

1 JACK S. SHOLKOFF, CA Bar No. 145097
jack.sholkoff@ogletree.com
2 JENNIFER L. KATZ, CA Bar No. 258917
jennifer.katz@ogletree.com
3 OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.
4 400 South Hope Street, Suite 1200
Los Angeles, CA 90071
5 Tel: 213-239-9800 | Fax: 213-239-9045

6 Attorneys for Defendant
ARVATO DIGITAL SERVICES LLC

7 HAINES LAW GROUP, APC
8 Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
9 2155 Campus Drive, Suite 180
El Segundo, CA 90245
10 Tel: (424) 292-2350 | Fax: (424) 292-2355

11 SANI LAW, APC
Sam Sani (SBN 273993)
12 ssani@sanilawfirm.com
15720 Ventura Blvd., Suite 405
13 Encino, CA 91436
Tel: (310) 935-0405 | Fax: (310) 935-0409

14 Attorneys for Plaintiff FERNANDO BARRERA

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

18 FERNANDO BARRERA, an individual, on
19 behalf of himself and all others similarly
situated,

20 Plaintiff,

21 vs.

22 ARVATO DIGITAL SERVICES LLC, a
23 Delaware Corporation, and DOES 1 through
100,

24 Defendants.

Case No. 19STCV22566

**JOINT STIPULATION RE: CLASS
ACTION SETTLEMENT**

[Assigned for all purposes to
The Honorable Amy D. Hogue, Dept. 7]

Action Filed: June 28, 2019
Trial Date: None

1 **TO THE COURT AND TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL**
2 **OF RECORD:**

3 This Joint Stipulation re: Class Action Settlement (hereinafter, “Stipulation” or “Settlement”)
4 is made and entered into by and between plaintiff Fernando Barrera (“Plaintiff”), on behalf of himself
5 and on behalf of others similarly situated; and defendant Arvato Digital Services LLC (“Defendant”),
6 hereinafter collectively referred to as the “Parties.” Subject to the approval of the Court, the matter
7 of *Fernando Barrera v. Arvato Digital Services LLC*, Case No. 19STCV22566 (the “Action”), is
8 hereby being compromised and settled pursuant to the terms and conditions set forth in this
9 Stipulation. This Settlement shall be binding on Plaintiff, the proposed class described herein,
10 Defendant, and their respective counsel, subject to the terms and conditions hereof and the approval
11 of the Court.

12 **THE PARTIES STIPULATE AND AGREE** as follows:

13 **I. DEFINITIONS**

14 1. The following terms, as used throughout this Stipulation, are defined as follows:

15 a) Action. The term “Action” shall mean and refer to the legal action pending in
16 the Superior Court of California for the County of Los Angeles, Case No. 19STCV22566,
17 entitled *Fernando Barrera v. Arvato Digital Services LLC*.

18 b) Check Cashing Deadline. The term “Check Cashing Deadline” shall mean
19 one hundred eighty (180) days after an Individual Settlement Award is issued to a Class
20 Member by check.

21 c) Class. The term “Class” shall mean and refer, collectively, to all Class
22 Members.

23 d) Class Counsel. The term “Class Counsel” shall refer collectively to (i) Paul
24 K. Haines of Haines Law Group, APC, located at 2155 Campus Drive, Suite 180, El Segundo,
25 CA 90245; and (ii) Sam Sani of Sani Law, APC, located at 15720 Ventura Blvd., Suite 405,
26 Encino, CA 91436.

27 e) Class Members. The term “Class Members” shall mean: “All persons who
28 have worked for defendant Arvato Digital Services LLC as non-exempt employees in the

1 State of California at any time during the Class Period who have not already released any and
2 all claims they may have possessed against Defendant, excluding persons who worked for
3 Defendant as non-exempt employees at Defendant’s Ontario, California facility between
4 April 3, 2017 and November 6, 2019.”

5 f) Class Period. The term “Class Period” shall mean the time period from June
6 28, 2015 to the Preliminary Approval Date.

7 g) Class Representative. The term “Class Representative” shall mean and refer
8 to plaintiff Fernando Barrera. The term “Class Representative” shall be synonymous with
9 the term “Plaintiff.”

10 h) Court. The term “Court” shall refer to the Honorable Amy D. Hogue of the
11 Superior Court of California for the County of Los Angeles, before whom the Action is
12 pending, or any other judge of the Superior Court of California for the County of Los Angeles
13 to whom the Action may be assigned in the future.

14 i) Defendant. The term “Defendant” shall mean and refer to Arvato Digital
15 Services LLC.

16 j) Defendant’s Counsel. The term “Defendant’s Counsel” shall refer to Jack S.
17 Sholkoff and Jennifer L. Katz of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., located at
18 400 South Hope Street, Suite 1200, Los Angeles, CA 90071.

19 k) Document Receipt Deadline. The term “Document Receipt Deadline” shall
20 mean forty-five (45) days after the Notices are mailed to Class Members by the Settlement
21 Administrator.

22 l) Effective Date. The term “Effective Date” shall mean the date on which the
23 Court’s Judgment becomes final, as further detailed in Paragraph 8, herein.

24 m) Final Settlement Approval Hearing. The term “Final Settlement Approval
25 Hearing” shall mean and refer to a hearing before the Court to finally approve the Settlement
26 as fair, reasonable, and adequate, as further detailed in Paragraph 28, herein.

27 n) Final Settlement Papers. The term “Final Settlement Papers” shall refer to
28 and include a Motion for Final Approval of the Settlement, Motion for Attorneys’ Fees and

1 Costs, and [Proposed] Final Settlement Order.

2 o) Individual Settlement Award. The term “Individual Settlement Award” shall
3 mean a Class Member’s share of the Net Settlement Amount, as further detailed in Paragraph
4 18, subparagraph (f), herein.

5 p) Net Settlement Amount. The term “Net Settlement Amount” shall mean and
6 refer to the balance of the Total Class Action Settlement Amount, after all Court-approved
7 deductions for attorneys’ fees and actual costs to Class Counsel, the settlement administration
8 costs and fees, the Class Representative’s enhancement awards, and the PAGA Allocation.
9 The Net Settlement Amount is the maximum amount that will be available for distribution to
10 Class Members.

11 q) Notice. The term “Notice” shall mean the Notice of Class Action Settlement,
12 attached hereto as **Exhibit A**.

13 r) PAGA Allocation. “PAGA Allocation” means the amount of \$20,000.00 to
14 be allocated to resolve the Class Members’ claims arising under the Labor Code Private
15 Attorneys General Act of 2004, Cal. Lab. Code §§ 2698, *et seq.* (“PAGA”) in settlement of
16 alleged but disputed PAGA civil penalties. Pursuant to PAGA, 75 percent of the PAGA
17 Allocation, or Fifteen Thousand Dollars (\$15,000.00), shall be paid to the State of California
18 Labor and Workforce Development Agency (the “LWDA”), with the remaining 25 percent,
19 or Five Thousand Dollars (\$5,000.00), allocated to the Net Settlement Amount.

20 s) Participating Class Members. “Participating Class Members” means Class
21 Members who do not effectively and/or timely opt-out from the Settlement in the manner
22 provided in Paragraphs 11 and 20(d), below.

23 t) Parties. The term “Parties” shall mean and refer collectively to plaintiff
24 Fernando Barrera, on behalf of the Class, and Defendant.

25 u) Plaintiff. The term “Plaintiff” shall mean and refer to plaintiff Fernando
26 Barrera. The term “Plaintiff” shall be synonymous with the term “Class Representative.”

27 v) Preliminary Approval Date. The term “Preliminary Approval Date” shall
28 mean the date that the Court enters the Preliminary Approval Order, attached hereto as

1 **Exhibit B**, including any revisions required by the Court.

