of Settlement. Definitions contained
11 elsewhere in this Stipulation of Settlement will also be effective:

12 14. "Action" means the lawsuit in the matter entitled *Adam Loera et al. v. TruGreen, Inc. &*
13 *TruGreen Limited Partnership*, Case No. STK-CV-UOE-2022-0005745, filed on July 11, 2022 in the
14 San Joaquin County Superior Court, as well the prior consolidated action, *Loera et al. v. TruGreen, Inc.*
15 *& TruGreen Limited Partnership*, United States District Court for the Eastern District of California,
16 Case No. 2:21-cv-01536-MCE-KJN.

17 15. "Attorneys' Fees and Costs" means attorneys' fees agreed upon by the Parties and
18 approved by the Court for Class Counsel's litigation and resolution of this Action, and all litigation
19 costs and expenses incurred and to be incurred by Class Counsel in the Action, including, but not limited
20 to, costs and expenses associated with mediation, documenting the Settlement, securing the Court's
21 approval of the Settlement, administering the Settlement, obtaining entry of a Judgment terminating this
22 Action, and expenses for any experts. Class Counsel will collectively request attorneys' fees not to
23 exceed Thirty-Five Percent (35%) of the Maximum Settlement Amount, or up to Three Hundred Eighty-
24 Five Thousand Dollars (\$385,000). Class Counsel will also request reimbursement of Class Counsel's
25 litigation costs and expenses, not to exceed Twenty-Five Thousand Dollars (\$25,000). For any
26 Attorneys' Fees and Costs approved by the Court, the Claims Administrator may purchase an annuity
27 to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Defendant
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1 has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs and expenses as
2 set forth above. Any portion of the Attorneys’ Fees and Costs not awarded to Class Counsel will
3 increase the Net Settlement Amount, for distribution in conformity with this Agreement.

4 16. “Claimant” means all Class Members who submit timely and valid Claim Forms for
5 participation in the Class Action Settlement.

6 17. “Claim Form” means the document, substantially in the form attached as **Exhibit B**, that
7 Class Members must complete and postmark by the Response Deadline (as defined below) to receive a
8 proportional share of the Net Settlement Amount in the form of an Individual Settlement Payment.

9 18. “Claims Administrator” means any third-party class action settlement claims
10 administrator agreed to by the Parties and approved by the Court for purposes of administering this
11 settlement. The Parties each represent that they do not have any financial interest in the Claims
12 Administrator or otherwise have a relationship with the Claims Administrator that could create a conflict
13 of interest.

14 19. “Claims Administration Costs” means the costs payable from the Maximum Settlement
15 Amount to the Claims Administrator for administering this Settlement, including, but not limited to,
16 printing, distributing, and tracking documents for this Settlement, calculating estimated amounts per
17 Class Member, tax reporting, distributing the appropriate settlement amounts, and providing necessary
18 reports and declarations, and other duties and responsibilities set forth herein to process this Settlement,
19 and as requested by the Parties. The Claims Administration Costs are currently estimated not to exceed
20 Twenty Thousand Dollars (\$20,000). Any portion of the Claims Administration Costs that are not
21 awarded to the Claims Administrator will flow through to the Net Settlement Amount.

22 20. “Class Counsel” means Justice Law Corporation, which will seek to be appointed counsel
23 for the Class.

24 21. “Class Lists” mean a complete list of all Class Members within the Class that Defendant
25 will diligently and in good faith compile from its records and provide only to the Claims Administrator
26 within thirty (30) calendar days after the Court’s Preliminary Approval of this Stipulation of Settlement.
27 The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include each
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1 Class Member’s full name; last known mailing address (identified from Defendant’s payroll records);
2 Social Security number; dates of employment and number of workweeks worked for Defendant during
3 the Class Period; and any other relevant information required by the Claims Administrator to calculate
4 the estimated settlement payments.

5 22. “Class Member(s)” or “Class” collectively refer to: All current and former hourly-paid,
6 non-exempt employees of Defendant within the State of California at any time from January 19, 2017
7 through August 31, 2022.

8 23. “Class Period” means the period from January 19, 2017 through August 31, 2022.

9 24. “Class Representatives” mean Adam Loera, Miguel Diaz, David Starr, Sudipa Bista and
10 Rick Zurlo, who will seek to be appointed as the representatives for the Class.

11 25. “Class Representative Enhancement Payments” means the amounts to be paid to the
12 Class Representatives in recognition of their efforts and work in prosecuting the Action on behalf of
13 Class Members. Defendant agrees not to oppose a request by Plaintiffs’ Counsel for an enhancement
14 payment of Ten Thousand Dollars (\$10,000.00) to each Class Representative subject to Court approval,
15 from the Maximum Settlement Amount for their services on behalf of the Class, including their
16 assistance as Plaintiffs and Class Representatives, subject to the Court granting final approval of this
17 Stipulation of Settlement and subject to the exhaustion of any and all appeals. Any portion of the Class
18 Representative Enhancement Payments not awarded to the Class Representatives will be a part of the
19 Net Settlement Amount, for distribution in conformity with this Agreement.

20 26. “Court” means the Superior Court of the State of California for the County of San
21 Joaquin or any other court taking jurisdiction of the Action.

22 27. “Defendant” means TruGreen, Inc. and TruGreen Limited Partnership.

23 28. “Defendant’s Counsel” means counsel for Defendant who are:

24
25 Robert Yonowitz (SBN 132081)
26 John A. Mavros (SBN 257673)
27 Kristina Noel Buan (SBN 311661)
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3 29. "Effective Date" means the date on which the settlement embodied in this Stipulation of
4 Settlement shall become effective after all of the following events have occurred: (i) this Stipulation of
5 Settlement has been executed by all parties and by counsel for the Class and Defendant; (ii) the Court
6 has given preliminary approval to the Settlement; (iii) the notice has been given to the Class Members,
7 providing them with an opportunity to object to the terms of the Stipulation of Settlement or to opt out
8 of the Stipulation of Settlement by filing a Request for Exclusion (as defined below); and (iv) (a) in the
9 event the Court has held a formal fairness hearing and, having heard no objections to the Settlement or
10 if objections are filed and are thereafter withdrawn before the final approval hearing, entered a final
11 order and judgment certifying the Class, and approving this Stipulation of Settlement or (b) only in the
12 event that there are written objections filed prior to the formal fairness hearing that are not later
13 withdrawn or denied, the later of the following events: five (5) business days after the period for filing
14 any appeal, writ or other appellate proceeding opposing the Court's final Order approving the
15 Stipulation of Settlement has elapsed without any appeal, writ or other appellate proceeding having been
16 filed; or, if any appeal, writ or other appellate proceeding opposing the Court's final Order approving
17 the Stipulation of Settlement has been filed, five (5) business days after any appeal, writ or other
18 appellate proceedings opposing the Stipulation of Settlement has been finally and conclusively
19 dismissed with no right to pursue further remedies or relief.

20 30. "Individual Settlement Payment" means each Class Member's share of the Net
21 Settlement Amount.

