

CLASS ACTION SETTLEMENT AGREEMENT

I. Introduction.

This Class Action Settlement Agreement (“Agreement”) is hereby entered by and between Franciscan Health System (hereafter “Defendant” or “FHS”) and the Named Plaintiff, Gretchen C. Krall (“Plaintiff”), who is acting both individually and in her capacity as the proposed class representative for the proposed Class defined herein and in the putative class action entitled Gretchen C. Krall v. Franciscan Health System, Pierce County Superior Court Civil Case No. 21-2-06585-8 (the “Case”).

Solely for the purposes of this Settlement, Plaintiff and Defendant (hereafter, the “Parties”) agree that this Case should be certified and finally adjudicated as a class action on behalf of the Settlement Class defined herein.

II. Investigations and Due Diligence.

The Parties have conducted substantial informal discovery and investigation of the facts and the law during their respective prosecution and defense of this Case. As part of this review and investigation, the Parties and their counsel have (a) interviewed witnesses and obtained written declarations; and (b) collected and analyzed extensive electronic and paper time records, payroll data, and other information concerning the composition of the Settlement Class and the merits and possible extent of Plaintiff’s claims and FHS’s defenses. In short, the parties have amply considered and analyzed their respective claims and defenses.

III. Settlement Negotiations.

The Parties engaged in settlement negotiations with the assistance of Mediator Cliff Freed of WAMS on April 13, 2022. All of the Parties’ settlement negotiations have been conducted in good faith and at arm’s length. Through the Parties’ investigations and communications, the Parties have reached a Class Action Settlement of this Case that they believe to be fair, adequate, and reasonable, and that Plaintiff believes is in the best interest of the proposed Settlement Class. This Agreement memorializes the terms of the final Settlement agreed to by the Parties as the result of the negotiations just described.

IV. Defendant Denials of Wrongdoing and Non-admission of Allegations.

Defendant has denied and continues to deny each of the claims and contentions alleged by Plaintiff on her own behalf and on behalf of any members of the proposed class alleged by Plaintiff in the Case. Defendant has asserted, and continues to assert, defenses and objections to the proposed maintenance of this Case as a class action as if it were to proceed through litigation instead of settlement. Furthermore, Defendant has expressly denied, and continues to deny, any wrongdoing or legal liability arising out of any of the facts or conduct alleged in this Case. Neither the Settlement, this Agreement, nor any document referred to or contemplated herein—nor any action taken to carry out this Agreement—is, may be construed as, or may be used as an admission, concession or indication by or against Defendant or any party released under this Agreement of any fault, wrongdoing, or liability whatsoever. Defendant expressly denies any such fault, wrongdoing, or liability. If the Parties had not reached the Settlement, Defendant would have continued to vigorously defend against Plaintiff’s claims, including seeking denial of full or partial

class certification and a full defense verdict at trial. Defendant agrees to this Settlement solely to avoid the burden and expense of further litigation.

V. Stipulated Settlement and Dismissal

NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, subject to the approval of the Superior Court, that this Case is hereby being compromised and settled on a class action basis pursuant to the terms and conditions outlined in this Agreement and that, if the Parties' Settlement is finally approved by the Superior Court, this Case shall be fully dismissed on the merits and with prejudice, subject to the following terms and conditions:

1. Definitions.

a. **"Attorneys' Fees and Costs Award"** means the amount the Parties propose be paid to Class Counsel as attorneys' fees in connection with the prosecution and settlement of the Case, which is thirty percent (30%) of the Gross Amount plus actual litigation costs incurred not to exceed Five Thousand Dollars (\$5,000.00). Subject to approval by the Superior Court, the amount to be paid to Class Counsel as attorneys' fees and costs is Two Hundred Twenty-Two Thousand Five Hundred Dollars (\$222,500.00).

b. **"Class Counsel"** means Entente Law PLLC, subject to the Superior Court's approval.

c. **"Class Fund"** means the aggregate, gross amount the Parties propose be paid to the Settlement Class pursuant to this Settlement. The Class Fund shall be calculated by subtracting the Court-approved Service Award, Settlement Administration Expenses Award, the Sub-Class Settlement Fund, and Attorneys' Fees and Costs Award from the Gross Settlement Amount.

d. **"Covered Position"** shall mean outpatient therapist or a similar position with similar duties.

e. **"Defense Counsel"** means Polsinelli.