2 w) Released Parties. The term “Released Parties” shall mean and refer to
3 Defendant and all of Defendant’s current or former parent companies, subsidiary companies
4 (including, but not limited to, Arvato BPS, Inc. n/k/a Majorel USA, Inc.) and/or related
5 companies, partnerships, joint ventures, and/or staffing agencies, and, with respect to each of
6 them, all of their and/or such related entities’ predecessors, and, with respect to each such
7 entity, all of its past and present employees, officers, partners, principals, directors,
8 stockholders, owners, representatives, assigns, attorneys, agents, insurers, employee benefit
9 programs (and the trustees, administrators, fiduciaries, and insurers of such programs), and
10 any other persons acting by, through, under, or in concert with any of the persons or entities
11 listed in this subsection.

12 x) Settlement Administrator. The term “Settlement Administrator” shall refer to
13 CPT Group Class Action Administrators, or any other third-party class action settlement
14 administrator agreed to by the Parties and approved by the Court for the purposes of
15 administering this Settlement.

16 y) Stipulation. The term “Stipulation” shall refer to this document, entitled
17 “Joint Stipulation re: Class Action Settlement,” including all exhibits attached hereto.

18 z) Third Amended Complaint. The term “Third Amended Complaint” shall
19 mean and refer to the Third Amended Complaint that was filed by Plaintiff, pursuant to
20 directive from the Court, on January 4, 2021, which added individual and Class claims for
21 waiting time penalties pursuant to California Labor Code section 203; rest break violations
22 under Labor Code section 226.7 for first and second rest breaks; wage statement and
23 recordkeeping penalties pursuant to Labor Code sections 226 and 1174; and civil penalties
24 pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections
25 2698, *et seq.*

26 aa) Total Class Action Settlement Amount. The term “Total Class Action
27 Settlement Amount” shall mean Three Hundred Fifty Thousand Dollars (\$350,000.00). This
28 is the maximum possible amount that may be paid by Defendant to resolve this Action, with

1 the sole exception of certain additional tax payments to be made pursuant to Paragraph 20,
2 subparagraph (h). The Total Class Action Settlement Amount is a common fund, non-
3 reversionary amount.

4 2. Date Of This Stipulation. This Stipulation is made as of the date of Plaintiff's
5 signature below, by and between Plaintiff, on behalf of himself and the Class, on the one hand, and
6 Defendant, on the other hand, subject to the approval of the Court.

7 **II. BACKGROUND OF THE LEGAL ACTION**

8 3. Brief Procedural History. Plaintiff filed the instant Action, entitled *Fernando Barrera*
9 *v. Arvato Digital Services LLC*, in Los Angeles County Superior Court on June 28, 2019. In his
10 original Class Action Complaint, Plaintiff alleged causes of action on behalf of himself and all others
11 allegedly similarly situated for: (1) Meal Period Violations for allegedly missed first and second meal
12 periods; (2) Rest Period Violations for allegedly missed third rest periods; (3) Wage Statement
13 Violations; and (4) Unfair Competition pursuant to California Business and Professions Code
14 sections 17200, *et seq.* On September 30, 2019, Plaintiff filed his First Amended Class and
15 Representative Action Complaint against Defendant, adding a claim for civil penalties pursuant to
16 the Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698, *et seq.* based on the
17 same underlying allegations alleged in the original Complaint. By agreement of the Parties, Plaintiff
18 filed his Second Amended Class Action Complaint on or about November 18, 2019. In the Second
19 Amended Class Action Complaint, Plaintiff asserted individual and putative class claims for (1) Meal
20 Period Violations for allegedly missed first and second meal periods; (2) Rest Period Violations for
21 allegedly missed third rest periods; and (3) Unfair Competition pursuant to California Business and
22 Professions Code sections 17200, *et seq.*; Plaintiff dropped his claims for wage statement violations
23 and civil penalties pursuant to PAGA without prejudice. On December 11, 2019, Defendant filed
24 an Answer to Plaintiff's Second Amended Class Action Complaint. At all times in the Action,
25 Defendant has generally denied Plaintiff's claims, including the allegations in the Complaint, First
26 Amended Complaint, Second Amended Complaint, and the Proposed Third Amended Complaint to
27 be filed in conjunction with this Settlement.

28 4. Mediation And Settlement Agreement Reached By The Parties. On May 12, 2020,

1 the Parties and their counsel participated in a formal, virtual mediation session via Zoom before Mr.
2 Louis Marlin, Esq. At the conclusion of the mediation session, the Parties, by and through their
3 counsel, reached an agreement to resolve the Action on a class-wide basis pursuant to terms set forth
4 in a Memorandum of Understanding. This Stipulation formalizes the Settlement agreement reached
5 by the Parties.

6 5. Investigation. The Parties have conducted a detailed and comprehensive investigation
7 of the claims asserted against Defendant and of the applicable law. The Parties engaged in informal
8 discovery to prepare for mediation, which included: (a) analysis by the Parties of certain records,
9 data, and policies pertaining to Plaintiff, Class Members, and the claims asserted in the Action; (b)
10 research of the law applicable to Plaintiff's claims and Defendant's affirmative defenses, as well as
11 the damages alleged by Plaintiff; (c) exchange, examination, and analysis of information and
12 documents relating to Defendant's formal policies and Plaintiff's claims for wage and hour
13 violations; and (d) consideration of information disclosed at and in connection with mediation.

14 6. Benefits Of Settlement. The Class Representative and Class Counsel recognize the
15 uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in
16 such litigation. The Class Representative and Class Counsel also are aware of the burdens of proof
17 necessary to establish liability for the claims asserted in the Action, the defenses thereto, and the
18 difficulties inherent in the Action. Based on the foregoing, the Class Representative and Class
19 Counsel have determined that the Settlement set forth in this Stipulation is a fair, adequate, and
20 reasonable settlement, and that it is in the best interest of the Class Members. Based on their
21 discovery and investigation, Class Counsel has determined that the Settlement is well within the
22 range of reasonableness. The settlement embodied and documented in this Stipulation is the product
23 of extensive, arms-length negotiations, and is not the product of collusion. Likewise, Defendant has
24 concluded that any further defense of this Action would be protracted and expensive. Substantial
25 amounts of time, energy, and resources have been, and will continue to be, devoted to the defense of
26 the Action unless this Settlement is made. Therefore, Defendant has agreed to settle, in the manner
27 and upon the terms set forth in this Stipulation, in order to fully and finally resolve the claims asserted
28 in the Action.

1 7. Denial Of Wrongdoing. Defendant has denied and continues to deny each of the
2 claims asserted by Plaintiff in this Action, as referenced in Paragraph 3, above, and which will be
3 included in the Third Amended Complaint. Defendant has asserted and continues to assert defenses
4 to the Class Representative’s claims, and has expressly denied and continues to deny any wrongdoing
5 whatsoever. Neither this Stipulation nor any action taken to carry out the Settlement may be
6 construed as an admission by Defendant of any fault, wrongdoing, or liability whatsoever.

7 **III. DATE OF SETTLEMENT**

8 8. Effective Date. The Settlement as to Class Members, except for the Release Of Class
9 Claims By Plaintiff And Class Members as set forth in Paragraph 15, shall become effective when
10 the Settlement is considered “final.” For purposes of this Stipulation:

11 a) If no timely appeals of the Court’s order granting final approval of the
12 Settlement are filed, the Settlement as to Class Members shall become “final” on the sixty-
13 first (61st) date following entry of the trial court’s final Judgment; or

14 b) In the event that a timely appeal of the court’s order granting final approval of
15 the Settlement has been filed, the Settlement as to Class Members shall become “final” when
16 the applicable appellate court has rendered a final decision or opinion affirming the trial
17 court’s final approval order without material modification, and the applicable date for seeking
18 further appellate review has passed, or the date that any such appeal has been either dismissed
19 or withdrawn by the appellant.