22 31. "Maximum Settlement Amount" means the maximum settlement amount of up to One
23 Million One-Hundred Thousand Dollars (\$1,100,000) to be paid by Defendant in full satisfaction of all
24 claims arising from the Action, which includes the settlement payments to the Class, Class
25 Representatives' Enhancement Payments, Claims Administration Costs to the Claims Administrator,
26 Attorneys' Fees and Costs to Class Counsel, and the PAGA Payment. This Maximum Settlement
27 Amount has been agreed to by Plaintiffs and Defendant based on the aggregation of the agreed-upon
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1 settlement value of individual claims. In no event will Defendant be liable for more than the Maximum
2 Settlement Amount. Any and all employer taxes that Defendant normally would be responsible for
3 paying will be funded by Defendant separate and apart from the Maximum Settlement Amount.

4 32. “Net Settlement Amount” means the portion of the Maximum Settlement Amount
5 remaining after deduction of the approved Class Representatives’ Enhancement Payments, Claims
6 Administration Costs, the PAGA payment (as defined in Paragraph 36) and Attorneys’ Fees and Costs.
7 The Net Settlement Amount will be distributed to Claimants in accordance with Paragraph 63 and 64.
8 Plaintiffs and Defendant agree that the amount distributed to the Claimants will equal at least Fifty
9 Percent (50%) of the Net Settlement Amount. If the total Individual Settlement Payments to the
10 Claimants would equal less than Fifty Percent (50%) of the Net Settlement Amount, the Claims
11 Administrator will proportionately increase the Individual Settlement Payment for each Claimant to
12 ensure that total Individual Settlement Payments equal Fifty Percent (50%) of the Net Settlement
13 Amount. Except as otherwise provided in Paragraph 61, any unclaimed amounts above Fifty Percent
14 (50%) of the Net Settlement Amount will be the exclusive property of Defendant and shall revert to
15 Defendant, provided, or to the extent that, the minimum 50% payout is satisfied.

16 33. “Notice of Objection” or “Objection” means a Class Member’s valid and timely written
17 objection to this Stipulation of Settlement. For the Notice of Objection to be valid, it must include: (a)
18 the objector’s full name, signature, address, and telephone number, (b) a written statement of all grounds
19 for the objection accompanied by any legal support for such objection, (c) a clear reference to the title
20 of this case and case number, and (d) copies of any papers, briefs, or other documents upon which the
21 objection is based.

22 34. “Notice Packet” means the Notice of Class Action Settlement and Claim Form,
23 substantially in the forms attached as **Exhibit A**, and **Exhibit B** respectively.

24 35. “PAGA Aggrieved Employee” means all current and former hourly-paid and/or non-
25 exempt employees, and all exempt and non-exempt commissioned employees employed by Defendant
26 between February 21, 2020 through August 31, 2022.

27 36. “PAGA Payment” means the amount of Fifty Thousand Dollars (\$50,000), which the
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1 Parties have agreed to allocate for penalties pursuant to the Private Attorneys' General Act, California
2 Labor Code § 2698, *et seq.* The Parties have agreed that the PAGA Payment will be paid out of the
3 Maximum Settlement Amount. Pursuant to PAGA, the Labor and Workforce Development Agency
4 ("LWDA") shall be paid 75% or Thirty-Seven Thousand Five Hundred Dollars (\$37,500) of the PAGA
5 Payment ("LWDA Payment"), and 25% or Twelve Thousand Five Hundred Dollars (\$12,500) of the
6 PAGA Payment will be distributed, pro rata, based on weeks worked to all PAGA Aggrieved
7 Employees.

8 37. "Parties" means Plaintiffs and Defendant collectively.

9 38. "Plaintiffs" means Adam Loera, Miguel Diaz, David Starr, Sudipa Bista and Rick Zurlo.

10 39. "Preliminary Approval" means the Court order granting preliminary approval of this
11 Stipulation of Settlement.

12 40. "Qualified Settlement Fund" or "QSF" means a fund within the meaning of Treasury
13 Regulations § 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.* that is established by the Claims Administrator for
14 the benefit of Claimants, Plaintiffs and Class Counsel.

15 41. "Released Claims" as it pertains to Class Members include, a release from any and all
16 claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses,
17 attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or
18 unknown, contingent or accrued, under any legal theory under federal and state law that arose or accrued
19 during the Class Period that were or could have been brought based on the facts or claims alleged in any
20 version of the complaints filed in the Actions. The Released Claims include claims for any alleged
21 failure to pay all wages due (including minimum wage and overtime wages), failure to pay overtime
22 and double time at the proper rate, failure to pay for all hours worked (including off-the clock work),
23 failure to provide meal periods, failure to authorize and permit rest periods, short/late meal and rest
24 periods, failure to relieve of all duties during meal and rest periods, failure to pay or properly compensate
25 meal or rest break premiums, failure to reimburse for business-related expenses, failure to furnish
26 accurate wage statements, record keeping violations, failure to pay wages timely during employment,
27 failure to pay final wages upon separation of employment, failure to provide paid sick days, failure to

1 pay sick days at the appropriate rate, claims related to unlawful and unfair business practices, claims
2 related to donning and doffing, claims related to pre and post-shift work, failure to properly calculate
3 the regular rate of pay, and claims derivative and/or related to these claims. The Released Claims include
4 without limitation claims meeting the above definition(s) under any and all applicable statutes, including
5 without limitation any provision of the California Labor Code; California Business & Professions Code
6 §§ 17200 et seq.; any provision of the applicable California Industrial Welfare Commission Wage
7 Orders; and claims that were or could have been brought based on the facts or claims alleged in any
8 version of the complaints filed in the Action. Accordingly, if the facts relating in any manner to this
9 Stipulation of Settlement are found hereafter to be other than or different from the facts now believed
10 to be true, the release of claims contained herein shall be effective as to all unknown claims, provided
11 such unknown claims arise from or are related to the same facts alleged in the complaint.

12 42. “Released Claims Period” means the period from January 19, 2017 through August 31,
13 2022.

14 43. “Released Parties” means Defendant, and their predecessors, successors, subsidiaries,
15 parent companies, other corporate affiliates, and assigns, including but not limited to TruGreen, Inc.,
16 TruGreen Limited Partnership, and all of their owners, shareholders, members, officers, directors,
17 employees, agents, servants, registered representatives, attorneys, insurers, reinsurers, trustees,
18 successors and assigns, any other persons acting by, through, under or in concert with any of them, and
19 any entities with whom Defendant shared a Joint Employer relationship.

20 44. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a
21 request to be excluded from the settlement. The Request for Exclusion must: (a) be signed by the Class
22 Member; (b) contain the name, address, telephone number, and the last four digits of the Social Security
23 Number of the Class Member requesting exclusion; (c) clearly state the name of this case, the case
24 number, and that the Class Member does not wish to be included in the settlement; (d) be returned by
25 mail to the Claims Administrator at the specified address and/or facsimile number; and (e) be
26 postmarked on or before the Response Deadline. The date of the postmark on the return mailing
27 envelope will be the exclusive means to determine whether a Request for Exclusion has been timely
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1 submitted. A Class Member who does not request exclusion from the settlement (“Settlement Class
2 Member”) will be bound by all terms of the settlement, if the settlement is granted final approval by the
3 Court.

