

# CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Denise Lopez (“Plaintiff”) and Defendants BioReference Health LLC (formerly known as BioReference Laboratories, Inc. and referenced herein as “BioReference”) and OPKO Health, Inc. (referenced as “OPKO”) (collectively with BioReference, the “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

By this Agreement the Parties intend to settle the Action (defined below) and to fully, finally, and forever resolve, discharge, and settle the Released Claims (defined below), subject to judicial approval of the terms set forth herein. If this Agreement is not finally approved, or is otherwise nullified, then the Parties shall return to their positions preceding this Agreement and Defendants shall retain all rights to challenge the Plaintiff’s claims and the certification of any class.

## 1. DEFINITIONS.

1.1 “Action” collectively refers to Plaintiff’s two lawsuits alleging wage and hour violations against Defendants: 1) *Denise Lopez, individually and on behalf of others similarly situated v. Bio-Reference Laboratories, Inc., a New Jersey corporation; OPKO Health, Inc., a Delaware corporation; and Does 1 through 50, inclusive*, currently pending in the United States District Court, Eastern District of California Case No. 2:21-cv-02063-KJM-DB (the “Class Action”); and 2) *Denise Lopez, as an aggrieved employee and private attorney general v. Bio-Reference Laboratories, Inc. a New Jersey corporation; OPKO Health, Inc., a Delaware corporation; and Does 1 through 50, inclusive*, Case No. 21STCV46533, currently pending in Superior Court of the State of California, County of Los Angeles (the “PAGA Action”).

1.2 “Administrator” means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4 “Aggrieved Employee” means all non-exempt employees who have worked, or continue to work, for Defendants in California from October 17, 2020 through and including the date a signed order preliminarily approving the Settlement is filed.

1.5 “Class” means all non-exempt employees who have worked, or continue to work, for Defendants in California from October 5, 2017 through and including the date a signed order preliminarily approving the Settlement is filed.

1.6 “Class Counsel” means Heather Davis, Amir Nayebdadash, and Priscilla Gamino of Protection Law Group, LLP.

1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8 “Class Data” means Class Member identifying information in Defendants’ possession which Defendants shall provide to the Administrator in a Microsoft Excel Spreadsheet containing the following information for each Class Member: (1) full name, (2) last-known home address, (3) Social Security number, (4) start and end dates of active employment as a non-exempt employee of Defendants in the State of California, (5) total Workweeks during the Class Period, (6) total Workweeks during the PAGA Period, and (7) any other information required by the Administrator in order to effectuate the terms of the Settlement (“Class List”). Defendants will also provide the Administrator with the last known telephone number for Class Members upon request of the Administrator.

1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.12 “Class Period” means the period from October 5, 2017 through the date of preliminary approval of the Settlement.

1.13 “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.

1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15 “Court” means the Superior Court of California, County of Los Angeles.

1.16 “Defense Counsel” means Eric Lloyd, Michelle DuCharme, and Bradley Doucette of Seyfarth Shaw LLP.

1.17 “Effective Date” means the date upon which both of the following have occurred: (i) approval of the Settlement is granted by the Los Angeles County Superior Court (the “Court”), or other court assuming jurisdiction of the Action, and (ii) the Court’s Judgment approving the Settlement becomes Final. “Final” shall mean the latest of: (i) if there is an appeal of the Court’s Final Judgment, the date the Final Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review to the Supreme

Court, or, (ii) if a petition for review is filed, the date the Supreme Court denies the petition for review or decides not to respond and take no action, or the date the Final Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Final Judgment.

1.18 “Final Approval” means the Court’s order granting final approval of the Settlement.

1.19 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.20 “Final Judgment” means the judgment entered by the Court upon granting Final Approval of the Settlement.

1.21 “Gross Settlement Amount” means Two Million Dollars (\$2,000,000.00). The Gross Settlement Amount is non-reversionary and will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, the Administrator’s Expenses, and all employee-side taxes arising from the payments made under this Settlement. The Gross Settlement Amount is exclusive of the employer share of any applicable payroll taxes, and any such employer-side payroll taxes shall be paid by Defendants separately and in addition to the Gross Settlement Amount. The Gross Settlement Amount plus any applicable employer-side payroll taxes shall be the maximum amount Defendants are required to pay under the Settlement, except as specified in Paragraph 8.1 below.