20 **IV. CLASS MEMBERS INCLUDED IN SETTLEMENT**

21 9. Scope Of The Class. The Class is defined as follows: “All persons who have worked
22 for defendant Arvato Digital Services LLC as non-exempt employees in the State of California at
23 any time during the Class Period who have not already released any and all claims they may have
24 possessed against Defendant, excluding persons who worked for Defendant as non-exempt
25 employees at Defendant’s Ontario, California facility between April 3, 2017 and November 6, 2019.”

26 10. Class Members’ Objections To This Settlement. Any Class Member may object to
27 the Settlement by (1) submitting a written objection to the Settlement Administrator (who shall
28 provide all objections as received to Class Counsel and Defendant’s Counsel, as well as file all such

1 objections with the Court), or (2) by offering oral comments at the Final Settlement Approval
2 Hearing, either directly or through an attorney. Defendant’s Counsel and Class Counsel shall submit
3 any responses to objections no later than the deadline to file the Motion for Final Approval of the
4 Settlement. To be valid, any written objection must be postmarked (1) no later than the Document
5 Receipt Deadline; or (2) for any Notice that was originally returned to the Settlement Administrator
6 as non-delivered and which the Settlement Administrator re-sent to the forwarding address as set
7 forth in Paragraph 20, subparagraph (c), herein, by no later than forty-five (45) calendar days after
8 the date that the Settlement Administrator re-sent the Notice to the forwarding address. Any Class
9 Member who does not object to the Settlement in the manner provided for in this Stipulation may
10 not appeal the Final Judgment. In the event that the Court approves this Settlement notwithstanding
11 the objections of any Class Members, Class Members who object to the Settlement will nonetheless
12 be bound by the Settlement. Class Members who have opted out of the Settlement as detailed in
13 Paragraph 20, subparagraph (d), herein do not have standing to object to the Settlement or to file an
14 appeal for purposes of Paragraph 8. The Parties, Class Counsel, and Defendant’s Counsel agree not
15 to take any action or make any statements to encourage any Class Members to object to the
16 Settlement.

17 10A. Class Members’ Dispute Of Individual Settlement Award Amount. Any Class
18 Member may dispute their estimated Individual Settlement Award amount and/or the total number
19 of “qualified weeks” during which the Class Member was employed by Defendant in California
20 during the Class Period as a non-exempt employee by completing, signing, dating, and returning to
21 the Settlement Administrator the Information Sheet & Dispute Form, attached hereto as **Exhibit D**,
22 along with an explanation and copies of any supporting evidence or documents. To be valid, such
23 written dispute must be postmarked (1) no later than the Document Receipt Deadline; or (2) for any
24 Notice that was originally returned to the Settlement Administrator as non-delivered and which the
25 Settlement Administrator re-sent to the forwarding address as set forth in Paragraph 20, subparagraph
26 (c), herein, by no later than forty-five (45) calendar days after the date that the Settlement
27 Administrator re-sent the Notice to the forwarding address. The Parties, Class Counsel, and
28 Defendant’s Counsel agree not to take any action or make any statements to encourage any Class

1 Members to submit a dispute pursuant to this Paragraph.

2 11. Class Members' Exclusion ("Opt-Out") From This Settlement. Any Class Member
3 may request to be excluded ("opt-out") from this Settlement by mailing a written Request for
4 Exclusion to the Settlement Administrator as prescribed in Paragraph 20, subparagraph (d), herein.
5 Each Class Member who submits a valid Request for Exclusion shall not be bound by the Settlement,
6 except as follows: each Class Member who was employed by Defendant at any point between July
7 25, 2018 and the Preliminary Approval Date (the "PAGA Aggrieved Employees") will be issued a
8 check for their share of the PAGA Allocation regardless of whether they submit a valid Request for
9 Exclusion from the Settlement. PAGA Aggrieved Employees shall be deemed to have released the
10 Released Parties of and from all claims for civil penalties under PAGA with respect to the underlying
11 wage and hour claims that were pled or that could have been pled in the Third Amended Complaint
12 regardless of whether they submit a valid Request for Exclusion from the Settlement (the "PAGA
13 Release"). This PAGA Release shall run from July 25, 2018 until the Preliminary Approval Date.
14 The Parties, Class Counsel, and Defendant's Counsel agree not to take any action or make any
15 statements to encourage any Class Members to opt out of the Settlement.

16 12. Blow-Up Provision. Defendant reserves the right to revoke this Stipulation and the
17 Settlement provided for herein if more than ten percent (10%) of Class Members opt out of the
18 Settlement by submitting timely and valid Requests for Exclusion in the manner set forth in
19 Paragraph 20, subparagraph (d), below, in which case this Stipulation will not have any force and/or
20 effect. Class Counsel and the Class Representative agree not to oppose any application by Defendant
21 and/or Defendant's Counsel that is consistent with this paragraph. Defendant shall make its election
22 within seven (7) calendar days of receipt from the Settlement Administrator of the total percentage
23 of opt-outs. If the Settlement is voided, no payment will be made by Defendant to Plaintiff, any
24 Class Member, or Class Counsel in connection with this Stipulation; and all Parties and third parties
25 referenced in this Stipulation will bear their own costs, fees, and expenses associated with the
26 Litigation. However, in such an event, Defendant will be responsible for the costs incurred to date
27 by the Settlement Administrator.

28 13. Escalator Clause. If, as of the end date of the Class Period, the number of Class

1 Members is greater than 318, Defendant shall increase the Total Class Action Settlement Amount
2 proportionally for each Class Member over 318 (*i.e.*, the Total Class Action Settlement Amount will
3 be increased by \$1,100.63 for each Class Member over 318).

4 14. Finality Of Settlement. As of the date Defendant delivers the Total Class Action
5 Settlement Amount to the Settlement Administrator, the Settlement contained herein, including the
6 Release Of Class Claims outlined below, shall be final and binding upon all Class Members who do
7 not exclude themselves from the Settlement.

8 **V. RELEASES**

9 15. Release Of Class Claims By Plaintiff And Class Members. As of the date Defendant
10 delivers the Total Class Action Settlement Amount to the Settlement Administrator, Plaintiff and
11 Class Members (including the Class Representative) release the Released Parties from the following,
12 collectively referred to as the “Released Class Claims”:

13 Any and all claims, actions, demands, causes of action, suits, debts, obligations,
14 damages, rights or liabilities that have been asserted by Plaintiff, or the Class
15 Members or any of their respective heirs, executors, administrators, beneficiaries,
16 predecessors, successors, attorneys, assigns, agents, and/or representatives arising out
17 of any claims that were encompassed in the Action, and any claims which reasonably
18 flow from the facts alleged in Plaintiff’s Third Amended Complaint including, but
19 not limited to: claims under federal, state, or local law for failure to provide compliant
20 meal and/or rest periods or proper premium payments in lieu thereof, interest,
21 statutory and civil penalties (including waiting time penalties pursuant to Labor Code
22 section 203, wage statement and recordkeeping penalties pursuant to Labor Code
23 sections 226 and 1174, and civil penalties pursuant to the Labor Code Private
24 Attorneys General Act of 2004 (Labor Code sections 2698, *et seq.*) (“PAGA”)),
25 claims pursuant to Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.3,
26 226.7, 512, 516, 1174, 1194, and 2698, *et seq.*, the Industrial Welfare Commission
27 Wage Orders relating to claims for meal periods and rest breaks, and claims under
28 Business and Professions Code sections 17200, *et seq.*, claims for attorneys’ fees and

1 costs, conversion, fraud, common count, and unfair business practices. Released
2 Class Claims include all claimed or unclaimed compensatory, consequential,
3 incidental, liquidated, punitive and exemplary damages, restitution, interest, costs and
4 fees, injunctive or equitable relief, and any other remedies available at law or equity
5 allegedly owed or available to the Class arising or reasonably flowing from the Third
6 Amended Complaint against the Released Parties for the time period from June 28,
7 2015 up to and including the Preliminary Approval Date.

