

1 Scott Edward Cole, Esq. (S.B. #160744)
 Laura Grace Van Note, Esq. (S.B. #310160)
 2 Cody Alexander Bolce, Esq. (S.B. #322725)
COLE & VAN NOTE
 3 555 12th Street, Suite 1725
 Oakland, California 94607
 4 Telephone: (510) 891-9800
 Facsimile: (510) 891-7030
 5 Email: sec@colevannote.com
 Email: lvn@colevannote.com
 6 Email: cab@colevannote.com
 Web: www.colevannote.com

7 Attorneys for Representative Plaintiff

8 Mark S. Spring, Esq. (S.B. #155114)
 9 Nicole A. Legrottaglie, Esq. (S.B. # 271416)
 Sander van der Heide, Esq. (S.B. #267618)
 10 Tashayla Billington, Esq. (S.B. #307050)
CDF LABOR LAW LLP
 11 900 University Avenue, Suite 200
 Sacramento, CA 95825
 12 Telephone: (916) 361-0991
 Email: mspring@cdflaborlaw.com
 13 Email: nlegrottaglie@cdflaborlaw.com
 Email: svanderheide@cdflaborlaw.com
 14 Email: tbillington@cdflaborlaw.com

15 Attorneys for Defendant
BAYSIDE MARIN, INC.

16
 17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 18 **COUNTY OF MARIN**
 19

20 CHRISTOPHER LYON, individually, and on
21 behalf of all others similarly situated,

22 Plaintiff,

23 vs.

24 BAYSIDE MARIN, INC., and DOES 1
through 100, inclusive,

25 Defendants.

) Case No. CIV2103872

) Assigned for All Purposes To:

) Judge: James T. Chou

) Ctrm: B

) **JOINT STIPULATION OF CLASS AND
PAGA SETTLEMENT**

) Action Filed: November 8, 2021

1 This Joint Stipulation of Class and PAGA Settlement is made by and between plaintiff
2 Christopher Lyon, on behalf of himself, the Class and the State of California pursuant to the Private
3 Attorneys General Act, on the one hand, and defendant Bayside Marin, Inc. on the other hand.

4 In consideration of the mutual covenants, promises, and agreements set forth in this Joint
5 Stipulation of Class and PAGA Settlement, the Parties agree, subject to the Court’s approval, to the
6 resolution of the Action, the Released Claims, and the Released PAGA Claims, subject to the
7 following terms and conditions.

8 **DEFINITIONS**

9 1. **“Action”** means the civil action titled *Christopher Lyon v. Bayside Marin, Inc.*; and
10 *Does 1 through 100, inclusive*, Marin County Superior Court Case No. CIV2103872.

11 2. **“Administration Expenses”** means the amount to be paid to the Administrator from
12 the Maximum Settlement Amount for its services in administrating the settlement.

13 3. **“Administrator”** means CPT Group, or any other third-party class action
14 administrator agreed to by the Parties and approved by the Court for the purposes of administering
15 this Settlement.

16 4. **“Agreement”** and **“Settlement”** means this Joint Stipulation of Class and PAGA
17 Settlement.

18 5. **“Class and PAGA Members”** means all Class Members and/or PAGA Members.

19 6. **“Class Counsel”** means Scott Edward Cole, Laura Van Note, and Cody Alexander
20 Bolce of the law firm COLE & VAN NOTE.

21 7. **“Class Counsel’s Attorneys’ Fees and Costs”** means the Court-approved attorneys’
22 fees, expenses, and costs incurred by Class Counsel for Class Counsel’s litigation and resolution of
23 the Action.

24 8. **“Class Data”** means Class Members’ name, last-known mailing address, Social
25 Security Number, start and end dates, number of PAGA Period pay periods and/or Class Period work
26 weeks.

27 ///

28 ///

1 9. **“Class Members”** and **“Class”** means all persons employed by Defendant in an
2 hourly, non-exempt position in California during the Class Period who did not sign arbitration
3 agreements.

4 10. **“Class Period”** means from September 8, 2020 through October 24, 2022.

5 11. **“Court”** refers to the court having jurisdiction over the Action, which is presently the
6 Marin Superior Court.

7 12. **“Defendant”** means Bayside Marin, Inc.

8 13. **“Defense Counsel”** means Mark S. Spring, Nicole A. Legrottaglie, Sander van der
9 Heide, and Tashayla Billington of the law firm CDF Labor Law LLP.

10 14. **“Dispute Deadline”** means thirty (30) calendar days after the Administrator mails the
11 Class Notice to Class Members.

12 15. **“Effective Date”** means the date the Court grants Final Approval of the Settlement
13 and Judgment in the absence of any objection or intervention to the Settlement. If an objection or
14 intervention to the Settlement is filed and not later withdrawn, the Effective Date is the later of the
15 following events: (i) when the period for filing any appeal, writ or other appellate proceeding
16 opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having
17 been filed; or (ii) any appeal, writ or other appellate proceeding opposing the Settlement has been
18 dismissed finally and conclusively with no right to pursue further remedies or relief; or any appeal,
19 writ or other appellate proceeding has upheld the Court’s final order with no right to pursue further
20 remedies or relief. In this regard, in the event an objection or intervention is filed and not later
21 withdrawn, the Parties hereby state their intention that the Settlement will not become effective until
22 the Court’s order granting final approval of the Settlement is completely final, and there is no further
23 recourse by any appellant or objector who seeks to contest the finality of the Settlement.

24 16. **“Final Approval Motion”** means Plaintiff’s motion for final approval of the
25 Settlement and judgment.

26 17. **“Final Approval Order and Judgment”** means the Court’s Order Granting Final
27 Approval of the Settlement and Judgment.

28 ///

1 18. “**Individual Class Award(s)**” means the Participating Class Members’ pro rata
2 shares of the Net Settlement Amount calculated based on the number of workweeks worked during
3 the Class Period.

4 19. “**Individual PAGA Award(s)**” means PAGA Members’ pro rata shares of twenty-
5 five percent (25%) of the PAGA Allocation, which is Three Thousand Seven Hundred and Fifty Dollars
6 (\$3,750.00) to PAGA Members on a pro-rata basis based on the number of pay periods each PAGA Member
7 worked during the PAGA period.

8 20. “**LWDA**” means the California Labor and Workforce Development Agency.

9 21. “**LWDA Payment**” means the seventy-five percent (75%) of the PAGA Allocation
10 to be paid to the LWDA under the Agreement which, subject to Court approval, is Eleven Thousand Two
11 Hundred and Fifty Dollars (\$11,250.00).

12 22. “**Maximum Settlement Amount**” means Four Hundred Fifty Thousand Dollars
13 (\$450,000.00), which is inclusive of all amounts Defendant is required to pay under the Settlement,
14 except as otherwise provided below, including all Individual Class Awards to Participating Class
15 Members, all Individual PAGA Awards to PAGA Members, the LWDA Payment, the employer
16 portion of applicable taxes, Plaintiff’s Enhancement Award, Class Counsel’s Attorneys’ Fees and
17 Costs, and Administration Expenses.

18 23. “**Net Settlement Amount**” means the amount from the Maximum Settlement
19 Amount that is available for distribution as Individual Class Awards for Participating Class Members
20 after deducting 1) the PAGA Allocation (which includes the LWDA Payment and the Individual PAGA
21 Awards), (2) Plaintiff’s Enhancement Award, (3) Class Counsel’s Attorneys’ Fees and Costs, (4) the
22 employer portion of applicable taxes, and (5) Administration Expenses.

23 24. “**PAGA**” means California’s Labor Code Private Attorneys General Act, Cal. Lab.
24 Code § 2699, *et seq.*

25 25. “**PAGA Allocation**” means, subject to Court approval, the allocation of Fifteen Thousand
26 Dollars (\$15,000.00) of the Maximum Settlement Amount as PAGA penalties.

27 ///

28 ///

1 26. **“PAGA Pay Periods”** refers to the number of pay periods a PAGA Member worked
2 for Defendant as an hourly, non-exempt employee in California during the PAGA Period. Each
3 PAGA Member will be credited with at least one (1) PAGA Pay Period.

4 27. **“PAGA Period”** means from November 8, 2020 through October 24, 2022.

5 28. **“PAGA Class”** and **“PAGA Member(s)”** means all persons employed by Defendant
6 in an hourly, non-exempt position in California during the PAGA Period.

7 29. **“Participating Class Member(s)”** means all Class Members who do not opt out of
8 the Settlement.

9 30. **“Parties”** means Plaintiff and Defendant collectively.

10 31. **“Plaintiff”** and **“Class Representative”** means Christopher Lyon on behalf of
11 himself and each of his heirs, representatives, successors, assigns, and attorneys.

12 32. **“Plaintiff’s Enhancement Award”** means, subject to Court approval, Five Thousand
13 Dollars (\$5,000.00) of the Maximum Settlement Amount for Plaintiff in recognition of his effort and
14 work in prosecuting the Action and Two Thousand Five Hundred Dollars (\$2,500.00) in
15 consideration for an individual general release of all claims with a waiver of California Code of Civil
16 Procedure Section 1542.

17 33. **“Preliminary Approval”** means the Court’s Order Granting Preliminary Approval
18 of the Settlement.

19 34. **“Preliminary Approval Motion”** means Plaintiff’s motion for preliminary approval
20 of the Settlement.

21 35. **“Released Class Claims”** means all claims under the California Labor Code, Wage
22 Orders, regulations, and/or any other provisions of state and federal law against the Released Parties
23 that were alleged in the Action and that reasonably could have been alleged in the Action based on
24 the factual allegations contained in the operative complaint in the Action and any amendments
25 thereto, including, without limitation, all claims for (1) off-the-clock work, (2) unpaid minimum
26 wages, (3) unpaid regular wages, (4) unpaid overtime, (5) unpaid double time, (6) regular rate of pay,
27 (7) meal periods and meal period premiums, (8) rest breaks and rest break premiums, (9) wage
28 statements, (10) timely payment of wages at separation, (11) violation of Unfair Competition Law,

1 and any other Labor Code violations that were alleged in the Action, or that could have been alleged
2 in the Action based on the facts alleged in the Action, which includes, but is not limited to, alleged
3 violations of Labor Code sections 98.6, 200, 201, 202, 203, 204, 210, 218 *et seq.*, 218.5, 218.6, 223,
4 225.5, 226 *et seq.*, 226.3, 226.7, 226.8, 256, 351, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
5 1197, 1197.1, 1198, 1199, 2800, 2802, 2810.5, and Business and Professions Code section 17200 *et*
6 *seq.* during the Class Period (collectively “Released Class Claims”).