1.22 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.23 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of Twenty-Five percent (25%) of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.24 “Judgment” means the judgment entered by the Court based upon the Final Approval.

1.25 “LWDA” means the agency entitled the California Labor and Workforce Development Agency, under Labor Code section 2699, subd. (i).

1.26 “LWDA PAGA Payment” means the Seventy-Five percent (75%) of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.27 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments and Individual PAGA Payments.

1.28 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.29 “PAGA Workweek” means any Workweek during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.

1.30 “PAGA Period” means the period from October 17, 2020 through and including the date a signed order preliminarily approving the settlement is filed.

1.31 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698, et seq.).

1.32 “PAGA Notice” means Plaintiff’s October 4, 2021 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.33 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$18,750.00) and 75% to the LWDA (\$56,250.00) in settlement of PAGA claims.

1.34 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.35 “Plaintiff” means Denise Lopez, the named plaintiff in the Action.

1.36 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.37 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.38 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.39 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.40 “Released Parties” means: Defendants BioReference Health LLC formerly known as BioReference Laboratories, Inc. and OPKO Health, Inc., and all of their present and former parent companies, subsidiaries, affiliates, shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns.

1.41 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.42 “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent

after having been returned undeliverable to the Administrator shall have an additional Fourteen (14) calendar days beyond the Response Deadline has expired.

1.43 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.44 “Workweek” means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

## **2. RECITALS.**

2.1 On October 5, 2021 Plaintiff filed the Class Action Complaint alleging causes of action against Defendants for unpaid overtime, unpaid meal period premiums, unpaid rest period premiums, unpaid minimum wages, unpaid final wages, wages not timely paid during employment, failure to provide accurate wage statements, failure to reimburse business expenses, and derivative allegations, in the Superior Court for the State of California, County of Amador. Defendants removed the Class Action to the United States District Court, Eastern District of California, Case No. 2:21-cv-02063-KJM-DB, on November 8, 2021, where it is currently pending. On December 21, 2021, Plaintiff filed the PAGA Action Complaint alleging the same or similar causes of action against Defendants as a private attorney general. All versions of the Class Action Complaint and the PAGA Action Complaint shall be collectively referred to herein as the “Operative Complaints.” Defendants deny the allegations in the Operative Complaints, deny any failure to comply with the laws identified in in the Operative Complaints, and deny any and all liability for the causes of action alleged.

2.2 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.

2.3 On December 13, 2022, the Parties participated in an all-day mediation presided over by Deborah Crandall Saxe, Esq. which led to this Agreement to settle the Action.

2.4 Prior to mediation and negotiating the Settlement, Plaintiff obtained through formal and informal discovery documents and information regarding Plaintiff’s alleged causes of action in order to prepare for and participate in good faith in the mediation and negotiation process, including all relevant policies and employee handbooks in place during the Class Period, Plaintiff’s personnel file, a randomly selected 20% sampling of time and payroll data for the putative class, and figures and information regarding the Class size and composition such as the number of putative class members, the number of current versus former employees, the total workweeks and pay periods worked by the Class; and the Class Members’ average rate of pay. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.5 The Court has not yet granted class certification.

2.6 The Parties, Class Counsel, and Defense Counsel represent that, aside from the Class Action and the PAGA Action, they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

2.7 Solely for the purposes of settling the Action, the Parties shall file a stipulated request for leave for Plaintiff to file a First Amended Complaint in the PAGA Action adding Plaintiff's class claims from the Class Action, such that all of Plaintiff's claims and allegations in the Class Action and the PAGA Action are consolidated into one amended complaint. Plaintiff shall further substitute BioReference Health, LLC, formerly known as BioReference Laboratories, Inc., in as a party in the First Amended Complaint for BioReference Laboratories, Inc. Plaintiff shall thereafter file her First Amended Complaint in the PAGA Action after the Court enters an order granting the stipulation.