f. **"Effective Date"** means three (3) days after the final approval order is entered by the Superior Court if there were no objections to the settlement. If there were any objections to the settlement, the Effective Date shall be the later of either (1) if no appeal is filed following the Superior Court's entry of an order granting final approval of the settlement, 31 days after the last date on which a notice of appeal of the judgment may be filed and none is filed, or (2) if a timely appeal is made, thirty-one (31) days following the date the final resolution of that appeal and a subsequent appeal is resulting in final judgment of appeal of the settlement.

g. **"Gross Settlement Amount"** means the gross amount Defendant is required to pay pursuant to this Settlement, which is the sum of Seven Hundred Twenty-Five Thousand Dollars (\$725,000.00), not including any of Defendant's employer-side share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes. In no event shall the Gross Settlement Amount exceed the foregoing sum.

h. The **“Initial Mailing Date”** is the date the Settlement Administrator first mails the Notice of Settlement approved by the Superior Court to all Proposed Class Members.

i. **“Net Settlement Fund”** means the Gross Settlement Amount minus Court-approved Attorneys’ Fees and Costs, the Service Award, the Settlement Administrative Expense Award, and a minimum settlement payment of \$25.00 to each Class Member.

j. The **“Notice of Settlement”** means the form attached hereto as **Exhibit A**.

k. The **“Notice Deadline”** is sixty (60) days after the Initial Mailing Date.

l. **“Proposed Class”** or **“Proposed Class Members”** means all individuals employed by Defendant as outpatient therapists or in other positions with similar duties in Washington State between July 8, 2018 and the date of Preliminary Approval.

m. **“Proposed Sub-Class”** or **“Proposed Sub-Class Members”** means all individuals employed by Defendant as outpatient therapists or in other positions with similar duties who worked at least one shift at St. Joseph’s Hospital on July 8, 2018 through March 20, 2020, supervised by Deborah Zahnow, and who did not sign an Hours Worked Acknowledgement.

n. **“Released Claims”** means the claims released in Section 2 of the Agreement.

o. **“Released Parties”** means Defendants, their parents, predecessors, successors, all affiliates, subsidiaries, and their respective officers, directors, agents, employees, and stockholders.

p. **“Service Award”** means the amount the Parties propose be paid to Plaintiff Gretchen C. Krall as a service award in recognition of her efforts in prosecuting the Case and in consideration of her general release set forth below. Subject to approval by the Superior Court, the amount paid to Plaintiff Gretchen C. Krall for her service award shall be Seventy-Five Hundred Dollars (\$7,500.00).

q. **“Settlement”** means the settlement reached by the Parties through the negotiation process described in Paragraph III above.

r. **“Settlement Administrator”** means CPT Group Class Action Administrators, subject to the Superior Court’s approval.

s. **“Settlement Administration Expenses Award”** means the amount the Parties propose be paid to the Settlement Administrator for the processing of the Settlement. Subject to approval by the Superior Court, the amount paid to the Settlement Administrator for the processing of the Settlement shall be up to Ten Thousand Dollars (\$10,000.00).

t. **“Settlement Awards”** means the amounts the Parties propose be paid to members of the Settlement Class and Settlement Sub-Class pursuant to this Agreement.

u. **“Settlement Class Period”** means the period from July 8, 2018 through the date of Preliminary Approval.

v. **“Settlement Class,” “Settlement Class Members” or “Class Members”** means all individuals who were employed by Defendant as outpatient therapist or in other positions with similar duties in Washington State between July 8, 2018 and the date of the Preliminary Approval, exclusive of any person who timely opts out of the Settlement pursuant to the procedures set forth below. All persons who timely opt out from the Settlement in conformity with this Agreement shall not be bound by the terms of this Agreement or any Final Judgment entered by the Superior Court, and shall retain the right to pursue any alleged individual claim(s) against Defendant in a separate action.

w. **“Settlement Sub-Class Period”** means the period from July 8, 2018 to March 20, 2020.

x. **“Settlement Sub-Class,” “Settlement Sub-Class Members” or “Sub-Class Members”** means all individuals employed by Defendant as outpatient therapists or in other positions with similar duties who worked at least one shift at St. Joseph’s Hospital from July 8, 2018 and March 20, 2020, was supervised by Deborah Zahnow, and who did not sign an Hours Work Acknowledgement, exclusive of any person who timely opts out of the settlement pursuant to the procedures set forth below. All persons who timely opt out from the settlement in conformity with this Agreement shall not be bound by the terms of this Agreement or any Final Judgment entered by the Superior Court, and shall retain the right to pursue any alleged individual claim(s) against Defendant in a separate action.

y. **“Sub-Class Settlement Fund”** means the aggregate, gross amount the Parties propose be paid to the Settlement Sub-Class.