7 36. **“Released PAGA Claims”** means all claims for civil penalties under the California
8 Labor Code, Wage Orders, regulations, and/or any other provisions of state and federal law against
9 the Released Parties that were alleged in the Action and that reasonably could have been alleged in
10 the Action based on the factual allegations contained in the operative complaint in the Action and
11 any amendments thereto, including, without limitation, all claims for civil penalties under PAGA
12 (Labor Code § 2698 *et seq.*) related to (1) off-the-clock work, (2) unpaid minimum wages, (3) unpaid
13 regular wages, (4) unpaid overtime, (5) unpaid double time, (6) regular rate of pay, (7) meal periods
14 and meal period premiums, (8) rest breaks and rest break premiums, (9) wage statements, (10) timely
15 payment of wages at separation, (11) violation of Unfair Competition Law, and any other Labor Code
16 violations that were alleged in the Action, or that could have been alleged in the Action based on the
17 facts alleged in the Action, which includes, but is not limited to, alleged violations of Labor Code
18 sections 98.6, 200, 201, 202, 203, 204, 210, 218 *et seq.*, 218.5, 218.6, 223, 225.5, 226 *et seq.*, 226.3,
19 226.7, 226.8, 256, 351, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198,
20 1199, 2800, 2802, and 2810.5 during the PAGA Period (collectively “Released PAGA Claims”).

21 37. **“Released Parties”** means (i) Defendant; (ii) each of Defendant’s past and present
22 direct and indirect parents; (iii) the respective past and present direct and indirect subsidiaries and
23 affiliates of any of the foregoing; (iv) the past and present shareholders, directors, officers, agents,
24 employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants,
25 representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors and
26 assigns of any of the foregoing; and (v) any individual or entity which could be jointly liable with
27 any of the foregoing.

28 ///

1 38. **“Request(s) for Exclusion”** refers to a Class Member’s written request to be
2 excluded (i.e., opt-out) from the Settlement.

3 39. **“Response Deadline”** means sixty (60) calendar days after the Administrator mails
4 the Class Notice to Class Members.

5 40. **“Workweek(s)”** refers to the number of weeks a Class Member worked for Defendant
6 as an hourly, non-exempt employee in California during the Class Period, excluding any week(s)
7 during which the Class Member did not work or was on a leave of absence. Each Class Member will
8 be credited with at least one (1) Workweek.

9 41. **“Workweek Dispute(s)”** refers to a Class Member’s written dispute of the pre-
10 printed information in the Class Notice as to his or her Workweeks and/or PAGA Pay Periods.

11 **FACTUAL BACKGROUND**

12 42. Plaintiff is a former employee of Bayside Marin, Inc.

13 43. Plaintiff filed a letter with the LWDA on November 8, 2021 alleging various wage
14 and hour violations by Defendant.

15 44. On November 8, 2021, Plaintiff filed a civil complaint in Marin County Superior
16 Court alleging various wage and hour violations by Defendant.

17 45. On March 22, 2022, Plaintiff filed the operative first amended complaint entitled
18 *Christopher Lyon v. Bayside Marin, Inc.; and Does 1 through 100, inclusive*, Marin County Superior
19 Court Case No. CIV2103872, alleging the following claims: (1) unpaid wages, including regular
20 wages, minimum wages, and off-the-clock work; (2) unpaid overtime, including regular rate of pay;
21 (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to provide accurate
22 wage statements; (6) failure to timely pay wages at separation; (7) violation of the Unfair
23 Competition Law; and (8) PAGA.

24 46. Plaintiff has not filed a motion for class certification in the Action, nor has a date
25 been set by the Court for the filing of such a motion.

26 47. The Action has been actively litigated. There have been on-going investigations, and
27 there has been an exchange of extensive documentation and information.

28 ///

1 48. On August 25, 2022, the Parties participated in a mediation with respected mediator
2 Brandon McKelvey and reached a settlement of the claims in the Action as specified in this
3 Agreement.

4 **INADMISSIBILITY OF SETTLEMENT AGREEMENT/DENIAL OF LIABILITY**

5 49. **No Determination on the Merits.** There has been no determination on the merits of
6 the Action, but, in order to avoid additional cost and the uncertainty of litigation, it is the desire of
7 the Parties to fully, finally, and forever settle, compromise, discharge, and release of any and all
8 disputes and claims against the Released Parties arising from or related to the Action.

9 50. **Defendant Denies Liability and Wrongdoing.** This Agreement represents a full and
10 good-faith compromise and settlement of highly disputed claims. Nothing in this Agreement or any
11 statement or conduct in furtherance of the Settlement is intended or will be construed as an admission
12 by Defendant that Plaintiff's claims in the Action have merit or that Defendant has any liability to
13 Plaintiff, any Class Members, or any PAGA Members. Defendant denies any liability and
14 wrongdoing of any kind associated with the alleged claims. Defendant further denies that, for any
15 purpose other than settling the Action, the Action is appropriate for class or representative treatment.
16 Defendant contends that it has complied with California and Federal employment laws at all times
17 and that employees have been paid all wages owed.

18 **CLASS CERTIFICATION FOR SETTLEMENT PURPOSES**

19 51. Solely for purposes of settling the Action, the Parties stipulate that the requisites for
20 class certification with respect to the Class Members are met. The Parties stipulate that certification
21 for settlement purposes is in no way an admission that class certification is proper for litigation
22 purposes, and that evidence of this limited stipulation for settlement purposes will not be deemed
23 admissible in this or any other proceeding. More specifically, the Parties stipulate that, solely for
24 settlement purposes:

- 25 A. The Class is ascertainable and so numerous as to make it impracticable to join all Class
- 26 Members;
- 27 B. With respect to the Class, common questions of law and fact predominate over
- 28 questions affecting any individual member in the Class, including, but not limited to:

1 whether Defendant paid proper wages and overtime to the Class; whether Defendant
2 provided compliant meal periods and associated premium pay to the Class; whether
3 Defendant provided compliant rest periods and associated premium pay to the Class;
4 whether Defendant timely paid compensation and associated waiting time penalties;
5 whether Defendant provided accurate itemized wage statements to the Class; whether
6 Defendant maintained accurate payroll records with respect to the Class; and whether
7 Defendant engaged in unlawful or unfair business practices affecting the Class in
8 violation of the California Business & Professions Code;

9 C. Plaintiff’s claims are typical of the claims of the Class Members;

10 D. Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class;
11 and

12 E. A class action is superior to other available means for the fair and efficient adjudication
13 of the controversy, as the prosecution of separate actions by individual members of the
14 Class would create the risk of inconsistent or varying adjudications, which would
15 establish incompatible standards of conduct.

16 52. Class Counsel has conducted a thorough investigation into the facts of the Action,
17 including an extensive review of relevant documents, and has diligently pursued an investigation
18 of the claims of the Class against Defendant. Based on its own independent investigation and
19 evaluation, Class Counsel is of the opinion that the Settlement with Defendant for the consideration
20 and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in
21 the best interest of the Class in light of all known facts and circumstances, including the risk of
22 significant delay, the risk the Class will not be certified by the Court, defenses asserted by
23 Defendant, and numerous potential appellate issues. Defendant and Defense Counsel also agree
24 that the Settlement is fair and in the best interest of the Class.

25 **SETTLEMENT AMOUNT**

26 53. **Maximum Settlement Amount.** In consideration for the resolution and release of
27 claims provided for by this Settlement, Defendant will pay the Maximum Settlement Amount of Four
28 Hundred Fifty Thousand Dollars (\$450,000.00), which is inclusive of all amounts Defendant is

1 required to pay under the Settlement except as provided in Paragraph 53 below. The Maximum
2 Settlement Amount is non-reversionary and will be used for the payment of the following:

3 A. Administration Expenses. The Administrator will be paid for the costs of administration
4 of the Settlement from the Maximum Settlement Amount. The Administration Expenses
5 have been estimated by the Administrator to be approximately Eight Thousand Dollars
6 (\$8,000.00).

7 B. Class Counsel's Attorneys' Fees and Costs. Defendant agrees not to oppose or object to
8 any application or motion by Class Counsel for attorneys' fees not to exceed Thirty-Five
9 percent (35%) of the Maximum Settlement Amount, which is One Hundred Fifty
10 Thousand Five Hundred Dollars (\$157,500.00), plus reasonable costs and expenses not
11 to exceed Twenty-Five Thousand Dollars (\$25,000), subject to approval by the Court.
12 This Agreement is not contingent upon the Court awarding Class Counsel any particular
13 amount in attorneys' fees and costs. If the Court reduces or does not approve the
14 requested Class Counsel's Attorneys' Fees and Costs, the Agreement will remain binding
15 on the Parties. Any amount requested by Class Counsel for the Class Counsel's
16 Attorneys' Fees and Costs and not granted by the Court will be added to the Net
17 Settlement Amount and be distributed as provided in this Agreement. The Administrator
18 will issue an IRS Form 1099-MISC to Class Counsel for the payments made pursuant to
19 this paragraph.

20 C. Plaintiff's Enhancement Award. The Parties agree to the designation of Plaintiff
21 Christopher Lyon as the Class Representative. Defendant agrees not to oppose or object
22 to any application or motion by Class Counsel for an enhancement award not to exceed
23 Five Thousand Dollars (\$5,000.00) of the Maximum Settlement Amount for Plaintiff in
24 recognition of his effort and work in prosecuting the Action and Two Thousand Five
25 Hundred Dollars (\$2,500.00) in consideration for an individual general release of all
26 claims with a waiver of California Code of Civil Procedure Section 1542. Plaintiff's
27 Enhancement Award is a part of, and is to be deducted from, the Maximum Settlement
28 Amount. If the Court approves an enhancement award to Plaintiff in an amount less than

1 that set forth above, the difference between the amount set forth above and the amount
2 approved by the Court will be added to the Net Settlement Amount and distributed as
3 provided in this Agreement. In addition to the Court-approved Plaintiff's Enhancement
4 Award, Plaintiff will receive his pro-rata Individual Class Award and pro-rata Individual
5 PAGA Award. Plaintiff's Enhancement Award will be paid within 30 days after the
6 Effective Date of the Settlement. The Administrator will issue IRS Forms 1099-MISC
7 for the Plaintiff's Enhancement Award. Plaintiff assumes full responsibility and liability
8 for taxes owed on Plaintiff's Enhancement Award.

9 D. PAGA Allocation. Subject to Court approval, the Parties agree to allocate Fifteen Thousand
10 Dollars (\$15,000.00) of the Maximum Settlement Amount as PAGA penalties. The PAGA
11 Allocation will be distributed as follows:

12 i. LWDA Payment. Subject to Court approval of the PAGA Allocation, and per
13 California Labor Code section 2699(i), the Administrator will mail the LWDA
14 Payment to the LWDA along with a copy the Order Granting Final Approval of
15 the Settlement and Judgment to:

16 Department of Industrial Relations
17 Accounting Unit
18 455 Golden Gate Avenue, 10th Floor
19 San Francisco, CA 94102

20 ii. Individual PAGA Awards. Subject to Court approval of the PAGA Allocation, and per
21 California Labor Code section 2699(i), the Administrator will distribute Individual
22 PAGA Awards to PAGA Members on a pro-rata basis based on the number of pay
23 periods worked by all PAGA Members during the PAGA Period. The
24 Administrator will calculate the number of pay periods worked by the PAGA
25 Members during the PAGA Period, and the amount to be paid to PAGA Members
26 per pay period based on information to be provided by Defendant. When making
27 Individual PAGA Award disbursements to Class Members, the Administrator may pay
28 an Individual PAGA Award and an Individual Class Award as one sum, concurrently, to

1 the extent appropriate. The PAGA Allocation is included in and will not increase the
2 Maximum Settlement Amount. The Administrator will issue IRS Forms 1099-
3 MISC to PAGA Members for their Individual PAGA Awards.

