

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM DURLING, MICHAEL MORRIS,	:
JAMES MORTON, JR., RICHARD SOBOL,	:
MUHAMMAD SULTAN and TOM WOLFF	:
for themselves and all others similarly situated,	:
	Case No. 7:16-CV-03592
Plaintiff,	:
	Class/Collective Action
- against -	:
	:
PAPA JOHN’S INTERNATIONAL, INC.,	:
	:
Defendant.	:
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**AMENDED AND RESTATED CLASS AND COLLECTIVE ACTION
SETTLEMENT AGREEMENT**

This Amended and Restated Class and Collective Action Settlement Agreement (“Settlement” or “Settlement Agreement”) is made by Richard Sobol and Muhammed Sultan (“*Durling* Named Plaintiffs”), Amanda Hubbard, Joshua Boyland, Edgar Bustamante, Milton Dearry, Aaron Nelson, Jacob Pontow, Renard Webb (“*Hubbard* Named Plaintiffs”) (collectively together *Durling* Named Plaintiffs and *Hubbard* Named Plaintiffs, “Named Plaintiffs”), on behalf of themselves and Opt-in Plaintiffs and Class Members (as defined in Section III), and Defendant Papa John’s International, Inc. (“Defendant”) (Named Plaintiffs, Opt-in Plaintiffs, Class Members, and Defendant are, collectively, referred to as the “Parties”), subject to Court approval, to settle the litigation entitled *Durling, William, et al. v. Papa John’s International, Inc.*, No. 16 Civ. 3592 (S.D.N.Y.) (“*Durling*”), and its companion case, *Hubbard, et al. v. Papa John’s International, Inc.*, No. 19-CV-00022 (W.D. Ky.) (“*Hubbard*”) (collectively together *Durling* and *Hubbard*, the “Lawsuit”) on the terms in this Settlement Agreement.

I. Recitals

1. These Recitals are an integral part of this Agreement.

2. On May 13, 2016, Plaintiffs William Durling, Chris Bellaspica, Michael Morris, James Morton, Jr., and Tom Wolff filed a Complaint in the U.S. District Court for the Southern District of New York against Defendant asserting claims under the Fair Labor Standards Act on behalf of a putative members of a potential collective action and claims under the New York Labor Law, N.Y. Lab. Law, Art. 19 § 650 et seq., (“NYLL”), the Pennsylvania Minimum Wage Act of 1968, 43 P.S. §§ 333.101, et seq. (“PMWA”), the New Jersey Wage and Hour Law, N.J.S.A. 34:11-6a, et seq. (“NJWHL”) and the Delaware Minimum Wage Act, 19 Del. C. § 901 et seq. (“DMWA”), on behalf of a putative class actions under Rule 23 of the Federal Rules of Civil Procedure.

3. PJPA, LLC (“PJPA”), a Papa John’s franchisee, employed Plaintiffs Bellaspica, Wolff, and Morris (the “PJPA Plaintiffs”). This settlement does not involve the PJPA Plaintiffs, or opt-in plaintiffs who were employed by PJPA or other Papa John’s franchisees (including Plaintiff Durling).

4. On March 29, 2017, and again on March 1, 2018, the Court denied conditional certification of a proposed nationwide collective action that would have included delivery drivers who worked at Papa John’s franchisees. (March 29, 2017 Minute Entry; March 1, 2018 Minute Entry.)

5. On July 20, 2018, the Court granted conditional certification of a nationwide collective action involving current or former delivery drivers of corporate-owned Papa John’s Stores and jointly owned Papa John’s Stores where Defendant (or a subsidiary of Defendant) is

the majority owner who are reimbursed on a per-delivery basis. (July 20, 2018 Minute Entry.)

Approximately 9,276 Opt-In Plaintiffs joined the lawsuit.

6. On April 18, 2018, Plaintiffs filed a Motion for Leave to File Consolidated Class / Collective Action Complaint, which the Court granted in part, insofar as it pertained to adding Muhammed Sultan as a named plaintiff and denied in part with respect to adding Boyland, Nelson, and Tourville as named plaintiffs. (April 18, 2018 Minute Entry.) In addition, Plaintiff Chris Bellaspica was removed as a named Plaintiff.