### 3. MONETARY TERMS.

3.1 **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8.1 below, Defendants shall pay Two Million Dollars (\$2,000,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the completion of the items stated in Paragraph 5.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than Seven Thousand Five Hundred Dollars (\$7,500.00) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than Sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than Thirty-Five percent (35%) from the Gross Settlement Amount, which is currently estimated to be Seven Hundred Thousand Dollars (\$700,000.00), and, a Class Litigation Expenses payment of not more than Thirty-Five Thousand Dollars (\$35,000.00). Defendants will not oppose Class Counsel's request for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than Sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other



Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed Nine Thousand Seven Hundred Fifty Dollars (\$9,750.00) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than Nine Thousand Seven Hundred Fifty Dollars (\$9,750.00), the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1 Tax Allocation of Individual Class Payments. One-Third (1/3) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Two-Thirds (2/3) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, penalties, liquidated damages, and/or unreimbursed business expenses (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of Seventy-Five Thousand Dollars (\$75,000.00) to be paid from the Gross Settlement Amount, with Seventy-Five Percent (75%), or Fifty-Six Thousand Two Hundred Fifty Dollars (\$56,250.00), allocated to the LWDA Payment and Twenty-Five Percent (25%), or Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750.00), allocated to the Individual PAGA Payments. The requested amount of PAGA Penalties is not a material term of this Agreement. If the Court approves a lesser or greater amount than that requested, the other terms of this Agreement shall still remain in effect. However, some approval of a PAGA Payment is a material term of the Settlement and this Agreement. If the Court does not approve any PAGA Penalties, then the entire Agreement will be, at Defendants' sole discretion, void and unenforceable. In the event Defendants exercise this option, then the settlement administration costs incurred through that date shall be borne by Defendants.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$18,750.00) by the total number of workweeks worked by all Aggrieved Employees during the PAGA Period and (b) by multiplying the result by each Aggrieved Employee's workweeks worked. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of their records, Defendants estimate there are 505 Class Members who collectively worked a total of approximately Forty-One Thousand Five Hundred Twelve (41,512) Workweeks through the date of the Parties' December 13, 2022 mediation, and 350 Aggrieved Employees who worked a total of Eight Thousand One Hundred and Two (8,102) PAGA Workweeks through the date of the Parties' December 13, 2022 mediation.

4.2 Class Data. Not later than Twenty-One (21) days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they discover that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data. This is a material term of the Settlement. If Defendants fail to produce the information specified in this paragraph within Twenty-One (21) calendar days after the date on which the Court enters an order granting preliminary approval of the Settlement, Plaintiff may elect to provide written notice to Defendants for purposes of providing Defendants an opportunity to cure this failure. Plaintiff shall have the right to void the Settlement if Defendants do not provide the information specified in this paragraph to the Settlement Administrator within Fourteen (14) calendar days after receipt of Plaintiff's written notice of Defendants' failure to comply with this paragraph. Plaintiff shall not have the right to void the Settlement on account of Defendants' failure to timely provide the Settlement Administrator with the information specified in this paragraph unless she provides Defendants with written notice and an opportunity to cure in the manner specified in this paragraph. In the event Plaintiff elects to provide written notice, such notice shall be directed to Defense Counsel Eric M. Lloyd, Seyfarth Shaw LLP, 560 Mission Street, Suite 3100, San Francisco, CA 94105, [elloyd@seyfarth.com](mailto:elloyd@seyfarth.com).