2. Release of Claims.

a. **Released Class Claims by Settlement Class Members.** As of the Effective Date, Plaintiff and Settlement Class Members shall fully and finally release and discharge Defendant and the Released Parties from any and all state or local claims, obligations, demands, rights, actions, causes of action and liabilities, whether known or unknown, that were alleged or that reasonably could have been alleged based on the facts alleged in the Complaint, including claims for unpaid overtime wages, unpaid wages, minimum wage violations, meal period violations, rest period violations, failure to pay wages at termination, restitution, penalties, interest, liquidated damages, double damages, treble damages, exemplary damages, attorneys’ fees, costs, disbursements and expenses, including without limitation claims under RCW 19.52.020, RCW 49.12.010, RCW 49.12.020, RCW 49.12.050, RCW 49.12.150, RCW 49.12.170, RCW 49.46.020, RCW 49.46.030, RCW 49.46.090, RCW 49.46.130, RCW 49.48.010, RCW 49.48.030, RCW 49.52.050, RCW 49.52.070, WAC 296-126-023, WAC 296-126-092, WAC 296-128-010, WAC 296-126-040 and claims for violation of the Washington Consumer Protection Act, RCW 19.86.

b. **Released Sub-Class Claims by Settlement Sub-Class Members.** As of the Effective Date, Plaintiff and Settlement Sub-Class Members shall fully and finally release and discharge Defendant and the Released Parties from any and all state or local claims, obligations, demands, rights, actions, causes of action and liabilities, whether known or unknown, that were

alleged or that reasonably could have been alleged based on the allegation in the Complaint relating to alterations to their time records.

c. **Plaintiff.** As of the Effective Date, in addition to the Releases set forth in the paragraphs, Plaintiff hereby fully and finally releases Defendant and the other Released Parties from any and all claims, known or unknown, asserted or that might have been asserted, that she has or might have against Defendant and Released Parties (“Plaintiff’s Released Claims”). Plaintiff’s Released Claims include without limitation breaches of contract, whether written, oral or implied; violations of any public policy; tort claims, including but not limited to intentional infliction of emotional distress and negligent infliction of emotional distress, defamation, misrepresentation, and fraud; retaliation claims; common law claims; any other claims for damages, costs, fees, or other expenses, including attorneys’ fees; and any violations of the following statutes, laws, and regulations: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Americans with Disabilities Act of 1990, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Older Workers Benefit Protection Act; the Family and Medical Leave Act of 1993, as amended; the Fair Labor Standards Act; the Washington Revised Code, the Washington Administrative Code, and any other federal, state, or local civil employment law, statute, regulation, or ordinance capable of being released by Plaintiff, excluding any claims that cannot be released as a matter of law.

d. **Class Counsel.** As of the date the Judgment becomes Final, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys’ fees and expenses against Defendants arising from or related to the Action.

3. Payment by Defendant.

Subject to approval of the Settlement by the Superior Court, Defendant agrees: (a) to pay the Gross Settlement Amount into a Qualified Settlement Fund (“QSF”) set up by the Settlement Administrator for purposes of processing the Settlement and paying the Settlement Awards. Defendant will not be responsible for making any additional payments whether to the Settlement Class Members, Settlement Sub-Class Member, to Plaintiff Gretchen C. Krall, to Class Counsel, to the Settlement Administrator, or otherwise (with the exception that Defendant agrees to pay their share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes). By making the payments set forth above and funding the Qualified Settlement Fund, Defendant will fully discharge its financial obligations under this Agreement.

4. Calculation of Settlement Awards.

a. Subject to the approval by the Superior Court and subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:

1. To Plaintiff, the Service Award;
2. To Class Counsel, the Attorneys’ Fees and Costs Award; and
3. To Settlement Administrator, the Settlement Administrator’s Expenses Award; and

4. To each Class Member, a minimum settlement payment of \$25.00.

The remaining Net Settlement Fund after deducting for minimum settlement payments will be allocated to individual Settlement Class and Sub-Class Members as follows:

- a. 87.5% shall be allocated to Settlement Class Members *pro rata* based on the number of hours worked as recorded in Defendant's time records for the Class Period;
- b. 12.5% shall be allocated to Settlement Sub-Class Members *pro rata* based on the number of hours worked as recorded in Defendant's time records from July 6, 2018 to March 20, 2020.

b. Allocation of Settlement Awards Between Wages and Non-Wages.