8 The *res judicata* effect of the Judgment will be the same as that of the Release.

9 16. General Release By The Class Representative. In addition to the release set forth in
10 the above Paragraph 15, the Class Representative makes the additional general release of all of his
11 individual claims as follows: The Class Representative releases the Released Parties from any and
12 all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights, or liabilities
13 of any nature and description whatsoever, known or unknown, that the Class Representative
14 individually may possess against the Released Parties arising from the Class Representative's
15 employment with Defendant. The Class Representative hereby acknowledges that, upon receiving
16 the sums provided to him pursuant to this Stipulation agreement, he will have received all potential
17 wages, damages, and penalties owing to him by Defendant, and, further, that he is not owed any
18 additional wages, penalties, or damages from Defendant.

19 The Class Representative also agrees to expressly and fully waive the provisions of California
20 Civil Code section 1542, which provides as follows:

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

25 The Class Representative's general release shall cover the time period from the beginning of time up
26 to the Effective Date.

27 **VI. AMOUNT AND DISTRIBUTION OF SETTLEMENT**

28 17. Settlement Amount. The Total Class Action Settlement Amount shall be Three

1 Hundred Fifty Thousand Dollars (\$350,000.00). Defendant will pay the Total Class Action
2 Settlement Amount within seven (7) calendar days following the Effective Date, as defined in
3 Paragraph 8, above, by wiring or otherwise transferring that amount to the Settlement Administrator.
4 With the limited exception of Defendant's obligation to pay the employer's share of payroll taxes as
5 described in Paragraph 20, subparagraph (h), under no circumstances will Defendant be obligated to
6 pay more than the amount of \$350,000.00 as a result of this Settlement.

7 18. Deductions From Settlement Amount. Deductions from the Total Class Action
8 Settlement Amount, all subject to Court approval, shall be made for:

9 a) Attorneys' Fees. Class Counsel may apply for an award of attorneys' fees,
10 not to exceed one-third (33 $\frac{1}{3}$ percent) of the Total Class Action Settlement Amount, or One
11 Hundred Sixteen Thousand Six Hundred Sixty Six Dollars and Sixty Seven Cents
12 (\$116,666.67). The attorneys' fees award shall be paid from, and not in addition to, the Total
13 Class Action Settlement Amount. The amount of attorneys' fees shall include all past and
14 future attorneys' fees to Class Counsel – including, without limitation, all time expended by
15 Class Counsel in defending the Settlement and securing final approval of the Settlement
16 (including any appeals thereof). Defendant agrees not to oppose any such application which
17 is consistent with this paragraph; however, the Settlement is not contingent on Plaintiff
18 recovering that or any particular amount as an attorneys' fees award. Even in the event that
19 the Court reduces or does not approve the requested attorneys' fees award, Plaintiff and Class
20 Counsel shall not have the right to revoke this Stipulation or this Settlement, and it will remain
21 binding.

22 b) Attorneys' Costs. In addition to attorneys' fees, Class Counsel may apply for
23 an award of costs, not to exceed the sum of Twenty Thousand Dollars (\$20,000.00). The
24 costs award shall be paid from, and not in addition to, the Total Class Action Settlement
25 Amount. The amount of costs shall include all past and future costs associated with this
26 Action – including, without limitation, all costs expended by Class Counsel in defending the
27 Settlement and securing final approval of the Settlement (including any appeals thereof).
28 Defendant agrees not to oppose any such application which is consistent with this paragraph;

1 however, the Settlement is not contingent on Plaintiff recovering that or any particular
2 amount as an attorneys' costs award. Even in the event that the Court reduces or does not
3 approve the requested attorneys' costs award, Plaintiff and Class Counsel shall not have the
4 right to revoke this Stipulation or this Settlement, and it will remain binding.

5 c) Class Representative's Enhancement Award. Class Counsel may apply for an
6 enhancement award to the Class Representative in an amount not to exceed Seven Thousand
7 Five Hundred Dollars (\$7,500.00). The enhancement award shall be paid from, and not in
8 addition to, the Total Class Action Settlement Amount. Defendant agrees not to oppose any
9 such application which is consistent with this paragraph; however, the Settlement is not
10 contingent on Plaintiff recovering that or any particular amount as an enhancement payment.
11 Even in the event that the Court reduces or does not approve the requested enhancement
12 payment, Plaintiff and Class Counsel shall not have the right to revoke this Stipulation or this
13 Settlement, and it will remain binding.

14 d) Settlement Administration Costs And Fees. All actual costs for settlement
15 administration, including related accounting costs, in an amount not to exceed Twelve
16 Thousand Dollars (\$12,000.00), shall be paid from, and not in addition to, the Total Class
17 Action Settlement Amount. To the extent actual costs for settlement administration are less
18 than \$12,000.00, those amounts will be credited to the Total Class Action Settlement Amount
19 prior to distribution of the Net Settlement Amount to Class Members. Defendant agrees not
20 to oppose any such applications which are consistent with this paragraph.

21 e) PAGA Allocation. The Parties agree to allocate Twenty Thousand Dollars
22 (\$20,000.00) of the Total Class Action Settlement Amount to resolve the Class Members'
23 claims arising under PAGA. Pursuant to PAGA, 75 percent of the PAGA Allocation, or
24 Fifteen Thousand Dollars (\$15,000.00), shall be paid to the State of California Labor and
25 Workforce Development Agency (the "LWDA"), with the remaining 25 percent, or Five
26 Thousand Dollars (\$5,000.00), allocated to the Net Settlement Amount. The PAGA
27 Allocation shall be paid from, and not in addition to, the Total Class Action Settlement
28 Amount.

1 f) Payment Of Individual Settlement Awards To Participating Class Members.

2 After the amounts described in Paragraph 18, subparagraphs (a) through (e), above, have
3 been deducted from the Total Class Action Settlement Amount, the remainder – the Net
4 Settlement Amount – shall be distributed to each Participating Class Member, in the
5 following manner:

6 The Net Settlement Amount shall be divided by the number of aggregate qualified
7 weeks worked by all Participating Class Members during the Class Period to produce
8 a “Weekly Settlement Value.” A “qualified week” shall be a week worked by a
9 Participating Class Member in California in a non-exempt job position. Each
10 Participating Class Member shall be eligible to receive a settlement payment in the
11 amount of the total number of qualified weeks the Participating Class Member
12 worked for Defendant during the Class Period multiplied by the Weekly Settlement
13 Value, less applicable withholdings. Class Members who submit timely and valid
14 Requests for Exclusion in the manner set forth in Paragraph 20(d), below, will not
15 receive a share of the Net Settlement Amount.

16 19. Non-Reversionary Settlement. There will be no reversion to Defendant following the
17 settlement process. In the event that an Individual Settlement Award is paid to a Class Member by
18 check and the check is not cashed on or before the Check Cashing Deadline, the amount of the
19 Individual Settlement Award shall be considered unclaimed. Each unclaimed Individual Settlement
20 Award paid to a Class Member but not cashed on or before the Check Cashing Deadline shall be
21 tendered to the State of California Unclaimed Property Fund in the Class Member’s name.

22 **VII. SETTLEMENT ADMINISTRATION**

23 20. Settlement Administrator’s Duties. The Settlement Administrator shall be
24 responsible for (a) processing the data provided by Defendant to be used in calculating Individual
25 Settlement Awards; (b) preparing, translating into Spanish, printing, and mailing to Class Members
26 the Notice and Information Sheet & Dispute Form (attached hereto as **Exhibits A and D**,
27 respectively) and Spanish translated Notice, as well as following up with reasonable skip tracing;
28 (c) providing notification of receipt of timely Requests for Exclusion; (d) calculating and mailing

1 Individual Settlement Awards to Class Members; (e) calculating and paying the employer's share of
2 the applicable federal and state withholding taxes; (f) filing any required federal and state tax forms
3 and related agency reporting; (g) filing any required reports with the Court; and (h) any and all such
4 other tasks as to which the Parties mutually agree, or which the Court orders the Settlement
5 Administrator to perform. The settlement process shall be anonymous to the extent possible.