7. On February 12, 2019, Plaintiffs Amanda Hubbard, Joshua Boyland, Edgar Bustamante, Milton Dearry, Aaron Nelson, Jacob Pontow, and Renard Webb filed *Hubbard, et al. v. Papa John's International Inc., No. 19-CV-00022* in the U.S. District Court for the Western District of Kentucky on behalf of seven Rule 23 putative classes. That litigation has been stayed pending the outcome of the *Durling* litigation.

8. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the claims alleged by Plaintiffs and denies that litigation of the Lawsuit on a class or collective-wide basis is appropriate. Specifically, Defendant denies that it maintained any pay or employment practices that failed to comply with the FLSA or the state laws at issue in *Hubbard*, denies that it otherwise violated any federal or state law, and denies that the facts justify class, collective, or representative-wide treatment under the governing legal standards.

9. The Parties now desire to settle, fully and finally, all claims that Plaintiffs asserted in any iteration of the Second Amended Complaint in *Durling*, or the Complaint in *Hubbard*, or that could have asserted based on the facts alleged in the Amended Complaint in *Durling* or the Complaint in *Hubbard* on the terms set forth in this Settlement Agreement.

10. The Named Plaintiffs and their Counsel believe that it is in the best interests of the Opt-In Plaintiffs in *Durling* and the Class Members in *Hubbard* to resolve this matter at this time and that this Settlement represents a fair, adequate, and reasonable resolution that avoids the expense, delay, diversion, and risk of protracted and complex litigation.

11. If the Settlement Agreement does not become final for any reason, nothing from the settlement process, including documents created or shared as part of the settlement process or settlement administration, but not including any documents or information that otherwise was produced in the Lawsuit, shall be admissible evidence in the Lawsuit or used in any way contrary to the interests of the Named Plaintiffs, Class Members, Opt-In Plaintiffs, or Defendant.

12. This Settlement Agreement contains all of the agreements between the Named Plaintiffs, Plaintiffs' Counsel, Defendant, and Defendant's Counsel relating to this settlement of the Lawsuit and supersedes the Class and Collective Action Settlement Agreement entered into by the Parties on November 14, 2022. At all times, the negotiations leading to the Settlement Agreement were adversarial, non-collusive, and arms-length.

II. No Admission Of Liability

The Parties agree that Defendant, in settling these two Lawsuits, expressly denies liability or wrongdoing of any kind associated with the claims asserted by the Named Plaintiffs, Opt-In Plaintiffs, and Class Members, and that Defendant enters into this settlement solely for purposes of avoiding the costs and disruption of ongoing litigation and to settle any and all outstanding claims in the Lawsuit. This Settlement Agreement shall not in any way be construed as an admission by Defendant that it acted wrongfully or illegally with respect to the Named Plaintiffs, Opt-in Plaintiffs, Class Members, or any other person, collectively or individually, or that those individuals have any rights whatsoever against Defendant, and Defendant specifically disclaims

any liability to or wrongful acts against the Named Plaintiffs, Opt-in Plaintiffs, and Class Members, on the part of Defendant, and its predecessors, successors, and assigns, their current and former direct and indirect parents, affiliates¹, subsidiaries, divisions, and related business entities, and their current and former officers, directors, shareholders, employees, agents, and representatives. The Parties agree that none of them has prevailed on the merits, nor shall this Settlement Agreement serve or be construed as evidence that any Party has so prevailed. This Settlement Agreement is a settlement document and shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce its terms.