Thirty-Three and a third percent (33.3%) of the Net Class Fund will be allocated as wages and reported on a W-2 form for each Qualified Class or Sub-Class Member, 33.3% will be allocated as interest, and 33.3% will be allocated as Exemplary Damages. Interest and Exemplary Damages will be reported on a 1099-Miscellaneous Form in Box 3 for Each Qualified Class or Sub-Class Member.

c. Separate Payment of Employer-Side Payroll Taxes. Defendant will separately fund the payment of the required employer share of the payroll taxes associated with the W-2 payments made to Settlement Class and Sub-Class Members (including, but not limited to, employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, or local requirements).

5. Attorney's Fees and Costs Award.

As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for an Attorney's Fees Award of no more than thirty percent (30%) of the Gross Settlement Amount plus actual litigation costs not to exceed Five-Thousand dollars (\$5,000.00).

6. Service Award.

Subject to approval by the Superior Court, in addition to a Settlement Awards computed as described above, Plaintiff Gretchen C. Krall shall receive a separate Service Award, which will be treated as non-wages, on which there will be no payroll tax withholdings and for which an IRS Form 1099-MISC (marked "Other Income") shall be issued to the taxing authorities and Plaintiff. Subject to approval by the Superior Court, the Service Award shall be in the amount of Five Thousand Dollars (\$7,500.00).

7. Settlement Administration.

a. The Settlement Administrator shall be responsible for mailing and emailing the Notice of Settlement to the Proposed Class and Proposed Sub-Class, tracing undeliverable mailings, recording and tracking responses to the mailings to the Proposed Class and Proposed Sub-Class, tracking and responding to any inquiries made by any member of the Proposed Class and Proposed Sub-Class, calculating Settlement Awards, and any other related tasks mutually

agreed to by the Parties. The Settlement Administrator shall also be responsible for establishing a Qualified Settlement Fund (“QSF”) pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering this Settlement, as well as issuing the necessary checks for all Settlement Awards, issuing all required tax documents (such as Forms W-2 and 1099-MISC), and performing all related tax reporting to taxing authorities and to Defendant.

b. The Settlement Administrator will perform the foregoing duties based on data provided by Class Counsel and Defense Counsel, which data shall be presumed to be correct. In addition to the data already provided by Defendant to Class Counsel on April 12, 2022, Defendant shall, within seven (7) days after this Agreement is preliminarily approved by the Superior Court, provide the Settlement Administrator with an Excel spreadsheet containing the following information for each member of the Settlement Class: (i) name; (ii) last known address; (iii) last known telephone (if known and reasonably accessible); (iv) email address (if known and reasonably accessible); (v) social security number; (vi) number of hours worked during the Settlement Class Period as recorded in Defendant’s records; and, for members of the Sub-Class, (vii) the number of hours worked at St. Joseph’s Hospital and supervised by Deborah Zahnow from July 8, 2018 through March 20, 2020, as recorded in Defendant’s records. Other data will be provided, upon request from the Settlement Administrator, as reasonably necessary to complete its settlement administration duties under this Agreement. All such data shall be treated as private and confidential and the Settlement Administrator shall not use or disclose any such data to any persons or entities except as required by this Settlement, law or Court order.

c. The Settlement Administrator shall also have the responsibility to determine any Proposed Class Member’s or Sub-Class Member’s eligibility for a Settlement Award (i.e., to determine whether any Proposed Class Member or Proposed Sub-Class Member is a Settlement Class Member or Sub-Class Member). Each Proposed Class Member or Proposed Sub-Class Member who does not submit a valid and timely request for exclusion will automatically be a Settlement Class Member and/or Sub-Class Member and eligible to receive a Settlement Award. Within five (5) days after the Notice Deadline, the Settlement Administrator shall provide Defense Counsel and Class Counsel with (1) an electronic report setting forth the names and identities of all Proposed Class Members or Proposed Sub-Class Member who submitted a valid and timely Exclusion Form in conformity with this Agreement; (2) an electronic report setting forth the names and identities of all Proposed Class Members and Proposed Sub-Class Members who did not submit a valid and timely letter requesting exclusion in conformity with this Agreement (“Exclusion Letter”); (3) copies of all Exclusion Letters returned or received; and (4) copies of all objections returned or received. Defense Counsel and Class Counsel shall be entitled to review the eligibility determinations made by the Settlement Administrator for compliance with the terms of this Agreement. The Settlement Administrator shall retain the originals of all Exclusion Letters returned, along with their envelopes, and objections received. Defense Counsel and Class Counsel shall have seven (7) days after receiving the electronic report and related documentation from the Settlement Administrator to challenge any Exclusion Letter and/or eligibility determination in writing directed to the Settlement Administrator. Within five (5) days after a submitting such concerns to the Settlement Administrator, the Parties shall meet and confer in an attempt to resolve any disputes relating to the subject Exclusion Letters and/or eligibility determinations. In the event the Parties are unable to reach resolution on any disputes relating to the subject Exclusion Letters and/or eligibility determinations, the Parties shall submit their respective positions in writing to the Superior Court, which shall make the final decision regarding the subject Exclusion Letters