4 45. “Response Deadline” means the deadline by which Class Members must postmark to the
5 Claims Administrator valid Claim Forms, Requests for Exclusion, or file and serve objections to the
6 settlement. The Response Deadline will be sixty (60) calendar days from the initial mailing of the
7 Notice Packet by the Claims Administrator, unless the 60th day falls on a Sunday or Federal holiday, in
8 which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is
9 open. The Response Deadline for Claim Forms or Requests for Exclusion will be extended fifteen (15)
10 calendar days for any Class Member who is re-mailed a Notice Packet by the Claims Administrator,
11 unless the 15th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be
12 extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be
13 extended by express agreement between Class Counsel and Defendant. Under no circumstances,
14 however, will the Claims Administrator have the authority to extend the deadline for Class Members to
15 submit a Claim Form, Request for Exclusion, or objection to the settlement.

16 46. “Workweeks” means the number of weeks of employment that a Class Member worked
17 for Defendant as an hourly, non-exempt employee in California at any time during the Class Period (as
18 defined above). The Claims Administrator will calculate the number of Workweeks by calculating the
19 number of days each Class Member was employed during the Class Period, dividing by seven (7), and
20 rounding up or down to the nearest whole number, as appropriate (for example, 7.50 would round to 8;
21 7.49 would round to 7). Each Claimant shall be entitled to payment for at least one workweek.

22 47. “Workweek Value” means the value of each compensable Workweek, as determined by
23 the formula set forth herein.

24 **CLASS CERTIFICATION**

25 48. Solely for purposes of settling the Action, and not for purposes of class certification
26 should the matter not be settled or for any other reason, the Parties stipulate and agree that the requisites
27 for establishing class certification with respect to the Class have been met and are met. This is contingent
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1 upon the Preliminary and Final approval and certification of the Class only for purposes of settlement.
2 Should the Stipulation of Settlement not become final, for whatever reason, the fact that the Parties were
3 willing to stipulate provisionally to class certification as part of the Stipulation of Settlement shall have
4 no bearing on, and shall not be admissible in connection with, the issue of whether a class should be
5 certified in a non-settlement context in the Litigation. Defendant expressly reserves the right to oppose
6 class certification and/or proactively move to deny certification should this Stipulation of Settlement be
7 modified or reversed on appeal or otherwise not become final.

8 49. Should this Settlement not be approved or be terminated, these stipulations shall be null
9 and void and shall not be admissible for any purpose whatsoever.

10 50. The Class Representatives claims are typical of the claims of the members of the Class.
11 Should this Settlement not be approved or be terminated, this stipulation shall be null and void and shall
12 not be admissible for any purpose whatsoever.

13 51. The Class Representatives and Class Counsel will fairly and adequately protect the
14 interests of the Class. Should this Settlement not be approved or be terminated, this stipulation shall be
15 null and void and shall not be admissible for any purpose whatsoever.

16 52. The prosecution of separate actions by individual members of the Class would create the
17 risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.
18 Should this Settlement not be approved or be terminated, this stipulation shall be null and void and shall
19 not be admissible for any purpose whatsoever.

20 53. With respect to the Class, the Class Representatives believe that questions of law and fact
21 common to the members of the Class predominate over any questions affecting any individual member
22 in such Class, and a class action is superior to other available means for the fair and efficient adjudication
23 of the controversy.

24 **TERMS OF AGREEMENT**

25 NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set
26 forth herein, the Parties agree, subject to the Court's approval, as follows:

27 54. Funding of the Maximum Settlement Amount. Within three (3) business days after the
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1 Final Approval of the Settlement, the Claims Administrator will provide the Parties with an accounting
2 of the amounts to be paid by Defendant pursuant to the terms of the Settlement. Defendant will deposit
3 for payment of all Court-approved and claim amounts from the Maximum Settlement Amount into a
4 Qualified Settlement Fund account to be established by the Claims Administrator within fifteen (15)
5 business days of the Effective Date.

6 55. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
7 motion by Class Counsel for Attorneys' Fees and Costs of not more than Thirty-Five Percent (35%) of
8 the Maximum Settlement Amount or up to Three Hundred Eighty-Five Thousand Dollars (\$385,000),
9 plus the reimbursement of costs and expenses associated with Class Counsel's litigation and settlement
10 of the Action, not to exceed Twenty-Five Thousand Dollars (\$25,000), both of which will be paid from
11 the Maximum Settlement Amount. Any attorneys' fees and costs awarded by the Court shall not
12 constitute payment to any Class Member(s). To the extent that the Court approves less than the amount
13 of attorney's fees and/or costs that Class Counsel requests, the difference between the requested and
14 awarded amounts will be reallocated to the Net Settlement Amount. Except for the attorneys' fees and
15 costs set forth in this Agreement, the Parties agree to bear their own attorneys' fees and costs related to
16 this Action. In consideration of their awarded attorneys' fees and expenses, Class Counsel waives any
17 and all claims to any further attorneys' fees and expenses in connection with the Settlement.

18 56. Class Representative Enhancement Payments. In recognition of Plaintiffs' effort and
19 work in prosecuting the Action on behalf of Class Members, and in exchange for a full release of all
20 known and unknown claims, Defendant agrees not to oppose or impede any application or motion for
21 Class Representative Enhancement Payments of up to Ten Thousand Dollars (\$10,000.00) each for
22 Plaintiffs. The Class Representative Enhancement Payments will be paid from the Maximum Settlement
23 Amount and shall not constitute payment to any Participating Class Member(s) (other than Plaintiffs).
24 To the extent that the Court approves less than the amount of Enhancement Payments that Class Counsel
25 requests, the difference between the requested and awarded amounts will be reallocated to the Net
26 Settlement Amount. Because it is the intent of the Parties that the Enhancement Payments represent
27 payments to Plaintiffs for their service to the Class Members, and not wages, the Settlement
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1 Administrator will not withhold any taxes from the Enhancement Payments. The Claims Administrator
2 will issue an IRS Form 1099 for the Enhancement Payments to Plaintiffs and they shall be solely and
3 legally responsible for correctly characterizing this compensation for tax purposes and for paying any
4 taxes on the amounts received.

5 57. General Release by Class Representatives. As a condition of the class action settlement,
6 Plaintiffs, as the Class Representatives, shall separately release the following: any and all claims,
7 obligations, demands, actions, rights, causes of action, charges, damages, liabilities, attorneys' fees, and
8 costs of any nature whatsoever, contingent or non-contingent, matured or unmatured, liquidated or
9 unliquidated, whether or not known, suspected or claimed, which Class Representatives ever had, now
10 has or may claim to have, including the date on which the Court enters the Order of Final Approval,
11 against the Released Parties (whether directly or indirectly), or any of them, by reason of any act or
12 omission whatsoever, concerning any matter, cause or things, including, without limiting the generality
13 of the foregoing, any claims, demands, causes of actions, obligations, charges, damages, liabilities,
14 attorneys' fees, and costs relating to or arising out of Plaintiffs' employment with Defendant; any alleged
15 violation of any contracts, express or implied; any covenant of good faith and fair dealing, express or
16 implied; any legal restrictions on Defendant's right to hire or terminate employees; all claims of
17 harassment, discrimination, and/or retaliation in violation of State or Federal law; all claims for failure to
18 prevent harassment and/or discrimination; all claims for failure to engage in the interactive process, failure
19 to reasonably accommodate and/or retaliation; all claims of violation of public policy, including a claim
20 for wrongful and/or constructive termination of employment; all claims based on tort, including but not
21 limited to intentional or negligent infliction of emotional distress, all breach of contract claims, whether
22 written or oral, express or implied, and any covenant of good faith and fair dealing; all claims for unpaid
23 wages, or other benefits, including minimum wage, overtime, double time, vacation, associated penalties
24 and/or premiums, except those within his class action claims, and expense reimbursement; any claim for
25 sick pay or COVID-19 related benefits arising from any state or federal requirements; any claim for
26 unlawful or unfair business practices; all claims for expense reimbursements; all claims for emotional
27 distress; any and all claims which were or could have been asserted by Plaintiff; and all claims generally