4 E. Net Settlement Amount. The Administrator will distribute the Net Settlement Amount as
5 Individual Class Awards to Participating Class Members. The Individual Class Awards to
6 Participating Class Members are calculated on a pro-rata basis based on the number of
7 Workweeks worked by all Participating Class Members during the Class Period based on
8 the Class Data provided by Defendant. Each Individual Class Award to a Participating
9 Class Member will be attributed 10% as wages and 90% as penalties and interest. The
10 Administrator will report the portions paid as penalties and interest via IRS 1099 form,
11 along with the Class Members' PAGA Payments (if applicable) and will report portions
12 attributed to wages via IRS form W-2. Participating Class Members are responsible for
13 their share of the payroll taxes, which will be deducted by the Administrator from their
14 Individual Class Awards.

15 54. **Escalator Clause.** Defendant estimated for purposes of mediation that during the
16 Class Period there were 86 Class Members with an associated 4,269 workweeks. If the number of
17 workweeks during the Class Period exceeds 4,696 (i.e., an increase greater than 10% of the 4,269 estimated
18 workweeks), the Gross Settlement Amount will increase proportionally according to the number of
19 additional workweeks above 4,269.

20 55. **Taxability of Settlement Payments.** Plaintiff, Class Counsel, Participating Class
21 Members, and the PAGA Members are each solely responsible for correctly characterizing any
22 payments made pursuant to this Agreement for tax purposes and for paying any taxes on the amounts
23 received. Defendant makes no representations as to the taxability of any portions of the settlement
24 payments, and it is understood and agreed that Defendant has made no such representations. Neither
25 Class Counsel nor Defense Counsel intend anything in this Agreement to constitute advice regarding
26 taxes or taxability; nothing in this Agreement be relied upon as such within the meaning of United
27 States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

28 ///

1 56. **Settlement Awards Do Not Trigger Additional Benefits.** It is expressly understood
 2 and agreed that the receipt of any payment pursuant to this Agreement will not entitle any
 3 Participating Class Member, PAGA Member, or Plaintiff to additional compensation or benefits
 4 under any company bonus, contest or other compensation or benefit plan or agreement in place during
 5 the period covered by the Agreement, nor will it entitle them to any increased retirement, 401(k)
 6 benefits or matching benefits, or deferred compensation benefits. It is the intent of the Parties that
 7 the payments provided for in this Agreement are the sole payments to be made by Defendant to the
 8 Participating Class Members, PAGA Members, and Plaintiff in connection with this Agreement, and
 9 that they are not entitled to any new or additional compensation or benefits as a result of having
 10 received the payments provided for in this Agreement (notwithstanding any contrary language or
 11 agreement in any benefit or compensation plan document that might have been in effect during the
 12 period covered by this Agreement).

13 **RELEASES**

14 57. **Release By Participating Class Members.** As of the Effective Date, Plaintiff and all
 15 Participating Class Members fully, finally, and forever release, compromise, and discharge the
 16 Released Parties from the Released Claims for the Class Period.

17 58. **Settlement Terms Bind All Class Members Who Do Not Opt-Out.** Any Class
 18 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely
 19 Request for Exclusion will be deemed a Participating Class Member and will be bound by all terms
 20 of the Agreement, including those pertaining to the Released Claims, as well as the Final Approval
 21 Order and Judgment that may be entered by the Court if it grants final approval to the Settlement.

22 59. **Release By PAGA Members and State of California.** As of the Effective Date,
 23 Plaintiff, all PAGA Members, and the State of California fully, finally, and forever release,
 24 compromise, and discharge the Released Parties from the Released PAGA Claims for the PAGA
 25 Period. This release is binding on the State of California, which includes the LWDA and its
 26 departments, divisions, commissions, boards, agencies, and employees, and any of Defendant’s
 27 current or former employees who may seek to represent the State of California to recover civil

28 ///

1 penalties pursuant to PAGA based on alleged violations of the Released PAGA Claims during the
2 PAGA Period.

3 60. **No Right to Opt Out of PAGA Release.** The Parties agree that there is no statutory
4 right for any PAGA Member to opt out or otherwise exclude himself or herself from the Agreement.

5 61. **General Release by Plaintiff.** As consideration for Plaintiff’s Enhancement Award,
6 Plaintiff is generally releasing all claims through a separate individual settlement agreement.

7 62. **Labor Code § 206.5 Inapplicable.** It is acknowledged that all individual settlement
8 awards made pursuant to this Agreement are on disputed claims and that Plaintiff, each Participating
9 Class Member, and each PAGA Member will be deemed to have acknowledged and agreed that
10 California Labor Code § 206.5 is not applicable. That section provides:

11 An employer shall not require the execution of a release of a claim or right
12 on account of wages due, or to become due, or made as an advance on
13 wages to be earned, unless payment of those wages has been made. A
14 release required or executed in violation of the provisions of this section
 shall be null and void as between the employer and the employee.
 Violation of this section by the employer is a misdemeanor.

15 **PROCEDURE FOR PRELIMINARY COURT APPROVAL OF AGREEMENT**

16 63. **Seeking Preliminary Approval.** Plaintiff will promptly submit this Agreement to the
17 Court in support of Plaintiff’s Motion for Preliminary Approval of the Settlement. Plaintiff agrees to
18 provide Defendant the opportunity to review, and to seriously consider Defendant’s comments before
19 filing Plaintiff’s Motion for Preliminary Approval. Plaintiff will apply to the Court for the entry of
20 an order preliminarily approving the Settlement, substantially in the following form and as attached
21 hereto as **Exhibit A**, which provides, *inter alia*, for:

- 22 A. Scheduling a Final Approval Hearing on the question of whether the Settlement,
23 including payment of Attorneys’ Fees and Costs, Settlement Administration Costs,
24 and Enhancement Awards should be finally approved as fair, reasonable and
25 adequate;
- 26 B. Certifying the Settlement Class, designating Plaintiff as the Class Representative, and
27 designating Plaintiff’s counsel as Class Counsel;

28 ///

- 1 C. Approving as to form and content the Class Notice;
- 2 D. Approving the manner and method for Class Members to request exclusion from the
- 3 Settlement, object to the Settlement, and/or dispute the Workweeks credited to them,
- 4 as contained herein and within the Class Notice;
- 5 E. Directing the mailing of the Notice Packet by First Class U.S. mail to the Class
- 6 Members; and
- 7 F. Preliminarily approving the Settlement subject only to the objections of Class
- 8 Members and final review by the Court.

9 64. **Submission of Settlement to LWDA.** This Agreement is subject to and conditioned
 10 upon obtaining Court approval under Labor Code Section 2699(1)(2). At the same time Plaintiff files
 11 with the Court the Preliminary Approval Motion accompanied with this Agreement, Class Counsel
 12 will submit the Agreement to the LWDA through its on-line procedures, and will provide Defense
 13 Counsel with a copy of the LWDA's acknowledgment of receipt of the Agreement.

14 **CLASS NOTICE AND SETTLEMENT ADMINISTRATION**

15 65. **Class Data.** Within 30 calendar days after Preliminary Approval, Defendant will
 16 provide the Class Data to the Administrator. The Class Data will be based on Defendant's payroll
 17 and other business records and will be provided in a format reasonably acceptable to the Settlement
 18 Administrator. The Parties agree the Class Members' contact information and Social Security
 19 numbers will be used only by the Administrator for the sole purpose of effectuating the Settlement,
 20 and will not be provided to Plaintiff or Class Counsel at any time or in any form. The Administrator
 21 will take reasonable steps to protect the confidential and private information of the Class Members.
 22 To the extent Class Counsel possesses or comes to possess the Class Members' contact information
 23 and/or social security numbers, Class Counsel will immediately return all such information
 24 (including copies and data or information derived therefrom), will not retain copies of such
 25 information, and will not maintain or use such information for any purpose.

26 66. **NCOA Check.** Prior to mailing of Class Notices, the Administrator will run a check
 27 of the Class Members' addresses that are contained in the Class Data against those on file with the U.S.

28 ///

1 Postal Service’s National Change of Address (“NCOA”) List; this check will be performed only once
2 per Class Member by the Settlement Administrator.

3 67. **Class Notice.** Within 40 calendar days after Preliminary Approval, the Administrator
4 will send by first-class mail a Class Notice to each Class Member in substantially the form attached
5 hereto as **Exhibit B**, and as approved by the Court. The Class Notice will include the following
6 information on Class Members’ rights to respond to the Class Notice:

7 A. **Workweek Disputes.** A Class Member may dispute the pre-printed information on the
8 Class Notice as to their Workweeks and/or PAGA Pay Periods by submitting a timely
9 written Workweek Dispute to the Administrator. The Workweek Dispute must be signed,
10 dated, and mailed by First Class U.S. Mail, or the equivalent, to the Administrator. All
11 Workweek Disputes must be postmarked no later than the Dispute Deadline. Unless a
12 disputing Class Member submits documentary evidence in support of his or her dispute,
13 the Defendant’s records will be determinative. All Workweek Disputes will be resolved
14 and decided by the Administrator, and the Administrator’s decision on all disputes will
15 be final and binding. The date of the postmark on the Workweek Dispute return envelope
16 will be the exclusive means used to determine whether a Workweek Dispute has been
17 timely submitted. No Workweek Dispute will be honored if it is postmarked after the
18 Dispute Deadline unless the Parties mutually agree to accept the untimely dispute.

19 B. **Opting Out of the Settlement.** Any Class Member may exclude themselves, if they do
20 not wish to participate in the Settlement, by submitting a timely written Request for
21 Exclusion to the Administrator. The Request for Exclusion must contain: the individual’s
22 full name, signature with date, the case name and number of the Action; and a clear
23 statement indicating that he or she desires to be excluded from the Settlement. The
24 Request for Exclusion must be signed, dated, and mailed by First Class U.S. Mail, or the
25 equivalent, to the Administrator. All Requests for Exclusion must be postmarked no later
26 than the Response Deadline. Any individual who submits a Request for Exclusion will
27 not be allowed to object to the terms of the Settlement.