III. Individuals Covered By This Settlement

This Settlement Agreement applies to all Named Plaintiffs, Opt-in Plaintiffs, and Class Members. “Opt-in Plaintiffs” are defined as all individuals who filed Consent to Join opt-in forms in *Durling* and all individuals who opt into this settlement agreement after receiving notice. “Class Members,” for the purposes of settlement only, are defined as all individuals who were employed as a delivery driver at a Papa John’s corporate or joint venture restaurant in: (1) Kentucky at any time between February 12, 2014 and October 3, 2022; (2) Colorado at any time between February 12, 2016 and October 3, 2022; (3) Missouri at any time between February 12, 2014 and October 3, 2022; (4) Florida at any time between February 12, 2014 and October 3, 2022; (5) Maryland at any time between February 12, 2016 and October 3, 2022; (6) Minnesota at any time between February 12, 2013 and October 3, 2022; and (7) Illinois at any time between February 12, 2009 and October 3, 2022. The Parties agree that the U.S. District Court for the

¹ For purposes of this Settlement Agreement, the term “affiliate” shall not include Papa John’s branded franchises in which Papa John’s International Inc. is not a majority owner.

Southern District of New York has jurisdiction over all Rule 23 Sub-Class Members for settlement purposes only.

IV. Settlement Terms

1. Certification Of The Settlement Class For Settlement Purposes Only

The Parties agree that the Class shall be certified for settlement purposes only. The Class consists of individuals employed as delivery drivers at a Papa John's corporate or joint venture restaurant during the following specified dates in the following specified locations:

- a. Colorado at any time between February 12, 2016 and October 3, 2022 represented by proposed class representative Aaron Nelson;
- b. Florida at any time between February 12, 2014 and October 3, 2022 represented by proposed class representative Edgar Bustamante;
- c. Illinois at any time between February 12, 2009 and October 3, 2022 represented by proposed class representative Jacob Pontow;
- d. Kentucky at any time between February 12, 2014 and October 3, 2022, represented by proposed class representatives Richard Sobol and Amanda Hubbard;
- e. Maryland at any time between February 12, 2016 and October 3, 2022, represented by proposed class representative Milton Dearry;
- f. Minnesota at any time between February 12, 2013 and October 3, 2022, represented by proposed class representative Reynard Webb; and
- g. Missouri at any time between February 12, 2014 and October 3, 2022, represented by proposed class representative Joshua Boyland.

The Settlement Agreement is contingent upon the approval and certification by the Court, for settlement purposes only, of the State Law Class under Rule 23 of the Federal Rules of Civil Procedure. If the Court does not approve any portion of the Settlement Agreement for any

reason, Defendant does not waive, and instead expressly reserves, its rights to challenge the propriety of class certification for any purpose as if this Settlement Agreement had not been submitted to the Court by the Parties.

2. **Preliminary Approval**

Promptly upon execution of this Settlement Agreement, and no later than November 14, 2022, the Named Plaintiffs shall move the Court for an order in the form of the Preliminary Approval Order attached as Exhibit A, or as may be modified by subsequent mutual agreement of the Parties in writing and approved by the Court, that, among other things:

- a. Grants preliminary approval of the Settlement Agreement, subject only to the objections of Class Members and final review by the Court;
- b. Certifies the Class for settlement purposes only, appoints Class Counsel, appoints Class Representatives, and appoints the Settlement Administrator;
- c. Approves as to form and content the “Notice of Class Action Settlement,” “Notice of Collective Action Settlement,” and the “Notice Reminder”;
- d. Approves as to form and content the proposed Claim Form;
- e. Directs the distribution of the Notice documents by email to Class Members and Opt-In Plaintiffs;
- f. Directs the distribution of the Notice Reminder to be sent thirty (30) days after the Notice documents first sent via mail and email to Class Members and Opt-In Plaintiffs who have not submitted a Claim Form or, in the case of Class Members, a Request for Exclusion by that date (the Notice Reminder will be sent via email unless the first notice email was not opened, in which such case the Notice Reminder will be sent via mail);
- g. Schedules a final hearing on the question of whether the proposed settlement, including without limitation payment of attorneys’ fees, costs, and the Service Payments, should be given final approval as fair and reasonable; and
- h. Enjoins Class Members from filing or prosecuting up to the date of entry of a Final Approval Order, or the voiding of the Settlement Agreement, any claims, suits, or administrative proceedings regarding claims released by them under the Settlement unless and until such Class Members have

submitted valid and timely Requests for Exclusion with the Settlement Administrator and the Claim Deadline has elapsed.