4.3 Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than Thirty (30) days after the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within Fourteen (14) days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than One Hundred Eighty [180] days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within Seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

**5. RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences arising from Plaintiff's relationship with Defendants, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaints; and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaints, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2 and 5.3, below ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. Plaintiff further promises not to sue any Released Party for any reason covered by Plaintiff's Release. The consideration for this general release is the Class Representative Service Payment to Plaintiff for the services she provided as named Plaintiff. Should the Court award Plaintiff less than One Thousand Dollars (\$1,000.00) as a Class Representative Service Payment, there shall be no general release as to Plaintiff. However, Plaintiff shall still be bound by the Class and PAGA releases set forth below.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2 Release by Participating Class Members. Plaintiff and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Defendants and the Released Parties from those claims alleged in all versions of the complaints filed in the Action (the Operative Complaints), as well as all any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law that were or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Actions and in the PAGA Notice, regardless of theory of recovery, including: claims under California Labor Code sections 201, 202, 203, 204, 206, 210, 218, 218.5, 221, 226, 226.7, 227, 510, 511, 512, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1194.2, 1198, 1199, 2800, 2802; the California IWC Wage Orders;

the Fair Labor Standards Act (29 U.S.C. Section 201, *et seq.*); and California Business and Professions Code section 17200, *et seq.* (the “Released Class Claims”). Participating Class Members shall further agree to waive their right to pursue individual lawsuits as to any of the Released Class Claims against the Released Parties to the extent such Released Class Claims accrued during the Class Period. Except as set forth in Paragraph 5.3 of this Agreement, Participating Class Members (except for Plaintiff) do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees. Plaintiff, on behalf of the State of California, and all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, Defendants and the Released Parties from any and all PAGA claims or causes of action of whatever kind or nature which occurred during the PAGA Period that were or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Action and in the PAGA Notice, regardless of theory of recovery, including but not limited to, any alleged violations of or relief under California Labor Code 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, and the applicable provisions of the applicable IWC Wage Orders (including, but not limited to, allegations concerning Defendants’ alleged failure to provide Aggrieved Employees with suitable seating). The release as to the State of California and Aggrieved Employees only covers claims that arise under the Private Attorneys General Act, and does not cover an Aggrieved Employee’s individual Labor Code claims. The release expressly excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, class claims, and PAGA claims outside of the PAGA Period.

5.4 Neither the Settlement Agreement nor any amounts paid to Plaintiff, Participating Class Members, or any Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendants.

**6. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1 Defendants’ Declaration in Support of Preliminary Approval. Within Seven (7) days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under

Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaints (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (vii) a redlined version of the Parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than Forty (40) days after the full execution of this Agreement (or per Code should there be no hearing dates within prompt timeframe and Parties reserve the first available hearing date available to the Parties and the Court); obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator. Plaintiff shall provide Defendants with the documents referenced in Paragraph 6.2 at least Ten (10) days prior to filing so that Defendants can review and make comments on them. Defendants shall provide Plaintiff with their proposed revisions at least Three (3) days prior to filing so that Plaintiff can incorporate Defendants’ proposed revisions. Plaintiff shall incorporate Defendants’ comments to the extent they are consistent with this Agreement.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns. Defendants further agree not to oppose Plaintiff’s Motion for Preliminary Approval to the extent it comports with this Agreement.

## 7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions (“Phoenix”) to serve as the Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

### 7.4 Notice to Class Members.

7.4.1 No later than Three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Class Workweeks, and PAGA Workweeks in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than Fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Class Workweeks and PAGA Workweeks (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than Three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks for the Class Period and/or PAGA Period, and Requests for Exclusion will be extended an additional Fourteen (14) days beyond the Sixty (60) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Defendants, or Class Counsel are contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than Fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than Sixty (60) days after the Administrator mails the Class Notice (plus an additional Fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.5.5 Although a Class Member might not receive the Class Notice, and might not timely submit an Objection or Request for Exclusion because of inability to locate the Class Member's current address, that Class Member shall nonetheless be bound by this Agreement.



7.6 Challenges to Calculation of Workweeks. Each Class Member shall have Sixty (60) days after the Administrator mails the Class Notice (plus an additional Fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Workweeks (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Class Workweeks and/or PAGA Workweeks shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Class Workweeks and/or PAGA Workweeks to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than Sixty (60) days after the Administrator's mailing of the Class Notice (plus an additional Fourteen (14) days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not

later than Five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Class Workweeks and/or PAGA Workweeks received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Class Workweek and/or PAGA Workweek Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks for the Class Period and/or PAGA Period. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator’s Declaration. Not later than Fourteen (14) days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections, and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within Ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least Fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator’s declaration in Court.