1 relating to Plaintiffs' employment with Defendant and the cessation thereof, including any alleged
2 violation of any federal, state or other governmental statute, regulation, ordinance, or executive order,
3 including without limitation: (a) The Civil Rights Acts of 1866, 1964, and 1991, as amended; (b) 42
4 U.S.C. § 1981; (c) The California Fair Employment and Housing Act; (d) Section 503 of the
5 Rehabilitation Act of 1973; (e) The Fair Labor Standards Act (including the Equal Pay Act); (f) The
6 California and United States Constitutions; (g) The California Labor Code specifically including, but
7 not limited to the Private Attorney General Act pursuant to Labor Code § 2699, et seq; (h) The California
8 Business and Professions Code; (i) The Employee Retirement Income Security Act, as amended; (j) The
9 California Family Rights Act; (k) The Americans with Disabilities Act; (l) The Family Medical Leave
10 Act; (m) The California Wage Orders; (n) The National Labor Relations Act; (o) The Immigration
11 Reform and Control Act; (p) California Occupational Safety and Health Act, or the Federal equivalent;
12 (r) The Age Discrimination in Employment Act of 1967, as amended; (s) The Older Workers' Benefit
13 Protection Act; and (t) The Families First Coronavirus Response Act, including any COVID-19 paid
14 sick leave law or regulation of similar effect. The scope of the foregoing releases by the Class
15 Representatives include, but are not limited to, a full general release of any and all claims or potential
16 claims that Plaintiffs have or may have against the Released Parties. The Class Representatives make
17 this release understanding the significance of their California Civil Code Section 1542 waiver, which
18 provides:

19 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
20 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
21 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
22 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
23 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
24 DEBTOR OR RELEASED PARTY."

25 58. The Class Representatives warrant and represent that they have not assigned or,
26 transferred, to any person or entity any of the claims listed in paragraph 57, "General Release by Class
27 Representatives," or any rights, claims, or causes of action arising out of those referenced claims. In
28

1 addition, the Class Representatives shall defend, hold harmless, and indemnify the Released Parties, or
2 any of them, from and against any claims, damages, litigation, causes of action, and expenses, including
3 reasonable attorneys' fees, resulting from any breach by the Class Representatives of this warranty and
4 representation, or any breach by the Class Representatives of their general release.

5 59. Claims Administration Costs. The Claims Administrator will be paid for the reasonable
6 costs of administration of the Settlement and distribution of payments from the Maximum Settlement
7 Amount, which is currently estimated not to exceed Twenty Thousand Dollars (\$20,000). These costs,
8 which will be paid from the Maximum Settlement Amount, will include, *inter alia*, the required tax
9 reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing
10 the Notice Packet, sending reminder notices, calculating shares and payment, distributing the Maximum
11 Settlement Amount in accordance with the Settlement and the Court's order, and providing necessary
12 reports and declarations. Any portion of the Claims Administration Costs that are not awarded to the
13 Claims Administrator will be reallocated to the Net Settlement Amount.

14 60. Acknowledgement of Potential Administration Cost Increases. The Parties acknowledge
15 that Claims Administration Costs may increase above the current estimate of \$20,000 and that any such
16 additional Claims Administration Costs will be taken out of the Maximum Settlement Amount. Any
17 portion of the estimated or designated Class Administration Costs which are not in fact required to fulfill
18 the total Class Administration Costs will flow though to the Net Settlement Amount.

19 61. PAGA Payment. Subject to Court approval, the Parties agree that the amount of Fifty
20 Thousand Dollars (\$50,000) from the Maximum Settlement Amount will be designated for satisfaction
21 of Plaintiffs' and Class Members' PAGA claims. Pursuant to PAGA, Seventy-Five Percent (75%), or
22 \$37,500, of this sum will be paid to the LWDA and Twenty-Five Percent (25%), or \$12,500, will be
23 distributed, pro rata, based on weeks worked to all PAGA Aggrieved Employees. The Claims
24 Administrator will calculate the total number of Qualifying PAGA Workweeks worked by each
25 individual PAGA Aggrieved Employee to determine the total number of Qualifying Workweeks worked
26 by all PAGA Aggrieved Employees ("Qualifying PAGA Workweeks") between February 21, 2020
27 through August 31, 2022.

1 62. PAGA Released Claims. Upon Defendant’s fulfillment of its payment obligations
2 pursuant to this Agreement, in exchange for the consideration provided by this Agreement, Plaintiff, the
3 LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all
4 eligible aggrieved employees shall release the Released Parties from any and all claims, debts, liabilities,
5 demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney’s fees, damages,
6 actions or causes of action of whatever kind or nature, whether known or unknown, contingent or
7 accrued, under any legal theory under PAGA that arose or accrued during the PAGA Period and that
8 were or could have been brought based on the facts or claims alleged in any version of the letters
9 submitted to the LWDA in connection with this Action. The Released PAGA Claims include those
10 alleged in the LWDA Letter and Complaint, but are not limited to, claims for any alleged failure to pay
11 minimum wage and overtime wages, failure to pay overtime and double time at the proper rate; failure
12 to pay for all hours worked (including off-the clock work), failure to provide meal periods, failure to
13 authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during
14 meal and rest periods, failure to pay or properly compensate meal or rest break premiums, failure to
15 reimburse for business-related expenses, failure to furnish accurate wage statements, record keeping
16 violations, failure to pay wages timely during employment, failure to pay final wages upon separation
17 of employment, failure to provide paid sick days, claims related to donning and doffing, claims related
18 to pre and post-shift work, failure to properly calculate the regular rate of pay, claims derivative and/or
19 related to these claims. The Released PAGA Claims include without limitation claims meeting the above
20 definition(s) under any and all applicable statutes, including without limitation any provision of the
21 California Labor Code §§ 2699 et seq.; and claims that were or could have been brought based on the
22 facts or claims alleged in any version of the letters submitted to the LWDA in connection with this
23 Action.

24 63. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual
25 Settlement Payments to Claimants in accordance with the terms of this Agreement. If the total claimed
26 Individual Settlement Payments would equal less than Fifty Percent (50%) of the Net Settlement
27 Amount, the Claims Administrator will proportionately increase the Individual Settlement Payment for
28

1 each Claimant so that the amount actually distributed to Claimants will equal at least Fifty Percent
2 (50%) of the Net Settlement Amount.