28 ///

1 C. **Objecting to the Settlement.** Any Class Member who does not exclude himself/herself
2 from the Settlement (i.e., a Participating Class Member) may object to the terms of the
3 Settlement by filing a written objection with the Court and mailing a copy to the
4 Settlement Administrator, no later than the Response Deadline. A written objection must
5 contain: the Participating Class Member's full name, signature with date, the case name
6 and number of the Action, a clear statement indicating that he or she objects to the
7 Settlement, each specific reason in support of the objection along with any legal support
8 for each objection, a clear statement indicating whether he or she is represented by
9 counsel and whether he or she intends to appear at the Final Approval Hearing.
10 Alternatively, any Participating Class Member may object orally at the Final Approval
11 Hearing. If the Court rejects the objection, the individual will nevertheless be bound by
12 the terms of the Settlement. At no time will any of the Parties or their counsel seek to
13 solicit or otherwise encourage Participating Class Members to submit written objections
14 to the Settlement Agreement or appeal from the Final Approval Order and Judgment.
15 Class Counsel will not represent any Class Members with respect to any such objections
16 to this Settlement.

17 68. **Non-Deliverable Class Notices.** Class Notices returned to the Administrator as non-
18 deliverable before the Response Deadline will be re-sent to the forwarding address, if any, on the
19 returned envelope. A returned Class Notice will be forwarded only once per Class Member by the
20 Administrator. If there is no forwarding address, the Administrator will do a skip-trace search for a
21 more recent address associated with the Class Member whose Notice Packet was returned, and re-
22 mail the Notice Packet within five (5) calendar days; this search and re-mailing will be performed
23 only once per Class Member by the Administrator. If a Class Member's notice is re-mailed, the Class
24 Member will have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from
25 the date of the initial mailing, whichever is later, in which to postmark objections or submit a Request
26 for Exclusion. Upon completion of these steps by the Administrator, Defendant and the
27 Administrator are deemed to have satisfied their obligations to provide the Class Notice to Class
28 Members. Irrespective of whether or not a Class Member receives a Class Notice, they will remain

1 a Class Member and will be bound by all the terms of the Settlement and the contemplated Final
2 Approval Order and Judgment, unless they submit a valid and timely Request for Exclusion. The
3 cost of all Return Envelopes or deficiency notices are a part of the Administration Expenses to be
4 paid out of the Maximum Settlement Amount.

5 69. **Class Administration Webpage.** From the date Class Notices are mailed through
6 two hundred (200) calendar days following the disbursement of Individual Class Awards and
7 Individual PAGA Awards, the Administrator will post and permit Class Members to access the
8 Agreement, Preliminary Approval Order, and Final Approval Order and Judgment at no charge via
9 a webpage on its website.

10 70. **Right to Rescission.** If more than ten percent (10%) of Class Members opt out of the
11 Settlement by submitting valid and timely Requests for Exclusion, Defendant has the right (but need
12 not) in their sole discretion to rescind and void the Settlement, before final approval by the Court, by
13 providing written notice to Class Counsel at least ten (10) calendar days after the Administrator
14 furnishes Defendant with the number and percentage of valid and timely Requests for Exclusion
15 following the expiration of the Response Deadline. If Defendant exercises this option, Defendant will
16 pay all Settlement Administration Costs incurred through such date. If the Settlement is rescinded
17 pursuant to this provision, this Settlement will be considered null and void, neither the Settlement or
18 any of the related negotiations or proceedings will have any force or effect and no party will be bound
19 by any of its terms, and all Parties to this Settlement will stand in the same position, without prejudice,
20 as if the Settlement had been neither entered into nor filed with the Court.

21 **PROCEDURE FOR FINAL COURT APPROVAL OF AGREEMENT**

22 71. **Seeking Final Approval.** Plaintiff will prepare and file a motion for final approval of
23 the Settlement. Plaintiff agrees to provide Defendant the opportunity to review the Final Approval
24 Motion, and to seriously consider Defendant's comments before filing the Final Approval Motion.
25 In conjunction with the Final Approval Motion, Class Counsel will submit a proposed Final Approval
26 Order and Judgment, in substantially the form attached hereto as **Exhibit C**, that provides, *inter alia*,
27 as follows:

28 ///

- 1 A. Making final the conditional certification of the Class for settlement purposes only;
- 2 B. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
- 3 adequate, and directing consummation of its terms and provisions;
- 4 C. Approving an award of Attorneys' Fees and Costs to Class Counsel;
- 5 D. Approving the Enhancement Award to the Class Representative;
- 6 E. Approving the Administration Expenses to be paid to the Administrator;
- 7 F. Approving the PAGA Allocation and LWDA Payment to the LWDA;
- 8 G. Entry of judgment in the Action with continuing jurisdiction of the Court in conformity
- 9 with California Rules of Court Rule 3.769 and California Code of Civil Procedure Section
- 10 664.6 as necessary to enforce the terms of the Agreement.

11 72. **Declaration of Due Diligence.** In connection with and in support of Plaintiff's Final
12 Approval Motion, Class Counsel will file with the Court a declaration by the Settlement
13 Administrator of due diligence and proof of mailing with regard to the mailing of the Class Notice
14 to Class Members.

15 73. **Submission of Judgment to LWDA.** Within 10 calendar days after Class Counsel's
16 receipt of the Court's approval of the Agreement and entry of a signed Final Approval Order and
17 Judgment, Class Counsel will submit the Final Approval Order and Judgment to the LWDA through
18 its on-line procedures, and will provide Defense Counsel with a copy of the LWDA's
19 acknowledgment of receipt of the Final Approval Order and Judgment.

20 **SETTLEMENT FUNDING AND PAYMENTS DISBURSEMENTS**

21 74. **Accounting of Disbursement.** Within 15 calendar days after the Effective Date, the
22 Administrator will provide Defendant with payment instructions and a report listing the amount of
23 all payments to be made.

24 75. **Payment of Maximum Settlement Amount.** Within 30 calendar days after the
25 Effective Date, Defendant, on behalf of the Released Parties, will pay to the Administrator the
26 Maximum Settlement Amount. The Administrator will establish a Qualified Settlement Fund
27 ("QSF") for purposes of disbursing the Maximum Settlement Amount per the terms of this
28 Agreement. The Administrator will undertake all required withholding, remittances, reporting of

1 taxes, and issuance of the appropriate tax forms for payments required under this Agreement in
2 accordance with local, state, and federal laws.

3 **76. Disbursement of Maximum Settlement Amount.** Within 40 calendar days after the
4 Effective Date, the Administrator will disburse the Maximum Settlement Amount as specified in this
5 Agreement and as approved by the Court in the Final Approval Order and Judgment. The
6 Administrator will be responsible for making payment of any court-approved Class Counsel's
7 Attorneys' Fee and Costs, any court-approved Plaintiff's Enhancement Award to the Class
8 Representative, Administration Expenses, the LWDA Payment, issuing the Individual Class Awards
9 to Participating Class Members, issuing Individual PAGA Awards to PAGA Members, and meeting
10 any reporting obligations.

11 **77. Default on Payment.** Defendant's failure to timely pay to the Administrator the
12 Maximum Settlement Amount will be considered a default. In the event Defendant fails to timely
13 fund the Maximum Settlement Amount, the Administrator will provide notice to Class Counsel and
14 Defendant's counsel within three (3) business days of the missed payment. Thereafter, Defendant
15 will have seven (7) calendar days to cure the default and tender payment to the Administrator.

16 **78. Individual Class and PAGA Award Disbursements.** The Administrator will
17 distribute Individual Class Awards, subject to applicable taxes and withholdings, and Individual
18 PAGA Awards by way of check(s) mailed to the Participating Class Member and/or PAGA Member
19 at the last known address that the Settlement Administrator has on file. Settlement award checks will
20 remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their
21 issuance. If a settlement award check is returned to the Administrator, the Administrator will make
22 all reasonable efforts to re-mail it to the Class and/or PAGA Member at his or her correct address.
23 Upon the deadline to cash the settlement award checks, the checks will automatically be cancelled
24 by the Administrator if not cashed within that time and the funds associated with such cancelled
25 checks will be transmitted to the California State Controller's Office's Unclaimed Property Division
26 to be held as unclaimed funds in the Class and/or PAGA Member's name. A Class and/or PAGA
27 Member whose settlement award check(s) are cancelled remains subject to the Settlement, the
28 releases of claims, and the Court's Final Approval Order and Judgment. The checks provided to

1 Class and/or PAGA Members will prominently state the expiration date or a statement that the checks
2 will expire in 180 calendar days, or alternatively, such a statement may be made in a letter
3 accompanying the check. Lost or expired settlement award checks will not be reissued, except for
4 good cause and as mutually agreed by the Parties in writing. No person will have any claim against
5 Defendant, Released Parties, Defense Counsel, the Class Representative, any Class Member, any
6 PAGA Member, Class Counsel, or the Administrator based on distributions and payments made in
7 accordance with this Agreement.

8 79. **Declaration of Compliance.** Within one hundred ninety (190) days from the date of
9 issuance of settlement award checks, the Administrator will provide a declaration of compliance with
10 the terms of the Agreement and detailing proof of payment and the numbers of cashed and uncashed
11 checks (without disclosing or identifying information of Class Members). Class Counsel will file the
12 Administrator's declaration of compliance with the Court, as ordered by the Court.

13 **MISCELLANEOUS PROVISIONS**

14 80. **Affirmation of Resignation.** Plaintiff affirms that he has resigned his employment
15 with Defendant.

16 81. **Job References.** Plaintiff will direct all individuals inquiring about Plaintiff's
17 employment with Defendant to Defendant's Human Resources Department, who will follow
18 Defendant's policy by responding with only Plaintiff's last position and dates of employment.

19 82. **Stay of Discovery.** To effectuate the terms of the Settlement, the Parties agree all
20 formal and informal discovery is stayed pending final Court approval of the Settlement.

21 83. **Limited Public Comment.** With the exception of court filings and notice to the
22 LWDA, the Class Representative and Class Counsel will not make: (1) any comments to the public
23 or the media; (2) engage in any mass communications or other publicity, including, but not limited
24 to, social media, and (3) public disclosure of the terms of this Settlement (including, but not limited
25 to, the Maximum Settlement Amount), the negotiations leading to this Settlement, and all documents
26 related to the Settlement. The Parties will use their best efforts to reach agreement on all Court filings.
27 Class Counsel will ensure that Plaintiff is specifically made aware of the restriction against public
28 comment of the Settlement. Class Counsel further agrees to cease all affirmative mass

1 communication (oral and written) with the Class Members, other than through Court-approved
2 notices. This provision does not prevent Class Counsel from communicating with any Class
3 Members who may contact Class Counsel. Also, nothing in this Agreement restricts Class Counsel
4 from disclosing and including all publicly available information regarding this case and the
5 settlement in any documents filed with any court and/or judicial submissions (e.g., CV's, declarations
6 regarding adequacy or experience, etc.).