**8. CLASS SIZE ESTIMATES.** Based on their records, Defendants estimate that, as of the date of the Parties’ December 13, 2022 mediation, (1) there were 505 Class Members and 41,512 Total Workweeks during the Class Period and (2) there were 350 Aggrieved Employees who worked 8,102 Workweeks during the PAGA Period.

8.1 **Pro Rata Increase.** Should the actual qualifying Workweeks worked by the Class Members during the Class Period increase by more than Ten Percent (10%) (*i.e.*, by more than 4,152 Workweeks), it will be Defendants' choice to increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Workweeks worked by the Class Members above Ten Percent (10%), or, to exclude such pay periods from the scope of the release. Should Defendants elect to exclude such Workweeks, then the Class Period and the PAGA Period, and the Releases by the Class Members and PAGA Members, will end on the same day that the Workweeks reach Ten Percent (10%) more than Forty-One Thousand Five Hundred Twelve (41,512) Workweeks. For example, if the number of Workweeks increases by Eleven Percent (11%), Defendants may, at their sole option, increase the Gross Settlement Amount by One Percent (1%), or, choose to exclude these workweeks from the scope of the release. Defendants shall confirm the number of Workweeks at issue in advance of Plaintiff's filing the motion for preliminary approval to confirm whether the number of Workweeks increased by more than Ten Percent (10%).

**9. DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds Ten Percent (10%) of the total of all Class Members, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of their election to withdraw not later than Fifteen (15) business days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

**10. MOTION FOR FINAL APPROVAL.** Not later than Sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than Seven (7) days prior to filing the Motion for Final Approval. Defendants shall provide Plaintiff with their proposed revisions at least Three (3) days prior to filing so that Plaintiff can incorporate Defendants' proposed revisions. Plaintiff shall incorporate Defendants' comments to the extent they are consistent with this Settlement Agreement. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1 **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than Five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final

Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph, and shall not give rise to a basis to abrogate this Agreement.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

**11. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

**12. ADDITIONAL PROVISIONS.**

12.1 No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaints have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any

reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, 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 reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form

or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties may seek the assistance of a mediator and/or the Court for resolution.

12.7 Materiality of Terms. Except as otherwise stated herein, each substantive term of this Agreement is material and has been relied upon by the Parties in entering into this Agreement. Notwithstanding the Parties' efforts under Section 12.6, if the Court ultimately does not approve any substantive term, or if the Court effects a material change to the Agreement—such as increasing any amount that Defendants must pay (except as provided in Section 8.1)—then the entire Agreement will be, at Defendants' sole discretion, void and unenforceable. Where this Agreement states that a term is not material, then the Court's refusal to approve that term leaves all the other terms of the Agreement in effect, and does not give Class Counsel or any Class Member any basis to abrogate this Agreement.

12.8 No Impact on Employee Benefits. No payment made under this Agreement shall be considered as compensation or hours worked or hours paid for purposes of determining eligibility, vesting, participation, or contributions with respect to any employee benefit plan. For purposes of this Agreement, the term "benefit plan" means every ERISA "employee benefit plan," as defined in the Employee Retirement and Income Security Act of 1974 ("ERISA"), 29 U.S.C. section 1002(3). The term also includes any 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement, disability, vacation, severance, hospitalization, insurance, incentive, deferred compensation, or any other similar benefit plan, practice, program, or policy, regardless of whether any such plan is considered an ERISA employee benefit plan.

12.9 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

12.10 No Tax Advice. Each Participating Class Member and/or Aggrieved Employee shall have sole responsibility for any and all tax consequences applicable to any amounts they are paid pursuant to the Settlement. Neither Plaintiff, Class Counsel, Defendants, nor Defense Counsel are providing any 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. Class Members must consult their own tax advisors regarding the tax consequences of this Settlement, including but not limited to any payments provided or tax reporting obligations. Defendants, the Released Parties, counsel for Defendants, and Class Counsel shall have no liability or responsibility whatsoever for any tax consequences resulting from payments made pursuant to the Settlement. To the extent required by law, the Settlement Administrator will report payments made under Settlement Agreement to the appropriate tax authorities.