3 64. Individual Settlement Payment Calculations. Individual Settlement Payments will be
4 calculated and apportioned from the Net Settlement Amount based on the number of Workweeks a Class
5 Member worked during the Class Period. Specific calculations of Individual Settlement Payments will
6 be made as follows:

7 64(a) The Claims Administrator will calculate the total number of Workweeks worked
8 by each individual Class Member (“Individual Workweeks”) to determine the
9 total number of Workweeks worked by all Class Members (“Class Workweeks”) during the Class Period and the total number of Qualifying PAGA Workweeks. Defendant shall provide the Claims Administrator such information as is necessary to calculate the Individual Workweeks, Class Workweeks and Qualifying PAGA Workweeks.

14 64(b) To determine each Class Member’s estimated Individual Settlement Payment, the
15 Claims Administrator will use the following formula: Estimated Individual
16 Settlement Payment = (Net Settlement Amount ÷ Class Workweeks) x Individual
17 Workweeks for each individual Class Member.

18 64(c) To determine each PAGA Aggrieved Employee’s estimated PAGA Payment, the
19 Claims Administrator will use the following formula: Estimated Individual
20 PAGA Payment = (Net Settlement Amount [\$12,500] ÷ Total PAGA Workweeks)
21 x individual Total Qualifying PAGA Workweeks for each individual PAGA
22 Aggrieved Employee.

23 64(d) If the total Individual Settlement Payments actually claimed by Claimants
24 equals less than Fifty Percent (50%) of the Net Settlement Amount, the
25 Individual Settlement Payments will proportionately increase for each Claimant
26 submitting a Claim Form such that the total Individual Settlement Payments
27 equal not less than Fifty Percent (50%) of the Net Settlement Amount.

1 68. Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval,
2 Defendant will provide the Class List(s) to the Claims Administrator.

3 69. Notice by First-Class U.S. Mail. Within fifteen (15) calendar days of receipt of the Class
4 List(s), the Claims Administrator will perform a search based on the National Change of Address
5 Database (“NCOA”), or any other similar services available, and mail a Notice Packet to all Class
6 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses available.

7 70. Confirmation of Contact Information in the Class List. Prior to mailing, the Claims
8 Administrator will perform a NCOA check, such as provided by Experian or any other similar services
9 available, for information to update and correct for any known or identifiable address changes. Any
10 Notice Packets returned to the Claims Administrator as non-deliverable on or before the Response
11 Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed
12 thereto and the Claims Administrator will indicate the date of such re-mailing on the Notice Packet. If
13 no forwarding address is provided, the Claims Administrator will promptly attempt to determine the
14 correct address using a skip-trace and will then perform a single re-mailing within five (5) days after
15 return of the Notice Packet. Those Class Members who receive a re-mailed Notice Packet, whether by
16 skip-trace or by request, will have between the later of (a) an additional fifteen (15) days or (b) the
17 Response Deadline to postmark a Claim Form, Request for Exclusion, or file and serve an objection to
18 the Settlement.

19 71. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet
20 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement’s
21 principal terms; (c) the Class definition; (d) the total number of Workweeks each respective Class
22 Member worked for Defendant during the Class Period; (e) each Class Member’s estimated Individual
23 Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which
24 comprise the Class Period; (g) instructions on how to submit valid Claim Forms, disputes regarding
25 Workweeks, Requests for Exclusion, or objections; (h) the requirements relating to, and deadlines by
26 which the Class Member must submit, Claim Forms, disputes regarding Workweeks, Requests for
27 Exclusions, and objections to the Settlement; (i) the claims to be released, as set forth herein; and (j) the

1 date for the Final Approval Hearing.

2 72. Disputed Information on Notice Packets. Class Members may dispute the information
3 provided in their Notice Packets, but must do so in writing, via first class mail, and it must be postmarked
4 by the Response Deadline. To the extent Class Members dispute the number of Workweeks to which
5 they have been credited or the amount of their Individual Settlement Payment, Class Members must
6 produce evidence to the Claims Administrator showing that such information is inaccurate. Absent
7 evidence rebutting Defendant's records, Defendant's records will be presumed determinative.
8 However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence
9 submitted by the Class Member and will make the final decision as to the number of eligible Workweeks
10 that should be applied and/or the Individual Settlement Payment to which the Class Member may be
11 entitled. If the Parties are unable to resolve the dispute, the Claims Administrator will be the final
12 arbiter of the Workweeks for each Class Member during the Class Period, based on the information
13 provided to it.

14 73. Claim Form Procedures. To receive Individual Settlement Payments, all Current
15 Employee Class Members will be required to submit a timely Claim Form by the Response Deadline.
16 All Claim Forms must be signed and returned to the Claims Administrator via first class mail or fax and
17 postmarked or faxed by the Response Deadline. The date of the postmark on the return mailing envelope
18 will be the exclusive means to determine whether a Claim Form has been timely submitted. However,
19 it is not the intention of the Parties to exclude Class Members from obtaining payment in the Settlement
20 for technical reasons that do not interfere with the orderly administration of the Settlement. Therefore,
21 the Claims Administrator will compile a list of claims rejected for (1) failure to cure an unsigned Claim
22 Form or (2) late submission of the Claim Form. As to the Class Members on that rejected claims list,
23 any Class Member who requests, in a signed letter, to receive payment in the Settlement will be treated
24 like a Claimant so long as that written request is received by the Effective Date.

25 74. Defective Submissions. If a Class Member's Claim Form or Request for Exclusion is
26 defective as to the requirements listed herein, that Class Member will be given an opportunity to cure
27 the defect(s). The Claims Administrator will mail the Class Member a cure letter within three (3)
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1 business days of receiving the defective submission to advise the Class Member that his or her
2 submission is defective and that the defect must be cured to render the Claim Form or Request for
3 Exclusion valid. The Class Member will have ten (10) calendar days from the date of the cure letter to
4 postmark a revised Claim Form or Request for Exclusion. If a Class Member responds to a Cure Letter
5 by filing a defective claim, then the Claims Administrator will have no further obligation to give notice
6 of a need to cure. If the revised Claim Form is not postmarked or received within that period, it will be
7 deemed untimely.

8 75. Request for Exclusion Procedures. Any Class Member wishing to opt-out from this
9 Stipulation of Settlement must sign and postmark a written Request for Exclusion to the Claims
10 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope
11 will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.
12 All Requests for Exclusion will be submitted to the Claims Administrator, who will certify jointly to
13 Class Counsel and Defendant’s Counsel the Requests for Exclusion that were timely submitted.

14 76. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
15 who does not affirmatively opt-out of this Stipulation of Settlement by submitting a timely and valid
16 Request for Exclusion (“Settlement Class Member”) will be bound by all of its terms, including those
17 pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if it grants
18 final approval to the Settlement.