3. **Final Approval And Effective Date**

a. As used in this Settlement Agreement, “Final Approval” means “the date by which the Court enters an order granting final approval of the Settlement and final judgment in the Lawsuit (the ‘Final Approval Order’).” Plaintiffs shall submit a proposed order agreed by the Parties for Final Approval setting forth the terms of this Settlement Agreement, by incorporation or otherwise, for approval and entry by the Court. Plaintiffs shall provide a proposed version of the Final Approval Order to Defendant and allow Defendant a reasonable opportunity to review the proposed Final Approval Order and provide feedback prior to filing the Final Approval Order with the Court.

b. This Settlement Agreement will become final and effective only upon the occurrence of all of the following events: (a) the Agreement is executed by the Parties and by Plaintiffs’ Counsel and Defendant’s Counsel; (b) the Court Orders Preliminary Approval certifying the Class for settlement purposes only, approving the Settlement under Section 16(b) of the FLSA, appointing Plaintiffs’ Counsel as Class Counsel, appointing the Class Representatives, and appointing the Settlement Administrator; (c) the Court grants preliminary approval of all material terms of the Settlement Agreement, or if the Court makes changes to or fails to approve any material term, Defendant does not exercise its right to void the Settlement; (d) the Notice is sent to the Class Members and Opt-In Plaintiffs; (e) Class Members are afforded the opportunity to file written objections to the Settlement or to exclude themselves from the Settlement by timely submission of a Request for Exclusion; (f) Defendant does not exercise the right to void the Settlement pursuant to Sections 20 or 21 of this Settlement Agreement; and (g) the Court holds the Final Approval Hearing, approves the Settlement, and enters Final Judgment.

c. The term “Effective Date” shall be the later of: (1) the date of the Court’s final approval of the Settlement, if no objections have been lodged; (2) the date that the time for an appeal has expired without the filing of any appeal if an objection has been lodged; or (3) the date of final resolution of any appeal, writ, or challenge to the Settlement that has been lodged upholding the Settlement. If the Effective Date does not occur, the Court does not grant the Final Approval Order and Final Judgment, or this Settlement Agreement is otherwise nullified pursuant to its terms, this Settlement Agreement shall be null and void, and the agreements described herein shall be of no effect and inadmissible in this or any other action or proceeding. The Parties agree to waive all rights to appeal upon entry of Final Judgment, except that Plaintiffs may appeal the award of Class Counsel’s fees, costs, and/or Service Payments if the sums awarded by the Court fall below that requested by Plaintiffs.

4. **Payments To Opt-in Plaintiffs And Class Members Who Submit Valid And Timely Claim Forms**

A Settlement Payment shall be made to each Claimant as set forth in this Settlement Agreement. Opt-In Plaintiffs and Class Members must timely return a valid Claim Form to receive a Settlement Payment (“Claimants”). Opt-In Plaintiffs or Class Members who do not timely submit a valid Claim Form, or Class Members who timely submit a valid Request for Exclusion, shall not receive a Settlement Payment. By submitting a Claim Form, a Class Member shall be deemed to have opted-in to the Action for purposes of the FLSA.

5. **Release Of Claims**

a. **The Named Plaintiffs And Service Award Recipients General Releases**

In exchange for their Service Payments, the Named Plaintiffs and Service Award Recipients (“Service Award Recipients”) shall sign the general release and waiver of claims attached to this Settlement Agreement as Exhibit B. The Service Award Recipients agree to