and/or eligibility determinations. Thereafter, the Settlement Administrator shall provide the final results of its eligibility determinations to Defense Counsel and Class Counsel, which results will include the names of all Settlement Class Members and the names of all individuals who opted out of the Settlement.

d. In the event the number of Proposed Class Members who have timely requested exclusion from the Settlement exceeds five percent (5%) of the total number of Proposed Class Members, Defendant has the right, in its sole discretion, to terminate or not to terminate the Settlement. If Defendant chooses to exercise this right, it shall give written notice to Class Counsel within ten (10) calendar days after receiving the report from the Settlement Administrator required by Section V(7)(c), above.

e. As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for a Settlement Administration Expenses Award of no more than Ten Thousand Dollars (\$10,000.00). The costs, fees and expenses incurred by the Settlement Administrator in administering this Settlement shall be paid from the Settlement Administration Expenses Award approved by the Court.

8. Notice/Approval of Settlement Class Certification and Settlement Agreement.

As part of this Settlement, the Parties agree to the following procedures for obtaining preliminary Superior Court approval of the Settlement, certifying the Settlement Class, notifying the members of the Proposed Class, obtaining final Superior Court approval of the Settlement, and implementing payment of Settlement Awards to Settlement Class Members:

a. Class Counsel shall file a motion with the Superior Court to obtain preliminary approval of the Settlement in conformity with this Agreement and authorizing the issuance of the Notice of Settlement to members of the Proposed Class and Proposed Sub-Class. It is anticipated that Plaintiff's counsel shall note a Motion for Preliminary Approval Hearing on May 20, 2022, or the earliest date thereafter the Court has availability.

b. For purposes of this Settlement, Class Counsel will ask the Superior Court to enter an order certifying the Settlement Class and Settlement Sub-Class, preliminarily approving the Settlement and this Agreement, approving Notice of Settlement to the Proposed Class and Proposed Sub-Class, and setting a date for a Fairness Hearing to determine whether the Court will grant final approval of the Settlement and this Agreement (the "Preliminary Approval Order"). Class Counsel shall provide Defendant with a draft of the proposed motion for preliminary approval and Preliminary Approval Order for review and comment at least five (5) court days before the motion is filed. Plaintiff agrees to consider in good faith all comments of Defendant on the draft. Defendant will not oppose Plaintiff's motion, so long as the motion for preliminary approval and Preliminary Approval Order are in conformity with this Agreement.

c. Subject to the Superior Court's approval, Notice of the Settlement shall be provided using the following procedures:

(1) Within twenty-one (21) calendar days of the date the Superior Court grants preliminary approval to the Settlement and issues its Preliminary Approval Order, the

Settlement Administrator shall send the Notice of Settlement to all Proposed Class Members and Sub-Class Members, by mail and email (if applicable).

(2) The Notice of Settlement shall provide that Proposed Class Members and Sub-Class Members who do not opt out (i.e., who wish to become Settlement Class Members and Sub-Class Members) and who wish to object to the Settlement must submit to the Settlement Administrator a written statement objecting to the Settlement. Such written statement must be postmarked or delivered to the Settlement Administrator on or before the Notice Deadline.

(3) The Notice of Settlement shall also provide that Proposed Class Members and Proposed Sub-Class Members who wish to exclude themselves (i.e., opt out) from the Settlement must mail a letter to the Settlement Administrator requesting exclusion from the Settlement on or before the Notice Deadline. Proposed Class Members and Proposed Class-Members who fail to submit a valid and timely Exclusion Letter on or before the Notice Deadline shall be deemed Settlement Class Members and/or Sub-Class Members and shall be bound by all terms of the Settlement and any Final Judgment entered in this Case if the Settlement is approved by the Superior Court, regardless of whether they have objected to the Settlement.