12.11 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.



12.12 Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent so as to render all provisions of this Agreement enforceable.

12.13 Waiver of Right to Request Exclusion by Plaintiff. Plaintiff, by signing this Agreement, agrees not to request exclusion from the Settlement. Plaintiff, by signing this Agreement, further represents that she has no objection to the terms of the Agreement.

12.14 Neutral Employment Reference. Defendants agree that they will adopt a neutral reporting policy regarding any future employment reference related to Plaintiff. In the event that any potential or future employers of Plaintiff request a reference regarding Defendants' employment of Plaintiff, Defendants shall only provide Plaintiff's dates of employment and job titles during employment. Defendants shall not refer to this Action or this Settlement.

12.15 Dismissal of the Class Action. Within Seven (7) days of Final Approval of the Settlement, the Parties shall file a stipulated request for dismissal of the Class Action in the U.S. District Court for the Eastern District of California, and shall take all steps necessary to effectuate the dismissal of the Class Action. The Parties shall promptly apprise the Los Angeles Superior Court if the U.S. District Court for the Eastern District of California declines to dismiss the Class Action. Dismissal of the Class Action is a prerequisite to the Settlement.

12.16 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.17 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

12.18 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

12.19 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.20 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, 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 of court. Not later than Ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destruction, of Class Data.

12.21 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.22 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.23 Notice. All notices, demands or other communications between the Parties in connection with 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, or the day sent by email or messenger, addressed as follows:

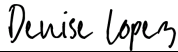
To Plaintiff: Heather Davis  
Amir Nayebdadash  
Priscilla Gamino  
Protection Law Group, LLP  
237 California Street  
El Segundo, CA 90245  
[heather@protectionlawgroup.com](mailto:heather@protectionlawgroup.com)  
[amir@protectionlawgroup.com](mailto:amir@protectionlawgroup.com)  
[priscilla@protectionlawgroup.com](mailto:priscilla@protectionlawgroup.com)

To Defendants: Eric M. Lloyd  
Seyfarth Shaw LLP  
560 Mission Street, Suite 3100  
San Francisco, CA 94105  
[elloyd@seyfarth.com](mailto:elloyd@seyfarth.com)

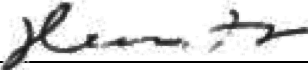
12.24 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if 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.

12.25 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation of the Action shall be stayed, except to effectuate the terms of this Agreement. Solely for the purposes of settling the Action, the Parties have filed a notice of settlement and stipulation to stay the Class Action in the United States District Court, Eastern District of California, Case No. 2:21-cv-02063-KJM-DB, and all current deadlines, pending approval of the settlement of Plaintiff’s class claims and PAGA claims in the Los Angeles Superior Court. If the Court does not approve the Settlement, the Parties stipulate that the class claims in the First Amended Complaint in the PAGA Action shall be dismissed from the PAGA Action, that Plaintiff shall take all steps required by California Rule of Court 3.770 as necessary to ensure dismissal of the class claims in the PAGA Action, and that the Parties will revert back to the

status quo ante; i.e., separate litigation shall resume in the Class Action and in the PAGA Action. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DocuSigned by:  
  
\_\_\_\_\_  
B46104FD18CC4F5...  
Plaintiff Denise Lopez

\_\_\_\_\_  
For Defendant BioReference Health, LLC, formerly known as BioReference Laboratories, Inc.

  
\_\_\_\_\_  
Heather Davis, Counsel For Plaintiff

\_\_\_\_\_  
For Defendant OPKO Health, Inc.

\_\_\_\_\_  
Counsel For Defendants

status quo ante; i.e., separate litigation shall resume in the Class Action and in the PAGA Action. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

\_\_\_\_\_  
Plaintiff Denise Lopez

*Jane Pine Wood*  
\_\_\_\_\_  
Jane Pine Wood, SVP Legal,  
For Defendant BioReference Health, LLC,  
formerly known as BioReference  
Laboratories, Inc.