release and forever discharge all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted against the Defendant, including its divisions, subsidiaries, affiliates, sibling entities, investors, predecessors, and successors, and each of their current and former owners, stockholders, directors, officers, members, fiduciaries, employees, attorneys, representatives, and agents (the “Released Parties”), whether in tort, contract, or for violation of any state or federal statute, rule, or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any of the Released Parties committed or omitted prior to the execution hereof with the sole exception of any claims which cannot be released as a matter of law (the “General Release”). The General Release includes any unknown claims the Service Award Recipients do not know or suspect to exist in their favor at the time of the General Release, which, if known by them, might have affected their settlement with, and release of, the Released Parties by the Service Award Recipients, or might have affected their decision not to object to this Settlement or the General Release. In exchange for providing this General Release, the Settlement Administrator shall pay the Service Award Recipients their Service Award and their Settlement Payments from the Qualified Settlement Fund (“QSF”). The Settlement Administrator shall provide Defendant’s counsel with copies of General Releases consistent with the terms of this Paragraph executed by the Service Award Recipients within three (3) days after their execution.

b. Release For Opt-In Plaintiffs

Upon the Effective Date, Opt-In Plaintiffs, on behalf of themselves and their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have fully and finally released and discharged Defendant, its divisions, subsidiaries, affiliates, sibling entities, investors, predecessors, and successors, and each of their current and former owners, stockholders, directors, officers, members, fiduciaries, employees, attorneys, representatives, and

agents (the “Released Parties”) from any and all claims that were or could have been asserted in the *Durling* litigation that are based on or arise out of the facts alleged in any version of the complaints filed in the *Durling* litigation, including without limitation any claims under the Fair Labor Standards Act, including, but not limited to any claims for alleged failure to maintain required business records related to employees’ vehicle expenses or vehicle expense reimbursements, failure to reimburse vehicle expenses, pay minimum wage or overtime wages, unlawful deductions, unlawful withholdings, wage notice violations, wage statement violations, failure to pay all wages due upon termination of employment, or tip misappropriation, and any claim for liquidated or multiple damages, penalties, restitution, interest, attorneys’ fees or costs, declaratory relief, equitable relief, or injunctive relief for any such claims during the time period of the Opt-In Plaintiff Relevant Period through the Effective Date of the Agreement (collectively, the “Opt-In Plaintiffs’ Released Claims”). Nothing in this provision releases any claims that cannot be released as a matter of law, but this paragraph will be given the broadest possible interpretation allowable by law. Opt-In Plaintiffs forever shall be barred from accepting, joining, or instituting any suit, class action, collective action, administrative claim, or other claim of any sort or nature whatsoever against the Released Parties, for the time periods specified herein, concerning, related to, or arising from any of the Opt-In Plaintiffs’ Released Claims.

c. Release For Class Members

Upon the Effective Date, Class Members who do not opt out of the Agreement by filing a timely and valid Request for Exclusion, on behalf of themselves and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have fully and finally released and discharged Defendant and the Released Parties from any and all suits, actions, causes of action, claims, or demands for unpaid wages (including overtime wages), damages, reimbursements, unpaid advances, civil and/or statutory penalties, liquidated damages, punitive

damages, multiple damages, interest, attorneys' fees, litigation costs, restitution, and/or equitable relief for any and all claims that were or could have been asserted in the *Hubbard* litigation that are based on or arise out of the facts alleged in any version of the complaints filed in the *Hubbard* litigation, including without limitation, any claims for alleged failure to maintain required business records related to employees' vehicle expenses or vehicle expense reimbursements, failure to reimburse vehicle expenses, pay minimum wage or overtime wages, unlawful deductions, unlawful withholdings, wage notice violations, wage statement violations, failure to pay all wages due upon termination of employment, or tip misappropriation, any claim for liquidated or multiple damages, penalties, restitution, interest, attorneys' fees or costs, declaratory relief, equitable relief, or injunctive relief for any such claims, under the laws of the states of Colorado, Illinois, Florida, Kentucky, Missouri, Minnesota, and Maryland (to the extent you worked for Defendants in those states) during the time period of the Class Member Relevant Period through the Effective Date of the Agreement ("Class Members' Released Claims").