19 77. Objection Procedures. To object to this Stipulation of Settlement, a Class Member must
20 file a valid Notice of Objection with the Court and serve copies of the Notice of Objection on the Parties
21 before the Response Deadline. The Notice of Objection must be signed by the Class Member and
22 contain all information required by this Stipulation of Settlement. The postmark date of the filing and
23 service will be deemed the exclusive means for determining that the Notice of Objection is timely. Class
24 Members who fail to object in the specific and technical manner specified above will be deemed to have
25 waived all objections to the Settlement and will be foreclosed from making any objections and seeking
26 any adjudication or review, whether by appeal or otherwise, to this Stipulation of Settlement. At no
27 time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to
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1 submit written objections to this Stipulation of Settlement or appeal from the Order and Judgment.
2 However, Class Counsel, Defense Counsel, and Defendant may respond to inquiries from Class
3 Members with truthful information. Class Counsel will not represent any Class Members with respect
4 to any such objections to this Settlement.

5 78. Reminders. Not earlier than twenty (20) days or later than thirty (30) days after the initial
6 mailing, the Claims Administrator will send a Reminder Postcard to all Class Members who have not
7 returned a Claim Form or a Request for Exclusion. All Reminder Postcards will include the Response
8 Deadline, and the contact information for Class Counsel and the Claims Administrator.

9 79. Certification Reports Regarding Individual Settlement Payment Calculations. The
10 Claims Administrator will provide Defendant's counsel and Class Counsel a weekly report which
11 certifies: (a) the number of Class Members who have submitted valid Claim Forms; (b) the number of
12 Claimants; (c) the number of Class Members who have submitted valid Requests for Exclusion; (d) the
13 then current amount and percentage of the Net Settlement Amount claimed by Claimants; and (e)
14 whether any Class Member has submitted a challenge to any information contained in their Claim Form
15 or Notice Packet. Additionally, the Claims Administrator will provide to counsel for both Parties any
16 updated reports regarding the administration of this Stipulation of Settlement as needed or requested.

17 80. Payment Schedule for All Court-Approved and Individual Settlement Payment Amounts.
18 Within three (3) business days of the Court granting final approval, the Claims Administrator will
19 calculate all payments due.

20 81. Unclaimed Funds from the Net Settlement Amount. After all Individual Settlement
21 Payments have been made, any remaining or unclaimed funds from the Net Settlement Amount above
22 50% shall remain the property of the Defendant. In other words, such amounts shall revert to Defendant,
23 provided, or to the extent that, the minimum 50% payout is satisfied.

24 82. Payroll Taxes. Any and all applicable employer-side payroll taxes that Defendant
25 normally would be responsible for paying relating to the portion of the Individual Settlement Payments
26 paid as wages shall be paid separate and apart from the Maximum Settlement Amount and funded by
27 Defendant.

1 83. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to
2 Claimants will be negotiable for at least 180 calendar days. Those funds represented by settlement
3 checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180
4 calendar days after issuance will be sent to a California State Controller's Office.

5 84. Certification of Completion. Upon completion of administration of the Settlement, the
6 Claims Administrator will provide a written declaration under oath to certify such completion to the
7 Court and counsel for all Parties. The declaration will include any attempts to obtain valid mailing
8 addresses for and re-sending of any returned Notice Packets, as well as the number of valid exclusions
9 and objections that the Claims Administrator received.

10 85. Administration Costs if Settlement Fails or is Delayed. If the Settlement is voided or
11 rescinded, for any reason other than set forth in Paragraph 95, any costs incurred by the Claims
12 Administrator will be paid equally by the Parties (half by Defendant and half by Class Counsel), unless
13 otherwise specified in this Agreement.

14 86. Treatment of Individual Settlement Payments. For purposes of this Stipulation of
15 Settlement, all Individual Settlement Payments will be allocated as follows: (1) 85% as penalties and
16 interest and (2) 15% as wages. The amounts paid as wages shall be subject to all tax withholdings
17 customarily made from an employee's wages and all other authorized and required withholdings and
18 shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all
19 authorized and required withholdings other than the tax withholdings customarily made from
20 employees' wages and shall be reported by IRS 1099 forms.

21 87. Administration of Taxes by the Claims Administrator. The Claims Administrator will be
22 responsible for issuing to Plaintiff, Claimants, and Class Counsel any W-2, 1099, or other tax forms as
23 may be required by law for all amounts paid pursuant to this Agreement. The Claims Administrator will
24 also be responsible for forwarding all payroll taxes and penalties to the appropriate government
25 authorities.

26 88. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect
27 of the payments called for hereunder; and Plaintiffs and Claimants are not relying on any statement,
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1 representation, or calculation by Defendant or by the Claims Administrator in this regard. Plaintiffs
2 and Claimants understand and agree that except for Defendant's payment of the employer's portion of
3 any payroll taxes, they will be solely responsible for the payment of any taxes and penalties assessed on
4 the payments described herein and will defend, indemnify, and hold Defendant free and harmless from
5 and against any claims resulting from treatment of such payments as non-taxable damages.

6 89. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
7 OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS
8 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, ANY "OTHER PARTY")
9 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
10 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
11 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
12 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
13 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY
14 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
15 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN,
16 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
17 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT
18 BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR
19 ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
20 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER
21 PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
22 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY
23 HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH
24 ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
25 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING
26 PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION,
27 INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

1 90. No Assignments. The Parties and their counsel represent, covenant, and warrant that
2 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
3 or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action
4 or right herein released and discharged. Further, none of the rights, commitments, or obligations
5 recognized under this Agreement may be assigned by any Party, Class Member, Class Counsel, or
6 Defense Counsel without the express written consent of each other Party and their respective counsel.
7 The representations, warranties, covenants, and agreements contained in this Agreement are for the sole
8 benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any
9 remedy to any other person.

10 91. Release of Claims by Class Members. Upon the Effective Date, Plaintiffs and all Class
11 Members who have not submitted valid and timely Requests for Exclusion, will be deemed to have
12 fully, finally and forever released, settled, compromised, relinquished, and discharged with respect to
13 all of the Released Parties any and all Released Claims for any period during the Released Claims
14 Period.

15 92. Waiver of California Civil Code § 1542. Furthermore, pursuant to the terms of the
16 Settlement, and solely with respect to the Released Claims, Plaintiffs expressly waive and relinquish
17 any rights or benefits available to them under the provisions of § 1542 of the California Civil Code,
18 which provides as follows:

19 “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR
20 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
21 THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD
22 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR
23 RELEASED PARTY.”

24 93. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this
25 Stipulation of Settlement to the Court in support of Plaintiffs’ Motion for Preliminary Approval and
26 determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution
27 of this Stipulation of Settlement, the Parties shall apply to the Court for the entry of an order scheduling
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1 a fairness hearing on the question of whether the proposed settlement, including payment of attorneys'
2 fees and costs, and Plaintiffs' Class Representative Enhancement Payments should be finally approved
3 as a fair, reasonable and adequate settlement. As part of Plaintiff's Motion for Preliminary Approval,
4 Plaintiffs shall also apply to the Court for the entry of an order as follows:

- 5 a. Certifying the Class for the purpose of settlement;
- 6 b. Approving, as to form and content, the proposed Notice of Class Action Settlement;
- 7 c. Approving as to form and content the proposed Claim Form;
- 8 d. Approving the manner and method for Class Members to request exclusion from
9 the Settlement as contained herein and within the Notice of Class Action
10 Settlement;
- 11 e. Directing the mailing of the Notice of Class Action Settlement, Claim Form, and
12 Reminder Postcards to the Class Members, in accordance with the Settlement
13 Agreement;
- 14 f. Preliminarily approving the Settlement subject only to the objections of Class
15 Members and final review by the Court; and
- 16 g. Enjoining Plaintiffs and any Class Member from filing or prosecuting any claims,
17 suits or administrative proceedings (including filing claims with the California
18 Division of Labor Standards Enforcement and the LWDA) regarding the Released
19 Claims unless and until such Class Members have filed valid Requests for
20 Exclusion with the Claims Administrator.