\_\_\_\_\_  
Heather Davis, Counsel For Plaintiff

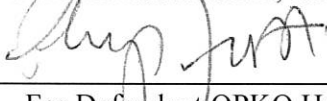
\_\_\_\_\_  
For Defendant OPKO Health, Inc.  
*[Signature]*  
\_\_\_\_\_  
Counsel For Defendants



status quo ante; i.e., separate litigation shall resume in the Class Action and in the PAGA Action. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

\_\_\_\_\_  
Plaintiff Denise Lopez

\_\_\_\_\_  
For Defendant BioReference Health, LLC, formerly known as BioReference Laboratories, Inc.



\_\_\_\_\_  
Heather Davis, Counsel For Plaintiff

\_\_\_\_\_  
For Defendant/OPKO Health, Inc.

\_\_\_\_\_  
Counsel For Defendants

# **Exhibit A**



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

*(Denise Lopez, as an aggrieved employee and private attorney general v. Bio-Reference Laboratories, Inc. a New Jersey corporation; OPKO Health, Inc., a Delaware corporation; and Does 1 through 50, inclusive, Los Angeles County Superior Court Case No. 21STCV46533)*

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***The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against BioReference Health LLC (formerly known as BioReference Laboratories, Inc. and referenced herein as “BioReference”) and OPKO Health, Inc. (referenced as “OPKO”) (collectively referred to as “Defendants”) for alleged wage and hour violations. The Action was filed by a BioReference employee Denise Lopez (“Plaintiff”) and seeks payment of (1) back wages, general and special damages, statutory penalties, and attorneys’ fees and costs for a class of California hourly employees (“Class Members”) who worked for Defendants during the Class Period (October 5, 2017 through [date]); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all California hourly employees who worked for Defendants during the PAGA Period (October 17, 2020 through [date]) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [redacted] (less withholding) and your Individual PAGA Payment is estimated to be \$ [redacted]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendants’ records showing that **you worked [redacted] workweeks** during the Class Period and **you worked [redacted] workweeks** during the PAGA Period.

If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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 you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment


that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

**Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.**

**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<p><b>You Don't Have to Do Anything to Participate in the Settlement</b></p>	<p>If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).</p>
<p><b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b></p> <p><b>The Opt-out Deadline is</b>  </p>	<p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p>
<p><b>Participating Class Members Can Object to the Class</b></p>	<p>All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will</p>

<p><b>Settlement but not the PAGA Settlement</b></p> <p><b>Written Objections Must be Submitted by [REDACTED]</b></p>	<p>include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.</p>
<p><b>You Can Participate in the [REDACTED] Final Approval Hearing</b></p>	<p>The Court’s Final Approval Hearing is scheduled to take place on [REDACTED]. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>
<p><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b></p> <p><b>Written Challenges Must be Submitted by [REDACTED]</b></p>	<p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.</p>

**1. WHAT IS THE ACTION ABOUT?**

Plaintiff is a BioReference employee. The Action accuses Defendants of violating California labor laws by failing to pay overtime wages, meal and rest period premiums, minimum wages, wages due upon termination, and reimbursable expenses; and failing to provide meal periods, rest breaks, accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.), and included a claim for failure to provide a seat (“PAGA”). Plaintiff is represented by attorneys in the Action: Heather Davis, Amir Nayebdadash, and Priscilla Gamino of Protection Law Group, LLP (“Class Counsel.”)

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

**2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

So far, the Court has made no determination whether Defendants or Plaintiff are correct on the merits.

In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

1. Defendants Will Pay Two Million Dollars (\$2,000,000.00) as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$700,000.00 (Seven Hundred Thousand Dollars and Zero Cents) (35% from the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$35,000.00 (Thirty-Five Thousand Dollars) for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$7,500.00 (Seven Thousand Five Hundred Dollars and Zero Cents) as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
  - C. Up to \$                      to the Administrator for services administering the Settlement.