6 Defendant and Defendant's Counsel shall have no responsibility for validating or ensuring
7 the accuracy of the Settlement Administrator's work, and shall not be bound by any contract or
8 agreement entered into between the Settlement Administrator and Class Counsel, if any. In addition,
9 Defendant and Defendant's Counsel shall not bear any responsibility any for errors or omissions by
10 the Settlement Administrator in administering the Settlement. Without prejudice to any other
11 remedies, the Settlement Administrator shall agree to be responsible for any breach of its obligations
12 (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the
13 Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs, and
14 expenses (including legal fees and expenses) arising out of any breach committed by the Settlement
15 Administrator or its agents.

16 In addition, the Settlement Administrator shall perform the following specific duties:

17 a) Processing Of Data Provided By Defendant Regarding Class Members. Upon
18 receipt of the data provided by Defendant pursuant to Paragraph 25 herein, the Settlement
19 Administrator shall determine, for each Class Member: (i) the Class Member's name, (ii) the
20 Class Member's last known address, (iii) the last four digits of the Class Member's social
21 security number, and (iv) the Weekly Settlement Value to be paid to the Class Member
22 pursuant to Paragraph 18, subparagraph (f), above.

23 b) Mailing Of Documents. Within seven (7) calendar days of receipt of the
24 database containing the information to be provided by Defendant pursuant to Paragraph 25
25 herein, the Settlement Administrator shall (i) run the names of all Class Members through the
26 National Change of Address ("NCOA") database to determine any updated addresses for
27 Class Members, (ii) update the addresses of any Class Member for whom an updated address
28 was found through the NCOA search, and (iii) mail a copy of the Notice and Spanish-

1 translated Notice to all Class Members by first class regular U.S. Mail, using the most current
2 mailing address information provided by Defendant or at the updated address found through
3 the NCOA search, and retain proof of mailing. The Settlement Administrator will engage in
4 address searches consistent with its normal practices in administering settlements of wage
5 claims, including skip tracing. Such search efforts shall include, where necessary, using
6 social security numbers to obtain better address information and attempting to call such Class
7 Members. Any returned envelopes from this mailing with forwarding addresses will be
8 utilized by the Settlement Administrator to forward the Notices to the Class Members.

9 c) Re-Mailing Of Returned Notices. Notices returned to the Settlement
10 Administrator as non-delivered shall be re-sent to the forwarding address, if any, on the
11 returned envelope. A returned Notice will be forwarded only once per Class Member by the
12 Settlement Administrator. Upon completion of these steps by the Settlement Administrator,
13 the Parties shall be deemed to have satisfied their obligation to provide the Notice to the
14 affected Class Member. The affected Class Member shall remain a Class Member and shall
15 be bound by all the terms of this Stipulation and the Court's Final Order and Judgment.

16 d) Processing Requests For Exclusion ("Opt-Outs") From Settlement. In the
17 event that a Class Member requests to be excluded ("opts out") from the Settlement provided
18 herein, he or she must mail a written Request for Exclusion to the Settlement Administrator
19 by first class U.S. Mail, or equivalent, postage paid and postmarked, (1) by no later than the
20 Document Receipt Deadline, which is forty-five (45) calendar days after the date that the
21 Settlement Administrator originally mails Notices to Class Members; or (2) by no later than
22 forty-five (45) calendar days after the date that the Settlement Administrator re-sent to the
23 forwarding address any Notice that was originally returned to the Settlement Administrator
24 as non-delivered as set forth in Paragraph 20, subparagraph (c), above. To be valid, the
25 written Request for Exclusion must: (1) contain the name, address, telephone number, and
26 last four digits of the social security number of the Class Member; (2) contain a request for
27 exclusion, (3) be signed by the Class Member; and (4) be postmarked by the Document
28 Receipt Deadline and mailed to the Claims Administrator at the address specified in the

1 Notice. If the Request for Exclusion does not contain the information listed in items (1)-(4),
2 it will not be deemed valid for exclusion from this Settlement. The date of the postmark on
3 the Request for Exclusion shall be the exclusive means used to determine whether a Request
4 for Exclusion has been timely submitted. Any potential Class Member who validly requests
5 to be excluded from the Settlement will no longer be a member of the Settlement Class, will
6 not be deemed a Participating Class Member, will not be entitled to any recovery under this
7 Settlement, and will not be bound by the terms of the Settlement or have any right to object,
8 appeal, or comment thereon, except as follows: each Class Member who was employed by
9 Defendant at any point between July 25, 2018 and the Preliminary Approval Date (the
10 “PAGA Aggrieved Employees”) will be issued a check for their share of the PAGA
11 Allocation regardless of whether they submit a valid Request for Exclusion from the
12 Settlement, and PAGA Aggrieved Employees shall be deemed to have released the Released
13 Parties of and from all claims for civil penalties under PAGA with respect to the underlying
14 wage and hour claims that were pled or that could have been pled in the Third Amended
15 Complaint regardless of whether they submit a valid Request for Exclusion from the
16 Settlement. This PAGA Release shall run from July 25, 2018 until the Preliminary Approval
17 Date. The Settlement Administrator shall notify Class Counsel and Defendant’s Counsel of
18 its receipt of all valid Requests for Exclusion within three (3) business days after having
19 received each such Request for Exclusion.

20 e) Payment Of Individual Settlement Awards. The Settlement Administrator
21 shall be solely responsible for the disbursement of the Individual Settlement Award
22 payments.

23 f) Declaration Of Due Diligence. No later than ten (10) calendar days prior to
24 the Final Settlement Approval Hearing, the Settlement Administrator shall provide both
25 Parties with a declaration of due diligence to be filed with the Court.

26 g) Allocating Portions Of The Individual Settlement Awards As Wages. The
27 Settlement Administrator shall be responsible for calculating the portion of each Individual
28 Settlement Award to be allocated as wages. Fifty percent (50%) of each Individual

1 Settlement Award shall be allocated as wages, and fifty percent (50%) of each Individual
2 Settlement Award shall be allocated as interest and penalties.

3 h) Taxation Of Individual Settlement Awards. The Settlement Administrator
4 shall be responsible for paying the employer's and employees' share of federal, state, and
5 local payroll and income taxes. The portion of each Individual Settlement Award allocated
6 as wages shall be subject to payroll withholding. Defendant shall pay the employer's share
7 of payroll taxes on all wages paid as part of this Settlement separate and apart from the Total
8 Class Action Settlement Amount (*i.e.*, the employer's share of payroll taxes will not be
9 deducted from the Total Class Action Settlement Amount). Appropriate withholding of the
10 employee's share of income taxes shall be deducted from each Individual Settlement Award.

11 i. Federal Tax Reporting. The Settlement Administrator shall issue an IRS Form
12 W-2 to each Class Member for the portion of the Individual Settlement Award
13 that is designated as wages. The Settlement Administrator shall issue an IRS
14 Form 1099 to each Class Member for the portion of the Individual Settlement
15 Awards that is not designated as wages. The Settlement Administrator shall
16 issue an IRS Form 1099 to the Class Representative for any enhancement
17 award paid pursuant to Paragraph 18, subparagraph (c), above, in connection
18 with his roles as the Class Representative.

19 ii. State Tax Reporting. The Settlement Administrator shall file, with the
20 California Employment Development Department ("EDD"), any and all
21 reports required in connection with the Settlement, including, but not limited
22 to, the reports of Personal Income Tax ("PIT") wages withheld from the
23 Individual Settlement Awards, as well as the amounts to be paid as
24 Unemployment Insurance ("UI"), Employment Training Tax ("ETT"), and
25 State Disability Insurance ("SDI"). For purposes of this reporting, prior to
26 disbursement of the Individual Settlement Awards, the Settlement
27 Administrator shall provide Defendant with a list of all Class Members, and
28 Defendant shall provide to the Settlement Administrator (1) its Form DE

1 2088, *Notice of Contribution Rates and Statement of UI Account*, for the
2 current calendar year (if unavailable, Defendant may provide instead their
3 California State Employer's Identification Number and its applicable UI and
4 ETT Rates); and (2) any and all additional information required for the
5 Settlement Administrator to make all required reports and comply with its
6 obligations pursuant to the Settlement.