7 **84. Media Communications / No Attorney Advertising.** The Parties will not initiate
8 any communications (directly or indirectly) with the media regarding the Action. Notwithstanding
9 the foregoing, the Class Representative and Class Counsel may, in response to a communication
10 initiated by the media, direct the inquiring media member to the public records of the Action on file
11 with the Court and respond only with "The matter has been resolved." Class Counsel will ensure that
12 Plaintiff is specifically made aware of the restriction against any media comment on the Settlement
13 and its terms. Class Counsel also agrees that their law firm will not specifically refer to this
14 settlement and/or the settlement amount in conjunction with the names of the Released Parties in any
15 advertising or promotional material of any kind on their website, on any social media platform, or in
16 any other written or electronic communications.

17 **85. No Assignment of Claims.** The Parties and their counsel represent, covenant and
18 warrant that they have not directly or indirectly, assigned, transferred, encumbered or purported to
19 assign, transfer or encumber to any person or entity any portion of any liability, claim, demand,
20 action, cause of action or right herein released and discharged except as set forth herein.

21 **86. Construction.** The Parties agree that the terms and conditions of this Agreement are
22 the result of lengthy, intensive arms-length negotiations between the Parties and this Agreement will
23 not be construed in favor of or against any party by reason of the extent to which any party or his,
24 her, or its counsel participated in the drafting of this Agreement.

25 **87. No Admission.** Nothing contained in this Agreement, nor the consummation of this
26 Agreement, is to be construed or deemed an admission of liability, culpability, negligence or
27 wrongdoing on the part of Plaintiff, Defendant, or Released Parties. Each of the Parties hereto has

28 ///

1 entered into this Agreement solely with the intention to avoid further disputes and litigation with the
2 attendant inconvenience and expenses.

3 88. **Captions and Interpretations.** Paragraph titles or captions contained herein are
4 inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe
5 the scope of this Agreement or any provision of it.

6 89. **Modification and Waiver.** This Agreement may not be changed, altered or modified,
7 except in writing specifically referencing this Agreement, signed by the Parties, and approved by the
8 Court. No rights under this Agreement may be waived except in writing specifically referencing this
9 Agreement, signed by the waiving Party or Parties.

10 90. **Notice to Counsel.** Unless otherwise specifically provided herein, all notices,
11 demands, or other communications provided for in this Agreement will be in writing and will be both
12 emailed and mailed by United States registered or certified mail, return receipt requested, addressed
13 as follows:

14 **Class Counsel:**

15 Scott Edward Cole
16 *sec@colevannote.com*
17 Laura Van Note
18 *lvn@colevannote.com*
19 Cody Alexander Bolce
20 *cab@colevannote.com*
21 **COLE & VAN NOTE APC**
22 555 12th Street, Suite 1725
23 Oakland, CA 94607

Defense Counsel:

Mark S. Spring
mspring@cdflaborlaw.com
Nicole A. Legrottaglie
nlegrottaglie@cdflaborlaw.com
Sander van der Heide
svanderheide@cdflaborlaw.com
Tashayla Billington, State Bar No. 307050
tbillington@cdflaborlaw.com
CDF Labor Law LLP
900 University Avenue, Suite 200
Sacramento, California 95825

21 91. **Mutual Full Cooperation.** The Parties agree to fully cooperate with each other to
22 accomplish the terms of this Agreement, including, but not limited to, execution of such documents
23 and taking such other action as reasonably may be necessary to implement the terms of this
24 Agreement. The Parties will use their best efforts, including all efforts contemplated by this
25 Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to
26 effectuate this Agreement and the terms set forth herein. As soon as practicable after execution of
27 this Agreement, Class Counsel will, with the assistance and cooperation of Defendant and Defense
28 Counsel, take all necessary steps to secure the Court's approval of this Agreement. If the Court does

1 not issue an order approving the Agreement under the specific terms requested, the Parties agree to
2 meet and confer to address the Court's concerns in good faith and determine whether resolution of
3 the claims encompassed by the Agreement can be obtained in a manner consistent with the Court's
4 concerns. The Parties, Class Counsel, and Defense Counsel agree that they will not attempt to
5 encourage or discourage Class Members from filing Requests for Exclusion.

6 **92. Disputes.** Should any dispute(s) arise among the Parties or their respective counsel
7 regarding the implementation or interpretation of this Agreement that they are unable to resolve
8 cooperatively, the Parties agree to submit any such dispute(s) to mediator Brandon McKelvey. To
9 the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court,
10 the prevailing party will be entitled to recover reasonable attorneys' fees and costs.

11 **93. Parties' Authority.** It is agreed that because the Class and PAGA Members are so
12 numerous, it is impossible or impractical to have each Class and PAGA Member execute this
13 Agreement. The Class Notice will advise all Class and PAGA Members of the binding nature of the
14 releases of claims provided for by the Settlement, and that the releases will have the same force and
15 effect as if this Agreement were executed by each Participating Class Member and PAGA Member.
16 The signatories to this Agreement represent that they are fully authorized to enter into this Agreement
17 and bind the Parties to its terms and conditions.

18 **94. Agreement Binding on Successors.** This Agreement is binding on and inures to the
19 benefit of the Parties, and the Released Parties and their respective heirs, trustees, executors,
20 administrators, successors and assigns.

21 **95. Integration Clause.** This Agreement contains the entire agreement between the
22 Parties relating to any and all matters addressed in the Agreement, and all prior or contemporaneous
23 agreements, understandings, representations, and statements, whether oral or written and whether by
24 a party or such party's legal counsel, are merged herein.

25 **96. Attorneys' Fees and Costs.** Except as expressly provided in this Agreement,
26 Defendant and Plaintiff will each bear their own attorney's fees and costs.

27 **97. Counterparts.** This Agreement may be executed in counterparts and by original or
28 electronic signatures sent via PDF through email, and when each party has signed and delivered at

1 least one such counterpart, each counterpart, including e-mail and PDF versions, will be deemed an
2 original and, when taken together with other signed counterparts, will constitute one Agreement
3 binding upon and effective as to all Parties.

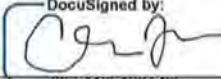
4 98. **Extension of Deadlines.** If the date by which any court filing, mailing, or deadline is
5 to occur per the terms and conditions of this Agreement falls on a Saturday, Sunday, or legal holiday
6 in the State of California, the date of the court filing, mailing, or deadline is extended to the next
7 following day which is not a Saturday, Sunday, or legal holiday in the State of California.

8 99. **California Law.** All terms of this Agreement will be governed by and interpreted
9 according to the substantive, internal laws of the State of California without reference to California's
10 choice of law rules.

11 100. **Voluntary Agreement.** The Parties expressly declare and represent that they have
12 read this Agreement and have consulted with counsel, or had the opportunity to consult with counsel,
13 regarding the meaning of the provisions, terms, and conditions contained in this Agreement. The
14 Parties further expressly declare and represent that they fully understand the content and effect of
15 this Agreement, that they approve and accept its terms and conditions, and that the Agreement is
16 executed freely and voluntarily.

17 IN WITNESS WHEREOF, the Parties knowingly and voluntarily execute this Agreement as
18 of the date(s) set forth below:

19
20 Dated: 1/3/2023 _____

DocuSigned by:

7BF5A19E198A46F...

21 Plaintiff Christopher Lyon

22
23 Defendant Bayside Marin, Inc.

24 Dated: _____

25 Name: _____

26 Title: _____
27 Authorized Agent for Bayside Marin, Inc.
28

1 least one such counterpart, each counterpart, including e-mail and PDF versions, will be deemed an
2 original and, when taken together with other signed counterparts, will constitute one Agreement
3 binding upon and effective as to all Parties.

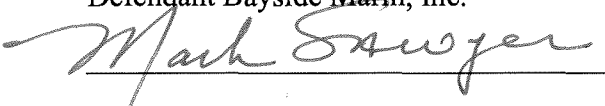
4 98. **Extension of Deadlines.** If the date by which any court filing, mailing, or deadline is
5 to occur per the terms and conditions of this Agreement falls on a Saturday, Sunday, or legal holiday
6 in the State of California, the date of the court filing, mailing, or deadline is extended to the next
7 following day which is not a Saturday, Sunday, or legal holiday in the State of California.

8 99. **California Law.** All terms of this Agreement will be governed by and interpreted
9 according to the substantive, internal laws of the State of California without reference to California's
10 choice of law rules.

11 100. **Voluntary Agreement.** The Parties expressly declare and represent that they have
12 read this Agreement and have consulted with counsel, or had the opportunity to consult with counsel,
13 regarding the meaning of the provisions, terms, and conditions contained in this Agreement. The
14 Parties further expressly declare and represent that they fully understand the content and effect of
15 this Agreement, that they approve and accept its terms and conditions, and that the Agreement is
16 executed freely and voluntarily.

17 IN WITNESS WHEREOF, the Parties knowingly and voluntarily execute this Agreement as
18 of the date(s) set forth below:

19
20 Dated: _____
21
22 Plaintiff Christopher Lyon

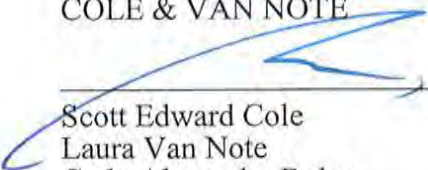
23 Defendant Bayside Marin, Inc.
24 Dated: 1-13-23 
25
26 Name: MARK SAWYER
27 Title: CEO
28 Authorized Agent for Bayside Marin, Inc.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPROVED AS TO FORM AND CONTENT:


COLE & VAN NOTE

Dated: 1/6/23



Scott Edward Cole
Laura Van Note
Cody Alexander Bolce
Attorneys for Plaintiff Christopher Lyon

CDF LABOR LAW LLP



Dated: January 17, 2023

Mark S. Spring
Nicole A. Legrottaglie
Sander van der Heide
Tashayla Billington
Attorneys for Defendant Bayside Marin, Inc.

EXHIBIT A

1 Scott Edward Cole, Esq. (S.B. #160744)
 2 Laura Grace Van Note, Esq. (S.B. #310160)
 3 Cody Alexander Bolce, Esq. (S.B. #322725)
COLE & VAN NOTE
 4 555 12th Street, Suite 1725
 Oakland, California 94607
 Telephone: (510) 891-9800
 Facsimile: (510) 891-7030
 5 Email: sec@colevannote.com
 Email: lvn@colevannote.com
 6 Email: cab@colevannote.com
 Web: www.colevannote.com

7
8 Attorneys for Representative Plaintiff

9
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **IN AND FOR THE COUNTY OF MARIN**

12
13 CHRISTOPHER LYON, individually, and
on behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 BAYSIDE MARIN, INC., and DOES 1
through 100, inclusive,

17 Defendants.
18
19

Case No. CIV2103872

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND PAGA SETTLEMENT**

Date: _____, 2023

Time: _____ am/pm

Dept.: B

Judge: James T. Chou

COLE & VAN NOTE
 ATTORNEYS AT LAW
 555 12TH STREET, SUITE 1725
 OAKLAND, CA 94607
 TEL: (510) 891-9800

20
21
22
23
24
25
26
27
28

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

2 Plaintiff Christopher Lyon’s (“Plaintiff”) Motion for Preliminary Approval of Class and
3 PAGA Settlement (“Motion for Preliminary Approval”) came before this Court, on [DATE], at
4 [TIME] a.m. in Courtroom B, before the Honorable James T. Chou. The Court having reviewed
5 the Agreement and considered the papers, the arguments of counsel, and all other evidence and
6 matters presented, and good cause appearing:

7 **IT IS ORDERED** that the Motion for Preliminary Approval of Class and PAGA
8 Settlement is **GRANTED**, subject to the following findings and orders:

9 1. The Court grants preliminary approval of the Parties’ settlement based upon the
10 terms set forth in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement”
11 or “Settlement”) filed herewith. All terms used herein have the same meaning as defined in
12 the Agreement. The settlement set forth in the Agreement appears to be fair, adequate and
13 reasonable to the Class and PAGA Members.