(4) The Notice of Settlement shall also advise Settlement Class Members and Sub-Class Members of their anticipated award and that they need do nothing (other than not affirmatively opt out) in order to receive a Settlement Award.

d. The Parties agree that neither they nor their counsel will solicit or otherwise encourage any of the Proposed Class Members and/or Proposed Sub-Class Members to opt out or object to the Settlement or to appeal from the Superior Court's Final Judgment approving the Settlement. Defendant is entitled to encourage Proposed Class Members and Proposed Sub-Class Members not to opt out of the settlement.

e. Should any Notice of Settlement be returned as undeliverable without a forwarding address, the Settlement Administrator will perform a reasonable "skip trace" search using the National Change of Address database to obtain an updated address and, if located, shall make a second attempt at mailing the Notice of Settlement. If such Notice of Settlement is again returned as undeliverable, no further attempts at delivery of the Notice of Settlement are required to be made. Notwithstanding the foregoing, the Settlement Administrator or Class Counsel may mail or email a Notice of Settlement and/or Exclusion Form to a Proposed Class Member at an address or email address obtained by other means if the Notice of Settlement is returned as undeliverable or upon the Proposed Class Member's or Proposed Sub-Class Member's request for the same.

f. No later than forty-five (45) calendar days after the date the Notices of Settlement are sent by the Settlement Administrator, Class Counsel will file an initial memorandum in support of final approval of the Settlement to inform the Court of any Proposed Class Members or Proposed Sub-Class Members who have opted out of the settlement and to provide the Court with copies of all written objections received from any Proposed Class member or Proposed Sub-Class member with copies of their envelopes, and to respond to any objections to the settlement.

g. Within seven (7) court days before the Final Fairness Hearing, Class Counsel must file with the Superior Court a supplemental memorandum in support of final approval of the Settlement to inform the Court of any Proposed Class members or Proposed Sub-Class member who have opted out of the settlement since the initial memorandum and to provide the Court with copies of all written objections received from any Proposed Class member or Proposed Sub-Class member with copies of their envelopes, and to respond to any objections to the settlement received after the initial memorandum.

h. Subject to the Superior Court's availability and direction but no sooner than twenty-eight (28) days after the Notice Deadline, a Fairness Hearing shall be held for the Superior Court to determine whether to grant final approval of the Settlement, including Class Counsel's Attorneys' Fees and Costs Award, the Settlement Administration Expenses Award, and the Service Award to the Plaintiff. If the Superior Court finally approves the Settlement, the Parties will promptly and jointly ask the Superior Court to enter a Final Judgment dismissing the Case with prejudice and without an award of attorney's fees, expenses, or costs to any Party except as provided herein.

i. After entry of the Final Judgment, and subject to Rule 7.2 of the Washington Rules of Appellate Procedure, the Superior Court shall have continuing jurisdiction solely for the purposes of enforcement of the Settlement Agreement and addressing (a) settlement administration matters, and (b) such post-Final Judgment matters as may be appropriate under Court rules.

j. Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiff and Class Members and Sub-Class Members who did not timely submit an objection to the Settlement, Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The Judgment therefore will become nonappealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final.

k. If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of release to be granted by Class Members and Sub-Class Members and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later than fourteen days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payment or the Class Counsel Fees Payment or Class Counsel

Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendants' obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.

l. Within ten (10) business days after the Effective Date, Defendant shall deposit the Gross Settlement Amount into the QSF. Defendant will also transfer into the QSF an amount equal to the estimated employer share of the payroll taxes required on the W-2 payments made to Settlement Class and Sub-Class Members (including employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, or local requirements) as estimated by the Settlement Administrator. Such payment shall be made by Defendant upon the latter of ten (10) business days after the Effective Date or within ten (10) business days after the Settlement Administrator provides its estimate of the employer-side payroll taxes. Thereafter, if there is any dispute relating to the amount needed for the employer share of required payroll taxes, the Parties and Settlement Administrator shall confer within five (5) days in an attempt to resolve this dispute. In the event they are unable to reach resolution of any such dispute, the Parties shall submit their respective positions in writing to the Superior Court, which shall make the final decision regarding the amount required for the employer share of payroll taxes. The QSF will hold all funds transferred to the Sub-Class Members, the service award, attorneys' fees and costs award and the Settlement Administrator expenses award by Defendant pending the issuance of the Settlement Awards to Settlement Class Members. Until the date that Defendant's funding of the QSF is due, Defendant shall have sole and complete control over all such funds and shall have no obligation to segregate such funds or to place them in escrow or to otherwise earmark them before the funding deadline.