21 94. Duties of the Parties Following Final Court Approval. Following final approval by the
22 Court of the Settlement provided for in this Stipulation of Settlement, Class Counsel will submit a
23 proposed final order of approval and judgment as follows:

- 24 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
25 adequate, and directing consummation of its terms and provisions;
- 26 b. Approving Class Counsel's application for an award of attorneys' fees and costs;
- 27 c. Approving the Class Representative Enhancement Payments to Plaintiffs;

1 d. Setting a date when the parties shall report to the Court the total amount that was
2 actually paid to the Class Members; and

3 e. Entering judgment in this Action consistent with this Agreement.

4 95. Defendant's Option to Terminate the Settlement. If ten percent (10%) or more of the
5 Class Members opt out of the Settlement by filing Requests for Exclusion, Defendant may, in its sole
6 discretion, unilaterally rescind the Settlement and all actions taken in furtherance of it will thereby be
7 null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel no later
8 than five (5) court days prior to the date of the Final Approval Hearing. If the option to rescind is
9 exercised, Defendant shall be solely responsible for all costs of the Claims Administrator accrued to
10 that point.

11 96. Nullification of Stipulation of Settlement. In the event that: (a) the Court does not finally
12 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
13 reason, then this Stipulation of Settlement, and any documents generated to bring it into effect, will be
14 null and void. Any order or judgment entered by the Court in furtherance of this Stipulation of
15 Settlement will likewise be treated as void from the beginning.

16 97. Preliminary Approval Hearing. Plaintiffs will obtain a hearing before the Court to
17 request the Preliminary Approval of this Stipulation of Settlement, and the entry of a Preliminary
18 Approval Order for: (a) conditional certification of the Class for settlement purposes only, (b)
19 Preliminary Approval of the proposed Stipulation of Settlement, and (c) setting a date for a Final
20 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Notice
21 Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval
22 hearing, Plaintiffs will submit this Stipulation of Settlement, which sets forth the terms of this
23 Settlement, and will include the proposed Notice Packet; i.e., the proposed Notice of Class Action
24 Settlement documents, and the proposed Claim Form, attached as **Exhibit A** and **Exhibit B** respectively.
25 Class Counsel will be responsible for drafting all documents necessary to obtain preliminary approval.
26 Defendant agrees not to oppose the Motion for Preliminary Approval.

27 98. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
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1 deadlines to postmark Claim Forms, Requests for Exclusion, or objections to this Stipulation of
2 Settlement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be
3 conducted to determine the Final Approval of this Stipulation of Settlement along with the amounts
4 properly payable for (a) Individual Settlement Payments; (b) the Attorneys' Fees and Costs; (c) the
5 Class Representative Enhancement Payments; and (d) all Claims Administration Costs, as well as (e)
6 confirming the total amount to be allocated towards PAGA Payment. Class Counsel will be responsible
7 for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible
8 for drafting the attorneys' fees and costs application to be heard at the final approval hearing and shall
9 submit to the Court a Proposed Final Approval Order. Defendant agrees not to oppose the Motion for
10 Final Approval and Attorneys' Fee and Costs.

11 99. Either Party's Option to Terminate the Settlement. Subject to the obligation(s) of mutual
12 full cooperation, either Party may terminate this Settlement if the Court declines to enter the Preliminary
13 Approval Order, the Final Approval Order or final judgment in substantially the form submitted by the
14 Parties, or this Stipulation of Settlement as agreed does not become final because of appellate court
15 action. The terminating Party shall give to the other Party (through its counsel) written notice of its
16 decision to terminate no later than ten (10) business days after receiving notice that one of the
17 enumerated events has occurred. Termination shall have the following effects:

- 18 a. The Stipulation of Settlement shall be terminated and shall have no force or effect,
19 and no Party shall be bound by any of its terms;
 - 20 b. In the event the Settlement is terminated, Defendant shall have no obligation to
21 make any payments to any party, class member or attorney, except that the
22 Terminating Party shall pay the Claims Administrator for services rendered up to
23 the date the Claims Administrator is notified that the settlement has been
24 terminated;
 - 25 c. The Preliminary Approval Order, Final Approval Order and Judgment, including
26 any order of class certification, shall be vacated;
- 27
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1 d. The Stipulation of Settlement and all negotiations, privileged statements and
2 proceedings relating thereto shall be without prejudice to the rights of any of the
3 Parties, all of whom shall be restored to their respective positions in the Action
4 prior to this Stipulation of Settlement; and

5 e. Neither this Stipulation of Settlement, nor any ancillary documents, actions,
6 statements or filings in furtherance of this Stipulation of Settlement (including all
7 matters associated with the mediation) shall be admissible or offered into evidence
8 in the Action or any other action for any purpose whatsoever.

9 100. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set
10 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
11 Any Exhibits to this Agreement are an integral part of this Stipulation of Settlement.

12 101. Confidentiality. The Parties and their counsel agree that they will not issue any press
13 releases, initiate any contact with the press, respond to any press inquiry, or have any communication
14 with the press about the fact, amount, or terms of the Settlement prior to the Settlement being
15 preliminarily approved by the Court. In addition, the Parties and their counsel agree that they will not
16 engage in any advertising or distribute any marketing materials relating to the Settlement of this case
17 prior to the Settlement being preliminarily approved by the Court, including but not limited to any
18 postings on any websites maintained by Class Counsel. Any communication about the Settlement to
19 Class Members prior to the Settlement being preliminarily approved by the Court will be limited to a
20 statement that a settlement has been reached and the details will be communicated in a forthcoming
21 Court-approved notice. Nothing set forth herein, however, shall prohibit (a) Defendant from providing
22 truthful disclosure about the Settlement, including its amount, in its periodic filings on Form 10-Q or
23 Form 10-K with the United States Securities and Exchange Commission, or (b) the Parties from
24 providing this Agreement to the Court in connection with the Parties' efforts to seek the Court's
25 approval of this Settlement. Neither Plaintiffs nor Class Counsel shall hold a press conference or
26 otherwise seek to affirmatively contact the media about the Settlement. If contacted by the media
27 regarding the settlement, Class Counsel will direct any media inquiries to the public records of the
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1 Action on file with the Court. Additionally, neither Plaintiffs nor Class Counsel will disparage the
2 Settlement.

3 102. Entire Agreement. This Stipulation of Settlement and any attached Exhibits constitute
4 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
5 agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil
6 Code § 1625 and California Code of Civil Procedure § 1856(a), which provide that a written agreement
7 is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence,
8 and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or
9 contradict the terms of this Agreement.

10 103. Amendment or Modification. This Stipulation of Settlement may be amended or
11 modified only by a written instrument signed by the named Parties and counsel for all Parties or their
12 successors-in-interest.