14 2. It appears to the Court on a preliminary basis that (a) the Settlement is fair,
15 adequate and reasonable; (b) the Maximum Settlement Amount and Net Settlement Amount are
16 fair, adequate and reasonable when balanced against the probable outcome of further litigation
17 relating to liability and damages issues; (c) sufficient investigation and research have been
18 conducted such that counsel for the Parties at this time are able to reasonably evaluate their
19 respective positions; (d) settlement at this time will avoid additional costs by all Parties, as well
20 as avoid the delay and risks that would be presented by the further prosecution of the Action;
21 and (e) the Settlement has been reached as the result of non-collusive, arms-length negotiations.

22 3. A final fairness hearing on the question of whether the Settlement, Attorneys’
23 Fees and Costs to Class Counsel, Plaintiff’s Enhancement Award, and Administration Expenses
24 should be finally approved as fair, reasonable and adequate as to the members of the Class is
25 scheduled in Courtroom B on the date and time set forth in Paragraph 10 below.

26 4. This Court approves, as to form and content, the Class Notice, in substantially
27 the form attached hereto and to the Agreement as **Exhibit A**. The Court approves the procedure
28

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

1 for Class Members to participate in, to opt out of, and/or to object to, the Settlement as set forth
2 in the Agreement and the Class Notice.

3 5. The Court directs the mailing of the Class Notice by first class mail to the Class
4 and PAGA Members in accordance with the Implementation Schedule set forth below. The
5 Court finds the dates selected for the mailing and distribution of the Class Notice, as set forth in
6 the Implementation Schedule, meet the requirements of due process and provide the best notice
7 practicable under the circumstances and will constitute due and sufficient notice to Class and
8 PAGA members.

9 6. The Court concludes that, for settlement purposes only, the Class is preliminarily
10 and conditionally certified and meets the requirements for certification under section 382 of
11 California Code of Civil Procedure in that: (1) the Class is ascertainable and so numerous that
12 joinder of all members of the Class is impracticable; (b) common questions of law and fact
13 predominate, and there is a well-defined community of interest amongst the members of the
14 Class with respect to the subject matter of the litigation; (c) Plaintiff's claims are typical of the
15 claims of the members of the Class; (d) Plaintiff will fairly and adequately protect the interest
16 of the members of the Class; (e) a class action is superior to other available methods for the
17 efficient adjudication of the controversy; and (f) Class Counsel is qualified to act as counsel for
18 the Plaintiff in his individual capacity and as the representative of the Class. The Class is defined
19 as all persons employed by Defendant in an hourly non-exempt position in California during the
20 Class Period who did not sign arbitration agreements.

21 7. The Court confirms Plaintiff Christopher Lyon as the Class Representative, and
22 Scott Edward Cole, Laura Van Note, and Cody Alexander Bolce of the firm COLE & VAN
23 NOTE, as Class Counsel.

24 8. The Court confirms CPT Group as the Settlement Administrator.

25 9. The Court approves the proposed procedures, as set forth in the Agreement for:
26 seeking exclusion from the Settlement by submitting to the Administrator a valid and timely
27 Request for Exclusion; objecting to the Settlement by filing with the Court and submitting to the

28

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

1 Administrator a written objection; and disputing credited workweeks by submitting to the
2 Administrator a valid and timely Workweek Dispute.

3 10. A final fairness hearing will be held before this Court on _____ at
4 _____ a.m./p.m. in Courtroom B of the Superior Court of California for the County
5 of Marin located at 3501 Civic Center Drive, San Rafael, CA 94903, to determine all necessary
6 matters concerning the Settlement, including: whether the proposed settlement of the Action
7 on the terms and conditions provided for in the Agreement is fair, adequate, and reasonable
8 and should be finally approved by the court; whether a judgment, as provided in the
9 Agreement, should be entered; whether the plan of allocation contained in the Settlement
10 should be approved as fair, adequate, and reasonable to the Class Members; and determine
11 whether to finally approve the allocations and requests for Class Counsel’s Fees and Costs,
12 Plaintiff’s Enhancement Award, Administration Expenses, and PAGA Allocation. Class
13 Counsel will file a motion for final approval of the Settlement and for Class Counsel’s Fees
14 and Costs, Plaintiff’s Enhancement Award, and Administration Expenses, along with the
15 appropriate declarations and supporting evidence, including the Administrator’s declaration
16 in accordance with California Code of Civil Procedure section 1005(b) (i.e., 16 court days
17 prior to the final fairness hearing).

18 The Court orders the following **Implementation Schedule** for further proceedings:

	Event	Date
20 a.	Deadline for Defendant to Submit Class Data to Administrator	[30 calendar days after Order granting preliminary Approval]
23 b.	Deadline for Administrator to Mail Class Notice to Class and PAGA Members	[40 calendar days after Order granting preliminary Approval]
25 c.	Deadline for Class Members to Postmark Workweek Dispute	[30 calendar days after mailing of the Class Notice]
27 d.	Deadline for Class Members to Postmark Requests for Exclusion	[60 calendar days after mailing of the Class Notice]

28

COLE & VAN NOTE
 ATTORNEYS AT LAW
 555 12TH STREET, SUITE 1725
 OAKLAND, CA 94607
 TEL: (510) 891-9800

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

e.	Deadline for Receipt by Court and Administrator of any objections to Settlement	[60 calendar days after mailing of the Class Notice]
f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Class Counsel's Attorneys' Fees and Costs and Plaintiff's Enhancement Award	[16 Court days before Final Approval Hearing]
g.	Deadline for filing of Declaration by Administrator of Due Diligence and Proof of Mailing	[16 Court days before Final Approval Hearing]
h.	Deadline for Defendant to provide written Notice of Rescission of Settlement to Class Counsel (if applicable)	[10 calendar days before Final Approval Hearing, provided number and percentage of opt outs previously provided to Defendant]
i.	Final Approval Hearing	Date:
		Time:
j.	Deadline for Defendant to pay Maximum Settlement Amount to Administrator	[30 calendar days after Effective Date] (if Settlement is Effective)
k.	Deadline for Settlement Administrator to distribute Individual Class Awards, Individual PAGA Awards, Plaintiff's Enhancement Award, LWDA Payment, Administration Expenses, and Class Counsel's Attorneys' Fees and Costs (if Settlement is Effective)	[40 calendar days after Effective Date] (if Settlement is Effective)
l.	Deadline for Plaintiff to file Administrator's Declaration of Compliance and Proof of Payment (if Settlement is Effective)	[240 calendar days after Effective Date] (if Settlement is Effective)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11. Pending the final fairness hearing, all proceedings in this Action, other than proceedings necessary to carry out or enforce the terms of the Settlement and this Order, are hereby stayed.

IT IS SO ORDERED.

Dated: _____

HONORABLE JAMES T. CHOU
JUDGE OF THE SUPERIOR COURT

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

EXHIBIT B

<<First Name>> <<Last Name>>
<<Address 1>>
<<Address 2>>

NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Christopher Lyon, individually and on behalf of all others similarly situated v. Bayside Marin, Inc., and DOES 1 through 100, inclusive

Marin Superior Court No. CIV2103872

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A SETTLEMENT OF CLASS ACTION AND PAGA LITIGATION.

I. BACKGROUND OF THE CASE

Former employee Christopher Lyon ("Plaintiff") filed a lawsuit alleging wage and hour violations and seeking penalties under the California Private Attorney General Act ("PAGA") against Bayside Marin, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties"). The lawsuit was filed in Superior Court of the State of California for Marin County ("Court"), Case No. CIV2103872 (the "Action").

The Action alleges the following claims: (1) unpaid wages, including regular wages, minimum wages, and off-the-clock work; (2) unpaid overtime, including regular rate of pay; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to provide accurate wage statements; (6) failure to timely pay wages at separation; (7) violation of the Unfair Competition Law; and (8) PAGA.

Defendant denies all claims, denies that Plaintiff and the Class Members are entitled to any recovery, and asserts affirmative defenses in response to Plaintiff's claims.

The Action has been actively litigated. There have been on-going investigations, and an exchange of extensive documentation and information. Furthermore, the Parties have engaged in arms-length private mediation before a well-respected mediator. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement based upon the recommendation of the mediator. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Settlement, Defendant continues to deny all allegations and claims.

The Parties have entered into a Joint Stipulation of Class and PAGA Settlement ("Settlement," or "Agreement"), which has been preliminarily approved by the Court. The Settlement has been reached between the Parties on behalf of:

- (1) all persons employed by Defendant in an hourly, non-exempt position in California during the Class Period (defined as September 8, 2020 through October 24, 2022) ("Class Members"); and
- (2) all persons employed by Defendant in an hourly, non-exempt position in California during the PAGA Period (defined as November 8, 2020 through October 24, 2022) ("PAGA Members")

II. ESTIMATED INDIVIDUAL AWARD

You have received this notice because Defendant's records indicate you are a Class Member and/or PAGA Member. This notice is to advise you of how you can participate in or be excluded from the Settlement.

Based on Defendant's records, your Individual Class Award is estimated to be \$ _____ (less applicable withholdings) and your Individual PAGA Award is estimated to be \$ _____. The actual amount you may receive may be more or less than the amount estimated depending on the number of Class Members who choose to exclude themselves from the Settlement, the actual number of Workweeks worked by Participating Class Members, and on the distributions approved and allocated by the Court. If no amount is stated for your Individual PAGA Award, then you are not eligible for an Individual PAGA Award under the Settlement because you didn't work during the PAGA Period.

The above estimates are based on Defendant's records showing that you worked _____ workweeks during the Class Period, and you worked _____ pay periods during the PAGA Period.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether or not you act. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. The Court will also decide whether to enter a judgment that approves the releases of claims by Class Members and PAGA Members in accordance with the terms of the Settlement.