Nothing in this provision releases any claims that cannot be released as a matter of law, but this paragraph will be given the broadest possible interpretation allowable by law. On Final Approval, and notwithstanding the execution or non-execution of releases, all Class Members who have not timely submitted a valid Request for Exclusion shall be deemed to have, and by operation of the Final Approval Order, shall have, fully, finally, and forever settled and released any and all of the Class Members' Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, without regard to the subsequent discovery or existence of such different or additional facts. Class Members who have not timely submitted a valid Request for Exclusion, forever shall be barred from accepting, joining, or instituting any suit, class action, collective action, administrative

claim, or other claim of any sort or nature whatsoever against the Released Parties, for the time periods specified herein, concerning, related to, or arising from any of the Class Members' Released Claims.

6. **Settlement Administration**

a. The Parties select RG/2 Claims Administration to administer this Settlement ("Settlement Administrator"), provided, however, the Parties shall have the right to select or substitute a different Settlement Administrator by mutual agreement. The Settlement Administrator shall be responsible for: (i) mailing and emailing the notice documents required by this Settlement Agreement; (ii) receiving and logging-in the Claim Forms and Requests for Exclusion; (iii) running up to one skip trace on undeliverable mail; (iv) calculating the amounts allocated for Class Members and Opt-In Plaintiffs pursuant to this Agreement; (v) reporting on the status of the administration of the Settlement to the Parties and providing the Parties necessary information; (vi) conferring with Class Counsel and Defendant's counsel to resolve any issues or disputes; (vii) preparing the Report and preparing a declaration regarding its due diligence in the claims administration process; (viii) providing Defendant with copies of all executed releases; (ix) setting up, administering, and making payments from the QSF; (x) advising Defendant of amounts needed to fund the QSF; (xi) distributing Settlement Payments to Named Plaintiffs, Service Award Recipients, Opt-In Plaintiffs, and Class Members; (xii) withholding the shares of the Named Plaintiffs, Service Award Recipients, Opt-in Plaintiffs, and Class Members relative to income, payroll, and other taxes, remitting such funds to the appropriate taxing authorities, and completing any associated tax reporting and filing requirements; (xiii) performing such additional duties as the Parties may mutually direct.

b. The Administration Costs will be paid by out of the QSF, and shall include all costs, including the Settlement Administrator's fee, necessary to administer the Settlement Agreement.

c. The actions of the Settlement Administrator shall be governed by the terms of the Settlement Agreement. Class Counsel and Defendant's Counsel shall provide relevant information and guidance as needed by the Settlement Administrator in the performance of its duties, and engage in related communications with the Settlement Administrator with notice and copies to one another, as appropriate, but without notice or copies to the Opt-In Plaintiffs, Class Members, or the Court unless requested by the Court. In the event that an issue arises that the Settlement Administrator must resolve that is not specifically addressed in the Settlement Agreement or is ambiguously addressed, the Settlement Administrator shall confer with counsel for both of the Parties to resolve the question or issue.

7. Gross Settlement Amount And Qualified Settlement Fund

a. Defendant agrees to pay the gross settlement fund of Twenty Million Dollars and No Cents (\$20,000,000.00) ("the Fund"), on a claims-made basis, to fully resolve and satisfy any and all: (i) claims for attorneys' fees and costs, (ii) claims of the Named Plaintiffs, Opt-in Plaintiffs, and Class Members, (iii) Court-approved Service Payments, (iv) settlement administration costs, and (v) all applicable taxes, with any unclaimed payments to remain the property of Defendant. Defendant will not be required to pay more than the amount of the Fund under the terms of this Settlement Agreement.

b. Defendant shall fund a Qualified Settlement Fund ("QSF") with twenty-five percent (25%) of the total Settlement Amount within 30 days after preliminary approval of the Parties' Settlement by the Court.

c. Within 14 calendar days after the Effective Date, Defendant shall transfer into the QSF those portions of the Fund that are to be distributed for Service Payments approved by the Court, Settlement Payments to Claimants, attorneys' fees, and costs approved by the Court, and settlement administration costs. No funds other than those described in this Settlement Agreement shall be added to or comingled with the QSF. In no event shall the Settlement Administrator withdraw, transfer, pledge, impair, or otherwise make use of the funds in the QSF except as expressly provided in this Settlement Agreement.