13 104. Authorization to Enter Into Stipulation of Settlement. Counsel for all Parties warrant and
14 represent they are expressly authorized by the Parties whom they represent to negotiate this Stipulation
15 of Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant
16 to this Stipulation of Settlement to effectuate its terms and to execute any other documents required to
17 effectuate the terms of this Stipulation of Settlement. The Parties and their counsel will cooperate with
18 each other and use their best efforts to effectuate the implementation of the Settlement. If the Parties
19 are unable to reach agreement on the form or content of any document needed to implement the
20 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this
21 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

22 105. Signatories. It is agreed that because the members of the Class are so numerous, it is
23 impossible or impractical to have each member of the Class execute this Stipulation of Settlement. The
24 Notice of Class Action Settlement, attached hereto as Exhibit A, will advise all Class Members of the
25 binding nature of the release, and the release shall have the same force and effect as if this Stipulation
26 of Settlement were executed by each Settlement Class Member.

27 106. Binding on Successors and Assigns. This Stipulation of Settlement will be binding upon,
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1 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

2 107. California Law Governs. All terms of this Stipulation of Settlement and Exhibits hereto
3 will be governed by, construed, and interpreted according to the laws of the State of California,
4 irrespective of the State of California's choice of law principles.

5 108. Execution and Counterparts. This Stipulation of Settlement is subject only to the
6 execution of all Parties. However, the Agreement may be executed in one or more counterparts. All
7 executed counterparts and each of them, including facsimile and scanned copies of the signature page,
8 will be deemed to be one and the same instrument.

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

18 110. Invalidity of Any Provision. Before declaring any provision of this Stipulation of
19 Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
20 possible consistent with applicable precedents so as to define all provisions of this Stipulation of
21 Settlement valid and enforceable.

22 111. Plaintiffs' Waiver of Right to Be Excluded and Object. Plaintiffs agree to sign this
23 Stipulation of Settlement and, by signing this Stipulation of Settlement, are hereby bound by the terms
24 herein. For good and valuable consideration, Plaintiffs further agree that they will not request to be
25 excluded from this Stipulation of Settlement. Any such request for exclusion by Plaintiffs will be void
26 and of no force or effect.

27 112. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute
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1 that has arisen between them and to avoid the burden, expense and risk of continued litigation. By
2 entering into this Agreement, Defendant does not admit, and specifically denies, it has violated any
3 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute
4 or any other applicable laws, regulations or legal requirements; breached any contract; violated or
5 breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful
6 conduct with respect to its employees or the Class Members. Neither this Agreement, nor any of its
7 terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or
8 concession by Defendant of any such violations or failures to comply with any applicable law. Except
9 as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and
10 provisions shall not be offered or received as evidence in any action or proceeding to establish any
11 liability or admission on the part of Defendant or to establish the existence of any condition constituting
12 a violation of, or a non-compliance with, federal, state, local or other applicable law.

13 113. Captions. The captions and section numbers in this Agreement are inserted for the
14 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
15 provisions of this Agreement.

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

19 115. Meet and Confer Regarding Disputes. Should any dispute arise among the Parties or their
20 respective counsel regarding the implementation or interpretation of this Agreement, a representative of
21 Class Counsel and a representative of Defense Counsel shall meet and confer in an attempt to resolve
22 such disputes prior to submitting such disputes to the Court.

23 116. Enforcement Actions. In the event that one or more of the Parties institutes any legal
24 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
25 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
26 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
27 expert witness fees incurred in connection with any enforcement actions. To the extent consistent with
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1 class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of
2 Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Disposition entered by the
3 Court will not adjudicate the merits of the Action or the liability of the Parties resulting from the
4 allegations of the Action. Its sole purpose is to adopt the terms of the Settlement and to retain
5 jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over this
6 Action and over all Parties and Class Members to the fullest extent to enforce and effectuate the terms
7 and intent of this Agreement

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

13 118. Representation By Counsel. The Parties acknowledge that they have been represented
14 by counsel throughout all negotiations that preceded the execution of this Agreement, and that this
15 Agreement has been executed with the consent and advice of counsel and reviewed in full. Further,
16 Plaintiffs and Class Counsel warrant and represent that there are no liens on this Stipulation of
17 Settlement.

18 119. All Terms Subject to Final Court Approval. All amounts and procedures described in
19 this Stipulation of Settlement herein will be subject to final Court approval.

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

24 To Plaintiffs and the Class:

25 Douglas Han, Esq.
26 Shunt Tatavos-Garajeh, Esq.
27 Talia Lux, Esq.
28 JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue, Suite 101
Pasadena, California 91103

1 To Defendant TRUGREEN, INC. and TRUGREEN LIMITED PARTNERSHIP:

2 Robert Yonowitz (SBN 132081)
3 John A. Mavros (SBN 257673)
4 Kristina Noel Buan (SBN 311661)
5 **FISHER & PHILLIPS LLP**
6 2050 Main Street, Suite 1000
7 Irvine, CA 92614

8 121. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
9 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
10 Stipulation of Settlement.

11 122. Integration Clause. This Stipulation of Settlement contains the entire agreement between
12 the Parties relating to the settlement and transaction contemplated hereby, and all prior or
13 contemporaneous agreements, understandings, representations, and statements, whether oral or written
14 and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be
15 waived except in writing.

16 123. Binding Agreement. The Parties warrant that they understand and have full authority to
17 enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding
18 on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce
19 its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under
20 federal or state law.

21 ///

22 ///

23 ///

1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Settlement and Release Between Plaintiffs and Defendant as of the date(s) set forth below:

3 **NAMED PLAINTIFFS AND CLASS COUNSEL**

4 **READ CAREFULLY BEFORE SIGNING**

5 DATED: 08/22/2022

6 
ADAM LOERA
7 Named Plaintiff

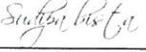
8 DATED: 08/22/2022

9 
MIGUEL DIAZ
10 Named Plaintiff

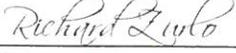
11 DATED: 08/22/2022

12 
DAVID STARR
13 Named Plaintiff

14 DATED: 08/22/2022

15 
SUDIPA BISTA
16 Named Plaintiff

17 DATED: 08/24/2022

18 
RICK ZURLO
19 Named Plaintiff

20
21 DEFENDANT TRUGREEN, INC. AND TRUGREEN
22 LIMITED PARTNERSHIP

23 DATED: 8/26/22

24 By: 

APPROVED AS TO FORM

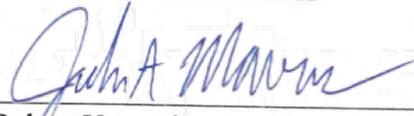
JUSTICE LAW CORPORATION

1
2
3
4 DATED: 8/24/22

By: 
DOUGLAS HAN
SHUNT TATAVOS-GARAJEH
TALIA LUX
Attorney for Plaintiffs and the Class

FISHER PHILLIPS LLP

5
6
7
8
9
10 DATED: 8/29/22

By: 
Robert Yonowitz
John A. Mavros
Kristina Noel Buan
Attorneys for Defendant
TRUGREEN, INC. & TRUGREEN LIMITED
PARTNERSHIP