- D. Up to \$75,000.00 (Seventy-Five Thousand Dollars and Zero Cents) for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of One-Third (1/3) of each Individual Class Payment to taxable wages (“Wage Portion”) and Two-Thirds (2/3) to interest, penalties, liquidated damages, and/or unreimbursed business expenses (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes owed on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class

Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.
8. Administrator. The Court has appointed a neutral company, [REDACTED] (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Defendants have fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

Release by Participating Class Members. Plaintiff and Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Defendants and all of their present and former parent companies, subsidiaries, affiliates, shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns (collectively the “Released Parties”) from those claims alleged in all versions of the complaints filed in the Action (the Operative Complaints), as well as all any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorney’s fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law that were or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Actions and in the PAGA Notice, regardless of theory of recovery, including: claims

under California Labor Code sections 201, 202, 203, 204, 206, 210, 218, 218.5, 221, 226, 226.7, 227, 510, 511, 512, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1194.2, 1198, 1199, 2800, 2802; the California IWC Wage Orders; the Fair Labor Standards Act (29 U.S.C. Section 201, *et seq.*); and California Business and Professions Code section 17200, *et seq.* (the “Released Class Claims”). Participating Class Members shall further agree to waive their right to pursue individual lawsuits as to any of the Released Class Claims against the Released Parties to the extent such Released Class Claims accrued during the Class Period. Except as set forth in Paragraph 5.3 of the Agreement, Participating Class Members (except for Plaintiff) do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Release by Aggrieved Employees. The Aggrieved Employees will be bound by the following release:

Plaintiff, on behalf of the State of California, and all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, Defendants and the Released Parties from any and all PAGA claims or causes of action of whatever kind or nature which occurred during the PAGA Period that were or reasonably could have been brought based on the facts alleged in the complaints filed in the Action and in the PAGA Notice, regardless of theory of recovery, including but not limited to, any alleged violations of or relief under California Labor Code 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, and the applicable provisions of the applicable IWC Wage Orders (including, but not limited to, allegations concerning Defendants’ alleged failure to provide Aggrieved Employees with suitable seating). The release as to the State of California and Aggrieved Employees only covers claims that arise under the Private Attorneys General Act, and does not cover an Aggrieved Employee’s individual Labor Code claims. The release expressly excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, class claims, and PAGA claims outside of the PAGA Period.

#### 4. **HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$18,750.00 (Eighteen Thousand Seven Hundred Fifty Dollars



and Zero Cents) by the total number of PAGA Workweeks worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Workweeks worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Workweeks you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Class Workweeks and/or PAGA Workweeks credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Class Workweeks and/or PAGA Workweeks based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

## 5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

**Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

## 6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Lopez v. BioReference Laboratories, Inc., et al.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your**



request to be excluded by \_\_\_\_\_, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to approve. At least \_\_\_\_\_ days before the \_\_\_\_\_ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website \_\_\_\_\_ (url) or the Court's website \_\_\_\_\_ (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is \_\_\_\_\_.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Lopez v. BioReference Laboratories, Inc., et al.* and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending 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 that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on \_\_\_\_\_ at \_\_\_\_\_ (time) in \_\_\_\_\_ Department [78] of the Los Angeles Superior Court, located at 111 North Hill Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [redacted] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

**9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [redacted] (specify entity) 's website at [redacted] (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV46533. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

Class Counsel:

Name of Attorney:

Heather Davis  
Amir Nayebdadash  
Priscilla Gamino

Email Address:

heather@protectionlawgroup.com  
amir@protectionlawgroup.com  
priscilla@protectionlawgroup.com

Name of Firm:

Protection Law Group, LLP

Mailing Address:

237 California Street, El Segundo, CA 90245

Telephone:

(424) 290-3095

Settlement Administrator:

**Name of Company:**

**Email Address:**

**Mailing Address:**

**Telephone:**

**Fax Number:**

**10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the

original check. If your check is already void you should consult the California Controller's Unclaimed Property Fund for instructions on how to retrieve the funds.

**13. WHAT IF I CHANGE MY ADDRESS?**

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.