m. The Settlement Administrator shall issue Settlement Award checks within ten (10) business days of the Effective Date. Settlement Award checks for each Settlement Class Member and Settlement Sub-Class Member shall include an amount allocated as wages (33.3%), an amount allocated as interest (33.3%) and an amount allocated to liquidated damages (33.3%). The Settlement Administrator shall withhold and pay to the appropriate taxing authority(ies), all federal, Washington state, and local withholding taxes from each amount for wages, and shall issue appropriate IRS Forms W-2 for each amount for wages. The non-wages (penalties, enhancements, and prejudgment interest) amount shall not be subject to withholdings and shall be reported on an IRS Form 1099-MISC (marked "Other Income") issued by the Settlement Administrator. Using the funds transferred into the QSF by Defendant for the employer share of the payroll taxes required on the W-2 payments, the Settlement Administrator will also pay all of the required employer share of payroll taxes in connection with issuing the wage checks to Settlement Class Members and Settlement Sub-Class Members, including the employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, and local requirements.

n. No later than one hundred sixty (160) days after the Settlement Administrator issues the Settlement Award checks, if applicable, Class Counsel shall file a Satisfaction of Judgment confirming that the payments required by the Final Judgment have been made and that no further actions are needed to comply with the Final Judgment. This shall terminate the Court's jurisdiction over the Case.

o. Should any Settlement Award checks be returned as undeliverable without a forwarding address, the Settlement Administrator will perform a reasonable "skip trace" search using the National Change of Address database to obtain an updated address and, if located, shall make a second attempt at mailing the Settlement Award Check. The Settlement Administrator shall mail any Settlement Class or Sub-Class Member his or her Settlement Award check if he or she contacts the Settlement Administrator and provides a correct mailing address within ninety (90) days after the initial distribution of the Settlement Award checks. If contacted by a Settlement Class or Sub-Class member, Defendant shall instruct the member to contact the Settlement Administrator or Class Counsel. No later than ninety (90) days after the initial distribution of the Settlement Award checks, the Settlement Administrator shall provide both Parties with an accounting indicating which funds have been distributed to Settlement Class Members and Sub-Class Members and which, if any, checks to Settlement Class or Sub-Class Members have not been negotiated by that time. At this same time, the Settlement Administrator shall also provide Defendant with copies of all IRS Forms W-2 and IRS Forms 1099-MISC documents issued in connection with the payment of the Settlement Awards, and any other tax documentations reasonably required by Defendant. In the event any QSF funds have not been distributed by one hundred twenty (120) days after the initial distribution of the Settlement Award checks, or any checks mailed to Settlement Class or Sub-Class Members have not been negotiated within one hundred twenty (120) days after distribution of the Settlement Award checks, such funds shall be considered Residual Funds. The Settlement Administrator shall deliver these Residual Funds to the Legal Foundation of Washington (50%) and Franciscan Foundation (50%).

p. If the Superior Court does not enter an Order preliminarily or finally approving the Settlement, or if the Settlement does not become final for any other reason, this Agreement shall be null and void. In such case, the parties shall proceed in all respects as if this Agreement had not been executed. In the event an appeal is filed from the Superior Court's Final Judgment, or from any other appellate review that is sought prior to the Effective Date, funding and administration of the Settlement shall be stayed pending final resolution of the appeal or any other form of appellate review.

9. No Effect on Employee Benefits.

This Settlement, and any payments made under the Settlement to Settlement Class Members, shall have no effect on the eligibility for and/or calculation of employee benefits of any Settlement Class or Sub-Class Members.