7 iii. Responsibility For Tax Obligations. All Class Members and the Class
8 Representative will be responsible for correctly characterizing the
9 compensation they receive for tax purposes and for paying any taxes on the
10 amounts received, except for the employer contributions which will be
11 handled as provided by this Stipulation. The Class Representative agrees to
12 indemnify Defendant for any liability Defendant incurs to any tax authority
13 on account of the Class Representative's failures to pay all taxes due on
14 amounts he receives hereunder, except if the failure results from Defendant's
15 failure to pay its own portion of taxes due. The liability of the Class
16 Representative is limited to the liability caused by the Class Representative's
17 own failure.

18 i) Mailing Of Individual Settlement Awards. Within ten (10) calendar days after
19 Defendant's transfer of funds to the Settlement Administrator, the Settlement Administrator
20 shall mail all Class Members their Individual Settlement Awards. Each check issued to a
21 Class Member shall remain valid and negotiable for one hundred eighty (180) days from the
22 date of issuance. Those Individual Settlement Awards not cashed by the Check Cashing
23 Deadline shall be canceled automatically, in which event the Class Member's claim will be
24 deemed void and the unclaimed funds shall be sent to the State of California Unclaimed
25 Property Fund in the Class Member's name.

26 j) Certifying The Class Members Bound By The Settlement. Within fifty (50)
27 calendar days from the Effective Date, the Settlement Administrator shall file written
28 certification with the Court with copies to counsel for all Parties that all Class Members have

1 been mailed their Individual Settlement Awards.

2 k) Payments To Class Counsel. Within ten (10) calendar days after Defendant's
3 transfer of funds to the Settlement Administrator, the Settlement Administrator shall pay the
4 attorneys' fees and costs, as detailed in Paragraph 18, subparagraphs (a) and (b), above.

5 l) Payment Of PAGA Allocation. Within ten (10) calendar days after
6 Defendant's transfer of funds to the Settlement Administrator, the Settlement Administrator
7 shall mail to the LWDA the State of California's allocated portion of the Court-approved
8 PAGA Allocation, as detailed in Paragraph 18, subparagraph (e), above.

9 21. Disputes Regarding The Settlement Administrator's Performance Of Duties. All
10 disputes relating to the Settlement Administrator's performance of its duties shall be referred to the
11 Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this
12 Stipulation until all payments and obligations contemplated by this Stipulation have been fully
13 carried out.

14 **VIII. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY COURT APPROVAL**

15 22. Submission Of Stipulation To Court. Plaintiff shall promptly submit this Stipulation
16 to the Court in support of Plaintiff's motion for preliminary approval and determination by the Court
17 as to the fairness, adequacy, and reasonableness of this Stipulation, and shall apply to the Court for
18 the entry of an order substantially in the following form:

19 a) Scheduling a final fairness hearing on the question of whether the proposed
20 Settlement – including payment of attorneys' fees, attorneys' costs, appointment of the Class
21 Representative and the amount of his enhancement award, and the method of determining
22 Individual Settlement Awards to be paid to Class Members – should be finally approved as
23 fair, reasonable, and adequate as to the Class;

24 b) Approving as to form and content the proposed Notice (attached as **Exhibit**
25 **A**);

26 c) Directing the mailing to Class Members of the Notice, by first class U.S. Mail,
27 pursuant to the terms specified herein;

28 d) Preliminarily approving the Settlement, subject only to the objections of Class

1 Members and final review by the Court; and

2 e) Enjoining the Class Representative and all Class Members from filing or
3 prosecuting any claims, suits, or administrative proceedings (including filing claims with the
4 California Division of Labor Standards Enforcement) regarding claims released by the
5 Settlement unless such individuals have submitted valid Requests for Exclusion to the
6 Settlement Administrator.

7 The [Proposed] Preliminary Approval Order to be submitted to the Court shall be the document
8 attached hereto as **Exhibit B**, unless the Court's orders during the approval process require revisions
9 to be made. Unless the Parties agree otherwise, only necessary revisions shall be made to the
10 [Proposed] Preliminary Approval Order to be submitted to the Court.

11 23. Amendment Of This Stipulation To Conform To The Court's Order. To the extent
12 the Court does not approve this Stipulation, or any term contained herein, and instead allows the
13 Parties to amend this Stipulation, the Parties agree to cooperate in good faith to amend the Stipulation
14 in accordance with the Court's direction, and to retain all other terms of the Stipulation that the Court
15 approves.

16 **IX. DUTIES OF THE PARTIES FOLLOWING PRELIMINARY COURT APPROVAL**

17 24. Timely Approval Of Documents To Be Mailed By The Settlement Administrator.
18 Counsel for the Parties shall respond to requests by the Settlement Administrator to approve all
19 settlement administration documents, including the Notice to be mailed to the Class, within four (4)
20 business days of the Settlement Administrator's request for approval.

21 25. Defendant's Provision Of Class Member Data To Settlement Administrator. No later
22 than twenty-one (21) calendar days following preliminary approval of this Settlement by the Court,
23 Defendant shall provide the Settlement Administrator with data that is within Defendant's possession
24 containing, for each Class Member: (a) the Class Member's name; (b) the Class Member's last
25 known address; (c) the Class Member's social security number; and (d) the total number of "qualified
26 weeks" during which the Class Member was employed by Defendant in California during the Class
27 Period as a non-exempt employee. This Class information is confidential and not to be disclosed to
28 anyone other than the Settlement Administrator. This information shall be based on Defendant's

1 payroll and other business records, and shall be in a format readily accessible to Defendant. Within
2 seven (7) calendar days of receipt of the information from Defendant, the Settlement Administrator
3 will (i) run the names of all Class Members through the National Change of Address (“NCOA”)
4 database to determine any updated addresses for Class Members, (ii) update the addresses of any
5 Class Member for whom an updated address was found through the NCOA search, and (iii) mail the
6 Notice to the Class Members at his or her last known address or at the updated address found through
7 the NCOA search, and retain proof of mailing, provided that counsel for the Parties have approved
8 the documents pursuant to Paragraph 24 herein. In the event that approval of the documents pursuant
9 to Paragraph 24 takes more than seven (7) calendar days, the Settlement Administrator shall mail the
10 Notice to the Class Members as set forth in this Paragraph within one (1) business day of receiving
11 approval of the documents pursuant to Paragraph 24.

12 26. Disputes Arising From Settlement Administration. If any disputes arise during the
13 settlement administration process, the Settlement Administrator will consult with the Parties to
14 attempt to informally resolve any such dispute. Any disputes that remain unresolved as of the Final
15 Settlement Approval Hearing will be referred to the Court for final determination.

16 27. Motions By Class Counsel.