III. SUMMARY OF SETTLEMENT

1. Under the terms of the Settlement, Defendant agrees to pay the Maximum Settlement Amount of Four Hundred Fifty Thousand Dollars (\$450,000.00) (the "Maximum Settlement Amount"), which is inclusive of all amounts Defendant is required to pay under the Settlement, including all Individual Class Awards to Participating Class Members, all Individual PAGA Awards to PAGA Members, the LWDA Payment, the employer portion of applicable taxes, Plaintiff's Enhancement Award, Class Counsel's Attorneys' Fees and Costs, and Administration Expenses. The entire Maximum Settlement Amount will be fully paid out and no portion of the Maximum Settlement Amount will revert back to Defendant.

2. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Maximum Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

a. Up to \$8,000.00 in Administration Expenses to the Administrator for costs of administration of the Settlement.

b. Up to \$15,000.00 as allocated as PAGA penalties, 75% of which will be paid to the LWDA and 25% of which will be distributed as Individual PAGA Awards to PAGA Members on a pro-rata basis based on the number of pay periods worked by all PAGA Members during the PAGA Period.

c. Up to \$157,500.00 (35% of the Maximum Settlement Amount) to Class Counsel for attorneys' fees and up to \$25,000.00 for litigation costs and expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

d. Up to \$5,000.00 as Plaintiff's Enhancement Award for Plaintiff in recognition of his effort and work in prosecuting the Action and \$2,500.00 in exchange for Plaintiff's individual general release of all claims.

3. After making the above deductions in amounts approved by the Court the Administrator will distribute the remaining amount (the "Net Settlement Amount") as Individual Class Awards to Participating Class Members. The Individual Class Awards to Participating Class Members are calculated on a pro-rata basis based on the number of Workweeks worked by all Participating Class Members during the Class Period based on the Class Data provided by Defendant.

4. Each Individual Class Award to a Participating Class Member will be attributed 10% as wages and 90% as penalties and interest. The Administrator will report the portions paid as penalties and interest via IRS 1099 form, along with the Class Members' PAGA Payments (if applicable) and will report portions attributed to wages via IRS form W-2. The Administrator will pay employer payroll taxes owed on the wage portion of Individual Class Awards. The Administrator will deduct employee payroll taxes from the wage portion of Individual Class Awards. Although the Parties have agreed to these allocations, neither side is giving you any advice on whether your payment(s) are taxable or how much you might owe in taxes. You are solely responsible for correctly characterizing any payments made pursuant to the Settlement for tax purposes and for paying any taxes on the amounts received. You should consult a tax advisor if you have any questions about the tax consequences of the Settlement.

5. Releases of Claims. Upon Final Approval being granted by the Court, every Class Member who does not opt out of the Settlement (i.e., Participating Class Member), will release Defendant and the Released Parties from the Released Claims as described below. Additionally, every PAGA Member will release Defendant and the Released Parties from the Released PAGA Claims as described below. In other words, if you are a Class Member and you do not exclude yourself from the Settlement Class, you will be deemed to have entered into the release and to have released the below-described Released Claims. If the Settlement is not approved by the Court or does not become final for some other reason, the Action will continue as though the Settlement never occurred and without prejudice to any Party.

a. "Released Parties" means (i) Bayside Marin, Inc. ("Defendant"); (ii) each of Defendant's past and present direct and indirect parents; (iii) the respective past and present direct and indirect subsidiaries and affiliates of any of the foregoing; (iv) the past and present shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and (v) any individual or entity which could be jointly liable with any of the foregoing.

b. Release By Participating Class Members. As of the Effective Date, Plaintiff and all Participating Class Members fully, finally, and forever release, compromise, and discharge the Released Parties from all claims under the California Labor Code, Wage Orders, regulations, and/or any other provisions of state and federal law against the Released Parties that were alleged in the Action and that reasonably could have been alleged in the Action based on the factual allegations contained in the operative complaint in the Action and any amendments thereto, including, without limitation, all claims for (1) off-the-clock work, (2) unpaid minimum wages, (3) unpaid regular wages, (4) unpaid overtime, (5) unpaid double time, (6) regular rate of pay, (7) meal periods and meal period premiums, (8) rest breaks and rest break premiums, (9) wage statements, (10) timely payment of wages at separation, (11) violation of Unfair Competition Law, and any other Labor Code violations that were alleged in the Action, or that could have been alleged in the Action based on the facts alleged in the Action, which includes, but is not limited to, alleged violations of Labor Code sections 98.6, 200, 201, 202, 203, 204, 210, 218 *et seq.*,

218.5, 218.6, 223, 225.5, 226 *et seq.*, 226.3, 226.7, 226.8, 256, 351, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2810.5, and Business and Professions Code section 17200 *et seq.* during the Class Period (September 8, 2020 October 24, 2022).

c. **Release By PAGA Members and State of California.** As of the Effective Date, Plaintiff, all PAGA Members, and the State of California fully, finally, and forever release, compromise, and discharge the Released Parties from all claims for civil penalties under the California Labor Code, Wage Orders, regulations, and/or any other provisions of state and federal law against the Released Parties that were alleged in the Action and that reasonably could have been alleged in the Action based on the factual allegations contained in the operative complaint in the Action and any amendments thereto, including, without limitation, all claims for civil penalties under PAGA (Labor Code § 2698 *et seq.*) related to (1) off-the-clock work, (2) unpaid minimum wages, (3) unpaid regular wages, (4) unpaid overtime, (5) unpaid double time, (6) regular rate of pay, (7) meal periods and meal period premiums, (8) rest breaks and rest break premiums, (9) wage statements, (10) timely payment of wages at separation, (11) violation of Unfair Competition Law, and any other Labor Code violations that were alleged in the Action, or that could have been alleged in the Action based on the facts alleged in the Action, which includes, but is not limited to, alleged violations of Labor Code sections 98.6, 200, 201, 202, 203, 204, 210, 218 *et seq.*, 218.5, 218.6, 223, 225.5, 226 *et seq.*, 226.3, 226.7, 226.8, 256, 351, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, and 2810.5 during the PAGA Period (November 8, 2020 through October 24, 2022).

IV. YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

If you worked for Defendant during the Class Period and/or the PAGA Period, your options under the Settlement are as follows:

Do Nothing	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Award and an Individual PAGA Award (if applicable). In exchange, you will give up your right to assert the Released Claims against the Defendant and the Released Parties (defined above), and if applicable, the Released PAGA Claims. Your check(s) will be sent to the same address as this notice. If you move or change your mailing address be sure to notify the Administrator as soon as possible.
You can exclude yourself (i.e., opt-out) of the Class Settlement but not the PAGA Settlement Response Deadline is [DATE]	If you do not wish to participate in the Settlement, you can opt-out by sending the Administrator a written Request for Exclusion. The Request for Exclusion must contain: your full name, signature with date, the case name and number of the Action; and a clear statement indicating that you want to be excluded from the Settlement. The Request for Exclusion must be signed, dated, and mailed by First Class U.S. Mail, or the equivalent, to the Administrator. All Requests for Exclusion must be postmarked no later than the Response Deadline. Any individual who submits a Request for Exclusion will not be allowed to object to the terms of the Settlement.
Participating Class Members can object to the Class Settlement but not the PAGA Settlement Response Deadline is [DATE]	Any Class Member who does not exclude himself/herself from the Settlement (i.e., a Participating Class Member) may object to the terms of the Settlement by filing a written objection with the Court and mailing a copy to the Settlement Administrator, no later than the Response Deadline. A written objection must contain: your full name, signature with date, the case name and number of the Action,

	<p>a clear statement indicating that you object to the Settlement, each specific reason in support of the objection along with any legal support for each objection, a clear statement indicating whether you are represented by counsel and whether you intend to appear at the Final Approval Hearing. If the Court rejects the objection, you will nevertheless be bound by the terms of the Settlement.</p>
<p>Participating Class Members can participate in the Final Approval Hearing</p>	<p>The Court’s Final Approval Hearing is scheduled to take place on [DATE] at [TIME] in Courtroom B of the Superior Court of California for the County of Marin located at 3501 Civic Center Drive, San Rafael, California 94903.</p> <p>You don’t have to attend, but you have the right to appear (or hire an attorney to appear on your behalf at your own cost) at the Final Approval Hearing. If you do not exclude yourself from the settlement, you may object orally at the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts and legal support for your objection. If the Court rejects the objection, you will nevertheless be bound by the terms of the Settlement.</p> <p>It’s possible the Court will reschedule the Final Approval Hearing. Check the Court’s website for the most current information or contact Class Counsel to verify the date and time of the Final Approval Hearing.</p>
<p>You can dispute the calculation of your Workweeks / Pay Periods Dispute Deadline is [DATE]</p>	<p>The number of Class Period workweeks and/or PAGA Period Pay Periods you worked based on Defendant’s records are stated above. If you disagree with either of these numbers, you can dispute them by submitting a timely written Workweek Dispute to the Administrator. The Workweek Dispute must be signed, dated, and mailed by First Class U.S. Mail, or the equivalent, to the Administrator. All Workweek Disputes must be postmarked no later than the Dispute Deadline. Unless you submit documentary evidence in support of your dispute, Defendant’s records will be determinative. All Workweek Disputes will be resolved and decided by the Administrator, and the Administrator’s decision on all disputes will be final and binding.</p>

V. HOW TO CONTACT THE ADMINISTRATOR

[CLASS ACTION ADMINISTRATOR]
[ADDRESS 1]
[ADDRESS 2]
Telephone: [NUMBER]

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed “Joint Stipulation of Class Action and PAGA Settlement” which is on file with the Clerk of the Court and can be accessed at <<website address>>. The

pleadings and other records in this Action, including the Settlement, may be examined at any time during regular business hours at the Office of the Clerk of the Marin County at 3501 Civic Center Drive, San Rafael, California 94903.

If you want additional information about this Action and its proceedings, you can contact the Administrator or Class Counsel in this Action:

Scott Edward Cole
Laura Van Note
Cody Alexander Bolce
COLE & VAN NOTE
555 12th Street, Suite 1725
Oakland, CA 94607
Telephone: (510) 891-9800
sec@colevannote.com
lvn@colevannote.com
cab@colevannote.com

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.

BY ORDER OF THE SUPERIOR COURT.

EXHIBIT C

1 Scott Edward Cole, Esq. (S.B. #160744)
 Laura Grace Van Note, Esq. (S.B. #310160)
 2 Cody Alexander Bolce, Esq. (S.B. #322725)
COLE & VAN NOTE
 3 555 12th Street, Suite 1725
 Oakland, California 94607
 4 Telephone: (510) 891-9800
 Facsimile: (510) 891-7030
 5 Email: sec@colevannote.com
 Email: lvn@colevannote.com
 6 Email: cab@colevannote.com
 Web: www.colevannote.com

7
 8 Attorneys for Representative Plaintiff

9
 10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **IN AND FOR THE COUNTY OF MARIN**

COLE & VAN NOTE
 ATTORNEYS AT LAW
 555 12TH STREET, SUITE 1725
 OAKLAND, CA 94607
 TEL: (510) 891-9800

13 CHRISTOPHER LYON, individually, and
 on behalf of all others similarly situated,
 14
 Plaintiff,
 15 vs.
 16 BAYSIDE MARIN, INC., and DOES 1
 through 100, inclusive,
 17
 Defendants.