10. Miscellaneous Provisions.

a. The Parties agree to stay all further proceedings in this Case, except such proceedings as are necessary to implement and complete this Settlement and/or to implement this Agreement, pending the Fairness Hearing to be conducted by the Superior Court and the Effective Date of the Settlement.

b. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

c. This Agreement constitutes the entire Agreement between these Parties. No representations, warranties or inducements have been made to any Party concerning this Agreement, other than the representations, warranties and covenants contained and memorialized in this Agreement and the documents it requires (such as the Notice of Settlement and Exclusion Form).

d. Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to enter into this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement this Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement this Settlement or this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement or this Agreement, then either Party may seek the Superior Court's assistance to resolve such disagreement.

e. This Agreement shall be binding upon, and shall inure to the benefit of, the successors of the Parties hereto, as previously defined.

f. All terms of this Agreement shall be governed by and interpreted according to the laws of the State of Washington.

g. The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.

h. Neither Class Counsel nor Defense Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

i. All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule. Within 30 days after the Judgment becomes Final, Class Counsel will return or destroy and confirm in writing to Defendants the destruction of all such documents and data.

j. If any administrative proceeding or action is commenced by any federal, state or local governmental authority in a *parens patriae* function (and not in its capacity as a Non-Participating Class Member) asserting claims within the scope of the Action, the Plaintiff and Class Counsel shall intervene in that action at the request of Defendant. Plaintiff and Class Counsel shall intervene to fully support Defendant by asserting that the governmental action is within the scope of this Settlement, the Complaint, and the Judgment entered herein. Additionally, in the event any action is commenced by a governmental authority as stated in this paragraph, Defendant shall have the option, in its sole discretion, to immediately suspend the distribution of Settlement

Shares to Class Members and Sub-Class Members of that jurisdiction pending the outcome of the suit brought by the governmental authority.

k. Plaintiff and Defendant believe that this is a fair, reasonable and adequate settlement, and have arrived at this Settlement through arm's-length negotiations, taking into account all relevant factors, present and potential.

l. The Parties, and each of them, represent that they have not made, and that they will not make any disclosure of the fact of Settlement or any of the Settlement terms prior to Class Counsel filing the motion for preliminary approval with the exception of disclosures made to those persons who are within each Party's attorney-client privilege.

m. The Parties, and each of them, agree that they have not and will not, prior to the Effective Date: (a) affirmatively contact any member of the media regarding this Settlement; or (b) issue any press releases regarding this Settlement. Plaintiff's counsel and Plaintiff further agree that in response to any inquiry from the media prior to the Effective Date, they will make no comment beyond referring the reporter making the inquiry to the Court file for this Case or to Class Counsel's notice website, which may contain information about the Settlement. Plaintiff's counsel may create a notice website with information about this Settlement after preliminary approval of this Settlement is obtained from the Superior Court, which notice website may include a copy of this Agreement and any other documents filed with the Superior Court.

11. Notice. All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

James Pizl
Entente Law PLLC
315 Thirty Ninth Avenue SW, Suite 14
Puyallup, WA 98373-3690
Telephone: (253) 446-7668
Email: jim@ententelaw.com
Attorneys for Plaintiff

Donald L. Samuels, WSBA # 56214
Polsinell PC
1401 Lawrence Street, Suite 2300
Denver, CO 80202
Telephone: (303) 572-9300
Email: dsamuels@polsinelli.com
Attorneys for Defendant

12. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed

counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

[SIGNATURES CONTINUE ON NEXT PAGE]

IT IS SO AGREED.

**COUNSEL FOR PLAINTIFF
GRETCHEN C. KRALL AND
PROPOSED CLASS COUNSEL**

ENTENTE LAW PLLC

DocuSigned by:
James B. Pizl

James B. Pizl, WSBA #28969

Dated: 5/6/2022

**PLAINTIFF AND PROPOSED CLASS
REPRESENTATIVE**

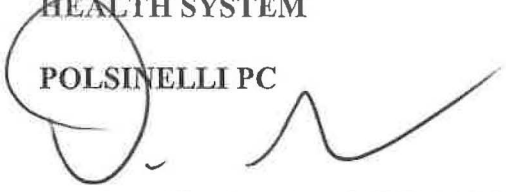
DocuSigned by:
Gretchen C. Krall

**Gretchen C. Krall, individually and on
behalf of the Settlement Class**

Dated: 5/6/2022

**COUNSEL FOR FRANCISCAN
HEALTH SYSTEM**

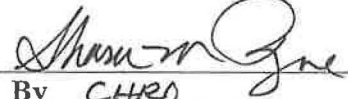
POLSINELLI PC



Donald L. Samuels, WSBA #56214

Dated: 5/9/22

**FRANCISCAN HEALTH SYSTEM
DBA CHI FRANCISCAN HEALTH**



By CHRO

Dated: 5.9.2022