17 a) Motions Required For Final Approval Of The Settlement. Class Counsel shall
18 timely prepare, subject to Defendant’s review and right to comment, Final Settlement Papers
19 in conformance with the terms of this Settlement, including (1) a motion for final approval
20 of the Settlement; (2) a motion for award of attorneys’ fees and costs; (3) a motion for the
21 Class Representative’s enhancement award; (4) the [Proposed] Final Settlement Order; and
22 (5) any other documents, petitions, or motions required to effectuate this Settlement –
23 including, but not limited to, any additional proposed orders requested by the Court. Class
24 Counsel must submit the Final Settlement Papers to Defendant’s Counsel, for Defendant’s
25 review and comment, no later than three (3) business days prior to filing the motion for final
26 approval of the Settlement. In the event that Class Counsel and Defendant’s Counsel cannot
27 resolve any dispute regarding the Final Settlement Papers arising from Defendant’s right to
28 review and comment, Defendant’s Counsel shall submit its objections to the Final Settlement

1 Papers to the Court before or during the Final Settlement Approval Hearing.

2 b) [Proposed] Final Settlement Order. The [Proposed] Final Settlement Order
3 shall include a proposed Final Order and Judgment ordering:

- 4 i. Approval of the Settlement, adjudging the terms thereof to be fair, reasonable,
5 and adequate, and directing consummation of its terms and provisions;
- 6 ii. Approval of Class Counsel's application for an award of attorneys' fees and
7 costs;
- 8 iii. Approval of the enhancement award to the Class Representative;
- 9 iv. Entry of final Judgment in the Action, and permanently barring and enjoining
10 the Class Representative and all Class Members from prosecuting against the
11 Released Parties any claims released herein pursuant to Paragraphs 15 and 16,
12 above, including any Released Class Claims and any claims by the Class
13 Representative covered by a general release, upon satisfaction of all payments
14 and obligations hereunder; and
- 15 v. Reserving jurisdiction over the construction, interpretation, implementation,
16 and enforcement of the Parties' Settlement, and over the administration and
17 distribution of the Settlement amounts.

18 The [Proposed] Final Approval Order and Judgment to be submitted shall be the document attached
19 hereto as **Exhibit C**, unless the Court's orders during the approval process require revisions to be
20 made. Unless the Parties agree otherwise, only necessary revisions shall be made to the [Proposed]
21 Final Approval Order and Judgment to be submitted to the Court.

22 28. Final Fairness Hearing. Upon expiration of the Document Receipt Deadline, the
23 Parties shall attend a Final Settlement Approval Hearing with the Court to finally approve the
24 Settlement as fair, reasonable, and adequate as to (a) Class Members; (b) attorneys' fees and costs to
25 Class Counsel; (c) the enhancement awards to the Class Representative; (d) the costs and fees for
26 settlement administration; (e) the PAGA Allocation; and (f) the Individual Settlement Awards to be
27 paid to the Class Members, including the methodology used to calculate such awards.

1 **X. DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

2 29. Final Settlement Approval, And Entry Of Judgment. At or before the Final Settlement
3 Approval Hearing, Class Counsel shall submit the [Proposed] Final Settlement Approval Order and
4 Judgment to the Court for the Court's approval and entry. After entry of the Final Settlement
5 Approval Order and Judgment, the Court shall have continuing jurisdiction over the administration
6 of the Settlement.

7 30. Payment Of Settlement Amount. Not later than seven (7) calendar days following the
8 Effective Date, Defendant shall deposit the Total Class Action Settlement Amount, into an account
9 established by the Settlement Administrator. The Settlement Administrator will retain authority over
10 the deposited funds, which are to be used in accordance with this Stipulation and any orders of the
11 Court. The Settlement Administrator shall make all payments and other disbursements required by
12 this Stipulation from the Total Class Action Settlement Amount. Defendant shall have no further
13 obligations over the distribution of the Total Class Action Settlement Amount.

14 31. Provision Of Final Settlement Approval Order And Judgment To Settlement
15 Administrator. Within two (2) business days of final approval by the Court of the Settlement
16 provided for in this Stipulation, Class Counsel shall provide the Settlement Administrator with a
17 copy of the Final Settlement Approval Order and Judgment.

18 32. Return Of Documents And Data. All originals, copies, and summaries of documents
19 and data provided to Plaintiff's Counsel by Defendant and/or Defendant's Counsel in connection
20 with the mediation or other settlement negotiations in this matter may be used only with respect to
21 this Settlement, and for no other purpose, and may not be used in any way that violates any existing
22 contractual agreement, statute, or rule. Within thirty (30) calendar days after the Effective Date,
23 Plaintiff's Counsel will return or destroy any such documents and data, and will confirm in writing
24 to Defendant the disposition of all such documents and data. To the extent Plaintiff's Counsel
25 chooses to return such documents and data pursuant to this Paragraph, the return shall be effectuated
26 by sending the materials to Defendant's Counsel, to the attention of Jennifer L. Katz
27 (jennifer.katz@ogletree.com) and/or Jack S. Sholkoff (jack.sholkoff@ogletree.com), or any other
28 such individual designated by Defendant or Defendant's Counsel.

1 **XI. ADDITIONAL TERMS**

2 33. Nullification Of Settlement. This Stipulation shall be null and void, and any order of
3 judgment entered by the Court in furtherance of the Settlement shall be vitiated *nunc pro tunc*, if any
4 of the following occurs:

5 a) The Court does not enter the Final Settlement Approval Order and Judgment
6 as provided for herein or contemplated by this Stipulation;

7 b) The Court does not finally approve the Settlement as provided for herein;

8 c) The Court does not enter a Final Settlement Approval Order and Judgment as
9 provided for herein that becomes final as a result of the occurrence of the Effective Date; or

10 d) The Settlement does not become final for any other reason.

11 In such a case, the Parties shall be returned to their respective statuses as of the date of May 12, 2020,
12 and the Parties shall proceed in all respects as if this Stipulation had not been executed. If an appeal
13 is filed from the Court's Final Settlement Approval Order and Judgment prior to the Effective Date,
14 administration of the Settlement shall be immediately stayed pending final resolution of the appeal
15 process.

16 34. No Admissions. Nothing contained herein is to be construed or deemed to be an
17 admission of liability or wrongdoing by Defendant. This Stipulation and the attached exhibits are
18 settlement documents, and, pursuant to California Evidence Code section 1152, these documents
19 shall be inadmissible in any proceeding except in an action or proceeding to approve, interpret, or
20 enforce this Stipulation.

21 35. No Unalleged Claims. Plaintiff and Plaintiff's Counsel represent that, as of the date
22 of execution of this Stipulation, they are not currently aware of: (a) any unalleged claims in addition
23 to, or different from, those which are finally and forever settled and released against the Released
24 Parties by this Settlement; and (b) any unalleged facts or legal theories upon which any claims or
25 causes of action could be brought against Defendant, except such facts and theories specifically
26 alleged in the Complaint, First Amended Complaint, Second Amended Complaint, and/or Third
27 Amended Complaint in this Action. Plaintiff and Class Counsel further represent and agree that,
28 other than the instant Action, they have no current intention of asserting any other claims against

1 Defendant in any judicial or administrative forum, and that they do not currently know of or represent
2 any persons who have expressed any interest in pursuing litigation or seeking any recovery against
3 Defendant. The Parties further acknowledge, understand, and agree that the representations
4 described in this paragraph are essential to the Settlement and that this Settlement would not have
5 been entered into were it not for this representation.

6 36. Amendment Or Modification. This Stipulation may be amended or modified only by
7 a written instrument signed by counsel for all Parties.

8 37. Entire Agreement. This Stipulation and the accompanying exhibits constitute and
9 comprise the entire agreement between the Parties. No oral or written representations, warranties,
10 or inducements have been made to any of the Parties concerning this Stipulation other than the
11 representations, warranties, and covenants contained and memorialized herein.

12 38. Construction. The Parties agree that the terms of this Stipulation and the
13 accompanying exhibits are the result of lengthy, arms-length negotiations, and that this Stipulation
14 shall not be construed in favor of or against any of the Parties by reason of the extent to which any
15 of the Parties or their respective counsel participated in the drafting of this Stipulation.

16 39. Parties' Authority. The signatories to this Stipulation represent that they are fully
17 authorized to enter into this Stipulation and to bind the Parties hereto to the terms and conditions
18 hereof.

19 40. Successors And Assigns. This Stipulation is binding upon, and inures to the benefit
20 of, the Parties' successors and assigns. The Parties represent and warrant that they have not, directly
21 or indirectly, assigned, transferred, or encumbered to any person or entity any portion of any claim,
22 demand, action, cause of action, or rights herein released and discharged except as set forth herein.