Case No. CIV2103872

CLASS ACTION

**[PROPOSED] ORDER GRANTING FINAL
 APPROVAL OF CLASS AND PAGA
 SETTLEMENT AND JUDGMENT**

Date: _____, 2023
 Time: _____ am/pm
 Dept.: B
 Judge: James T. Chou

20
 21
 22
 23
 24
 25
 26
 27
 28

COLE & VAN NOTE
ATTORNEYS AT LAW
535 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

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

2 This matter has come before the Honorable James T. Chou, Courtroom B of the above-
3 entitled Court for a hearing on Plaintiff Christopher Lyon’s (“Plaintiff”) Motion for Final
4 Approval of Class and PAGA Settlement (“Motion for Final Approval”) came before this Court,
5 on [DATE]. Cole & Van Note appeared on behalf of Plaintiff. CDF Labor Law LLP appeared
6 on behalf of Defendant Bayside Marin, Inc.

7 On [DATE], the Court entered the Order Granting Preliminary Approval of Class and
8 PAGA Action Settlement (“Preliminary Approval Order”) preliminarily approving the
9 settlement of the above-captioned action (“Action”) in accordance with the Joint Stipulation of
10 Class Action and PAGA Settlement (“Settlement” or “Agreement”), which together with its
11 attached exhibits, set forth the terms and conditions for settlement of the Action.

12 Due and adequate notice having been given to all Class and PAGA Members as
13 required in the Preliminary Approval Order, and the Court having reviewed the Agreement
14 and considered the papers, the arguments of counsel, and all other evidence and matters
15 presented, and good cause appearing:

16 **IT IS ORDERED** that the Motion for Final Approval of Class and PAGA Settlement
17 is **GRANTED**, subject to the following findings and orders:

- 18 1. All terms used herein have the same meaning as defined in the Agreement and
19 Preliminary Approval Order.
- 20 2. The Court finds that, for settlement purposes only, the applicable requirements
21 of California Code of Civil Procedure section 382 and California Rule of Court 3.769, *et seq.*
22 have been satisfied with respect to the Class and the Settlement. The Court makes final its earlier
23 provisional certification of the Class for settlement purposes, as set forth in the Preliminary
24 Approval Order. The Class is defined as: All persons employed by Defendant in an hourly, non-
25 exempt position in California from September 8, 2020 through October 24, 2022.
- 26 3. This Court has jurisdiction over the Action and over all Parties to this Action,
27 including all Class and PAGA Members.

28

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

1 4. Distribution of the Class Notice directed to the Class and PAGA Members as set
2 forth in the Agreement has been completed in conformity with the Preliminary Approval Order,
3 including individual notice to all Class and PAGA Members who could be identified through
4 reasonable effort, and was the best notice practicable under the circumstances. The Class Notice
5 fully and accurately informed the Class of all material elements of the Settlement and of their
6 opportunity to participate in, object to, or comment thereon, or to seek exclusion from the
7 Settlement; provided due and adequate notice of the proceedings related to the Settlement; and
8 fully satisfied the requirements of due process.

9 5. The Court grants final approval of the Settlement and finds that the Settlement is
10 fair, adequate, and reasonable and that Plaintiff has satisfied the standards and applicable
11 requirements for final approval of this class action settlement under California law, including the
12 provisions of California Code of Civil Procedure section 382. The Court hereby finds the
13 Settlement was entered into in good faith pursuant to and within the meaning of California Code
14 of Civil Procedure section 877.6.

15 6. The Court finds that the Settlement has been reached as a result of intensive,
16 serious and non-collusive arms-length negotiations. The Court has considered all of the evidence
17 presented and further finds that the Parties have conducted extensive investigation and research,
18 and counsel for the Parties are able to reasonably evaluate their respective positions. The Court
19 also finds that the Settlement at this time will avoid additional substantial costs, as well as avoid
20 the delay and risks that would be presented by the further prosecution of the Action. The Court
21 has considered the benefits that are being provided as part of the Settlement and the significant
22 value to the Class and PAGA Members, the absence of objections to the Settlement, and that
23 there were only [REDACTED] Requests for Exclusion from the Settlement by Class Members.
24 Accordingly, the Court directs that the Settlement be affected in accordance with the Agreement
25 and the following terms and conditions.

26 7. A full opportunity has been afforded to the Class and PAGA Members to
27 participate in the Final Approval Hearing, and all Class and PAGA Members and other persons
28 wishing to be heard have been heard. The Class Members also have had a full and fair

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

1 opportunity to exclude themselves from the Settlement. Accordingly, the Court determines that
2 all Class Members who did not submit a timely and valid Request for Exclusion to the
3 Administrator (“Participating Class Members”) and PAGA Members are bound by this Final
4 Approval Order and Judgment.

5 8. The Court finds that [number] Class Members have timely and validly opted out
6 of the Settlement and will not be bound by this Final Order Approving Class Action Settlement
7 and Judgment (“Final Approval Order and Judgment”).

8 9. The Court finds the Individual Class Awards to Participating Class Members
9 provided for under the Settlement to be fair and reasonable in light of all of the circumstances.
10 The Court directs the Administrator to calculate and distribute payments to Participating Class
11 Members for Individual Class Awards, in accordance with the terms set forth in the Agreement
12 and Preliminary Approval Order.

13 10. The Court finds that the request for an award of attorneys’ fees in the amount of
14 \$157,500.00 to Class Counsel falls within the range of reasonableness, and the results achieved
15 justify the award sought. The requested attorneys’ fees to Class Counsel are fair and reasonable;
16 and are approved. The Court directs the Administrator to issue payment in the amount of
17 \$157,500.00 to Cole & Van Note for attorneys’ fees, in accordance with the Agreement and
18 Preliminary Approval Order.

19 11. The Court finds that reimbursement of litigation costs and expenses in the
20 amount of \$_____ to Class Counsel is reasonable; and is approved. The Court directs the
21 Administrator to issue payment in the amount of \$_____ to Cole & Van Note for
22 reimbursement of litigation costs and expenses, in accordance with the Agreement and
23 Preliminary Approval Order.

24 12. The Court finds that Plaintiff’s Enhancement Award in the amount of \$5,000.00
25 for the work performed by Plaintiff on behalf of the Class is fair and reasonable; and the amount
26 of \$2,500.00 in consideration for Plaintiff’s individual general release of all claims with a waiver
27 of California Code of Civil Procedure Section 1542; and are approved. The Court directs the
28 Administrator to issue payment of Plaintiff’s Enhancement Award in the total amount of

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

1 \$7,500.00 to Plaintiff Christopher Lyon, in accordance with the Agreement and Preliminary
2 Approval Order.

3 13. The Court finds that the PAGA Allocation in the amount of \$15,000.00 for
4 penalties under the California Private Attorneys General Act of 2004, is fair and reasonable;
5 and is approved. The Court directs the Administrator to issue payment of the PAGA Allocation
6 as follows: the amount of \$11,250.00 (75 percent of \$15,000.00) to the California Labor
7 Workforce Development Agency and the amount of \$3,750.00 (25 percent of \$15,000.00) as
8 Individual PAGA Awards to PAGA Members, in accordance with the Agreement and
9 Preliminary Approval Order.

10 14. The Court finds that payment of Administration Expenses in the amount of
11 \$8,000.00 to the Administrator is fair, reasonable, and appropriate for the services performed
12 and costs incurred and to be incurred for the notice and settlement administration process; and
13 is approved. The Court directs the Administrator to issue payment of Administration Expenses
14 in the amount of \$8,000.00 to itself, in accordance with the Agreement and Preliminary
15 Approval Order.

16 15. The Court directs the Administrator to cancel any Individual Class Award and/or
17 Individual PAGA Award checks issued to Class and PAGA Members that are not cashed or
18 deposited within one hundred eighty (180) calendar days after they are issued, and transmit the
19 funds associated with such cancelled checks to the California State Controller's Office's
20 Unclaimed Property Division to be held as unclaimed funds in the Class and/or PAGA
21 Member's name.

22 16. The Court directs Class Counsel to file the Administrator's Declaration of
23 Compliance and Proof of Payment within two hundred forty (240) calendar days of this Final
24 Approval Order and Judgment.

25 17. Neither the Settlement nor any of the terms set forth in the Stipulation is an
26 admission by Defendant, or any of the other Released Parties, nor is this Final Approval Order
27 and Judgment a finding of the validity of any claims in the Action or of any wrongdoing by
28 Defendant, or any of the other Released Parties. Neither this Final Approval Order and Judgment,

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

1 the Agreement, any document related to the Settlement, nor any action taken to carry out the
2 Settlement is, may be construed as, or may be used as, an admission by or against Defendant, or
3 any of the other Released Parties, of any fault, wrongdoing or liability. The entering into or
4 carrying out of the Settlement, and any related negotiations or proceedings, will not in any event
5 be construed as, or deemed to be evidence of, an admission or concession with regard to the
6 denials or defenses by Defendant, or any of the other Released Parties, and will not be offered in
7 evidence in any action or proceeding in any court, administrative agency or other tribunal for any
8 purpose whatsoever other than to enforce the provisions of this Final Approval Order and
9 Judgment, the Agreement, the Released Claims, Released PAGA Claims, or any related
10 agreement or release. Notwithstanding these restrictions, any of the Released Parties may file in
11 the Action, or submit in any other proceeding, the Final Approval Order and Judgment, the
12 Agreement, and any other papers and records on file in the Action as evidence of the Settlement
13 to support a defense of res judicata, collateral estoppel, release, or other theory of claim or issue
14 preclusion or similar defense.

- 15 18. The Court orders, adjudges and decrees that:
- 16 a. Plaintiff and all Participating Class Members fully, finally, and forever
17 release, compromise, and discharge the Released Parties from the Released Claims for the Class
18 Period, in accordance with the terms of the Agreement; and
- 19 b. Plaintiff, all PAGA Members, and the State of California fully, finally,
20 and forever release, compromise, and discharge the Released Parties from the Released PAGA
21 Claims for the PAGA Period, in accordance with the terms of the Agreement.

22 19. The Court hereby enters final judgment in accordance with the terms of the
23 Agreement, the Order Granting Preliminary Approval of Class and PAGA Settlement, and this
24 Order.

25 20. The Court retains continuing jurisdiction, pursuant to California Rules of Court,
26 Rule 3.769(h) and Code of Civil Procedure section 664.6, to enforce the settlement until
27 performance in full of the terms of the Agreement.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED ADJUDGED AND DECREED.

The Clerk of the Court is directed to enter this Judgment.

Dated: _____

HONORABLE JAMES T. CHOU
JUDGE OF THE SUPERIOR COURT

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800