23 41. Enforcement Of Actions. In the event that any of the Parties to this Stipulation
24 institutes any legal action, arbitration, or other proceeding against any of the other Parties to enforce
25 the provisions of this Stipulation or to declare rights or obligations under this Stipulation, the
26 successful Party shall be entitled to recover from the unsuccessful Party or Parties, reasonable
27 attorneys' fees and costs, including expert witness fees, incurred in connection with any such
28 enforcement proceedings.

1 42. Governing Law. All terms of this Stipulation shall be governed by and interpreted
2 according to the laws of the State of California.

3 43. Jurisdiction Of The Court. The Court shall retain jurisdiction with respect to the
4 interpretation, implementation, and enforcement of the terms of this Stipulation and all orders and
5 judgments entered in connection therewith.

6 44. Counterparts. This Stipulation may be executed in one or more counterparts. All
7 executed counterparts, and each of them, shall be deemed to be one and the same instrument.
8 Signatures may be affixed either by original signatures, PDF, or facsimile.

9 45. Notices. Unless otherwise specifically provided in this Stipulation, all notices,
10 demands, and/or other communications will be in writing and will be deemed to have been duly
11 given as of the third (3rd) business day after mailing by U.S. Mail, addressed as follows:

12 To Plaintiff & The Class:

13 Haines Law Group, APC
14 Paul K. Haines
15 2155 Campus Drive, Suite 180
16 El Segundo, CA 90245

17 Sani Law, APC
18 Sam Sani
19 15720 Ventura Blvd., Suite 405
20 Encino, CA 91436

21 To Defendant:

22 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
23 Jack S. Sholkoff
24 Jennifer L. Katz
25 400 South Hope Street, Suite 1200
26 Los Angeles, California 90071

27 46. Enforceability. The Parties intend for this Agreement to be enforceable in the
28 Superior Court of California for the County of Los Angeles, by and subject to the Court's pending
jurisdiction.

 47. Interpretation. This Stipulation shall be construed as a whole according to its fair
meaning. It shall not be construed strictly for or against any Party. Unless the context indicates
otherwise, the term "or" shall be deemed to include the term "and," and the singular or plural number
shall be deemed to include the other. Captions and headings are intended solely for convenience of
reference and shall not be used in the interpretation of this Stipulation.

1 48. Non-Publicity. Plaintiff and Class Counsel agree not to disclose or publicize the
2 Settlement, including the fact of the Settlement, its terms or contents, and the negotiations underlying
3 the Settlement, in any manner or form, directly or indirectly, to any person or entity, except to
4 potential Class Members and as shall be contractually required to effectuate the terms of the
5 Settlement. For the avoidance of doubt, this paragraph means Plaintiff and Class Counsel agree not
6 to issue press releases; communicate with, or respond to, any media or publication entities; publish
7 information in manner or form, whether printed or electronic, on any medium; or otherwise
8 communicate, whether by print, video, recording, or any other medium, with any person or entity
9 concerning the Settlement, including the fact of the Settlement, its terms or contents, and the
10 negotiations underlying the Settlement, except as shall be contractually required to effectuate the
11 terms of the Settlement. However, for the limited purpose of allowing Class Counsel to prove
12 adequacy as class counsel in other actions, Class Counsel may disclose the name of the Parties in
13 this action and the venue/case number of this action (but not any other settlement details) for such
14 purposes.

15 49. Exhibits Incorporated By Reference. The terms of this Stipulation include the terms
16 set forth in any attached exhibits, which are incorporated by this reference as though fully set forth
17 herein. Any exhibit to this Stipulation is an integral part of the Settlement.

18 50. Interim Stay Of Proceedings. The Parties agree to refrain from further litigation of
19 this matter, except such proceedings necessary to implement and obtain an Order granting Final
20 Approval of the terms of the Settlement. The Parties further agree that the mutual, voluntary
21 cessation of litigation shall terminate either as of the Effective Date or the date upon which this
22 Settlement has been denied by the Court and all subsequent attempts to cure deficiencies pursuant to
23 Paragraph 23 have ended.

24 51. Invalidity Of Any Provision. Before declaring any provision of this Stipulation
25 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible
26 consistent with applicable precedents so as to define all provisions of this Settlement valid and
27 enforceable.

28 52. Class Certification For Settlement Purposes Only. The Parties agree to stipulate to

1 class certification only for purposes of the Settlement. If, for any reason, the Settlement is not
2 approved, the stipulation to certification will be void. The Parties further agree that certification for
3 purposes of the Settlement is not an admission that class certification is proper under the standard
4 applied to contested certification motions and that this Settlement will not be admissible in this or
5 any other proceeding as evidence that (i) a class should or should not be certified, or (ii) Defendant
6 is or is not liable to the Class Representative or the putative Class Members.

7 53. Stipulation To Add Additional Claims For Settlement Purposes Only. For the purpose
8 of effectuating the Settlement, Defendant agrees to stipulate to allow Plaintiff to add individual and
9 Class claims against Defendant for waiting time penalties pursuant to California Labor Code section
10 203; rest break violations under Labor Code section 226.7 for first and second rest breaks; wage
11 statement and recordkeeping penalties pursuant to Labor Code sections 226 and 1174; and civil
12 penalties pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections
13 2698, *et seq.* A Third Amended Complaint was filed by Plaintiff, pursuant to directive from the
14 Court, on January 4, 2021, and is hereby deemed the operative complaint in this matter as of the date
15 of filing. If, for any reason, the Settlement is not finally approved and/or final approval is not granted
16 as anticipated in this Stipulation, Defendant's stipulation to amending the complaint as provided in
17 this Paragraph will be void.

18 54. All Terms Subject To Final Court Approval. All amounts and procedures described
19 in this Stipulation shall be subject to final Court approval.

20 55. Execution Of Necessary Documents. All Parties shall execute all documents
21 reasonably necessary to effectuate the terms of this Settlement.

22 56. Binding Agreement. The Parties intend that this Settlement shall be fully enforceable
23 and binding on all Parties, and that it shall be admissible and subject to disclosure in any proceeding
24 to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might
25 apply under federal or state law.

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DATED: _____, 2021

By: _____
Fernando Barrera

Plaintiff and Class Representative

DATED: Feb 14, 2021, 2021

ARVATO DIGITAL SERVICES LLC

By: *Mitat Aydindag*
Mitat Aydindag (Feb 14, 2021 14:15 PST)
Mitat Aydindag

President

DATED: Feb 14, 2021, 2021

ARVATO DIGITAL SERVICES LLC

By: *Matthaeus Pietz*
Matthaeus Pietz (Feb 14, 2021 22:22 PST)
Matthäus Pietz

Chief Financial Officer

DATED: _____, 2021

HAINES LAW GROUP, APC

By: _____
Paul K. Haines

Attorneys for Plaintiff FERNANDO BARRERA

DATED: _____, 2021

SANI LAW, APC

By: _____
Sam Sani

Attorneys for Plaintiff FERNANDO BARRERA

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DATED: 2/12, 2021

By: Fernando Barrera
Fernando Barrera

Plaintiff and Class Representative

DATED: _____, 2021

ARVATO DIGITAL SERVICES LLC

By: _____
Mitat Aydindag

President

DATED: _____, 2021

ARVATO DIGITAL SERVICES LLC

By: _____
Matthäus Pietz

Chief Financial Officer

DATED: February 15, _____, 2021

HAINES LAW GROUP, APC

By: PK Haines
Paul K. Haines

Attorneys for Plaintiff FERNANDO BARRERA

DATED: February 15 _____, 2021

SANI LAW, APC

By: Sam Sani
Sam Sani

Attorneys for Plaintiff FERNANDO BARRERA

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DATED: February 15, 2021

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: 

Jack S. Sholkoff
Jennifer L. Katz

Attorneys for Defendant
ARVATO DIGITAL SERVICES LLC