d. The QSF will be an interest-bearing escrow account opened, administered, and controlled by the Settlement Administrator. The account shall be opened and administered by the Settlement Administrator as a qualified settlement fund under Section 468B of the IRC and Treas. Reg. § 1.468B-1 *et seq.* While held in the QSF, the funds in the QSF shall accrue interest at the then-current rate of the interest-bearing FDIC insured checking account. The Settlement Administrator shall be the "administrator" of the QSF within the meaning of Treas. Reg. § 1.468B-2(k)(3). Defendant shall be the "transferor" with respect to the QSF within the meaning of Treas. Reg. § 1.468B-1(d)(1). The Settlement Administrator shall provide to Defendant a properly completed and duly executed IRS Form W-9 of the QSF prior to the deposit of the Gross Settlement Amount to the QSF. The Settlement Administrator shall cooperate as requested by Defendant in the making of any election with respect to the QSF, including a "relation-back election" pursuant to Treas. Reg. § 1.468B-1(j). All interest accruing thereon may be used to make payments required under the Settlement Agreement. Any remaining or residual money in the QSF after distribution of the payments required by this Agreement shall remain the property of Defendant.

e. With respect to the QSF, the Settlement Administrator shall: (1) satisfy all federal, state and local income and other tax reporting, return, and filing requirements with respect to the QSF; and (3) satisfy out of the QSF all: (i) taxes (including any estimated taxes, interest or penalties) with respect to the interest or other income earned by the QSF, and (ii) fees, expenses, and costs incurred in connection with the opening and administration of the QSF and the performance of its duties and function as described in this Settlement Agreement, which such fees, costs and expenses shall be treated as and included in the costs of administering the QSF.

8. **Disbursement Of The QSF**

Subject to the Court's approval, the Settlement Administrator shall use the QSF to pay the following:

- a. Court-approved Settlement Payments to the Claimants;
- b. Service Payments, as awarded by the Court, to the Named Plaintiffs, which amount shall not exceed \$5,000 for each Named Plaintiff, and shall not exceed \$45,000 in total.
- c. Service Payments, as awarded by the Court, to Service Award Recipients, which amount shall not exceed \$1,000 for each Service Award Recipient, and shall not exceed \$56,000 in total.
- d. The attorneys' fees and costs of Class Counsel, as awarded by the Court, which amount shall not exceed \$6,666,666.67 for attorneys' fees and an additional amount of not more than \$650,000 in reasonably incurred litigation expenses; and
- e. A sum to be paid to the Settlement Administrator for its expenses in administering the Settlement.

9. **Timeline Of Settlement Events**

The Parties contemplate the following timeline for settlement events. The Parties will present this Settlement Agreement to the Court for Preliminary Approval on or before November 14, 2022.

a. Within fourteen (14) calendar days after Preliminary Approval, Defendant will provide: (i) the Settlement Administrator with a class list that shall contain (to the extent known) the names, social security numbers, email addresses, and last-known mailing addresses (the “Database”) of Class Members and Opt-in Plaintiffs, and (ii) Class Counsel with a copy of the Database with the social security numbers redacted. The Settlement Administrator will keep the Database, and the information contained therein, confidential and will not use them for any purpose other than administration of this Settlement. The Settlement Administrator shall use the Class Members’ and Opt-in Plaintiffs’ names and social security numbers to locate email addresses for the Opt-In Plaintiffs and the Class Members. Class Counsel will treat the Database, and the information contained therein, as Confidential Information within the meaning of the Confidentiality Order entered by the Court on July 18, 2016. Class Counsel will provide the Settlement Administrator with any updated addresses or telephone numbers it has in its possession for Class Members and Opt-in Plaintiffs, if any, within seven (7) calendar days of Defendant’s production of the Database.

b. Within fourteen (14) calendar days after receipt of Defendant’s production of the Database, the Settlement Administrator will: (i) email a Class Notice to Class Members and a separate Opt-In Plaintiffs Notice to Opt-In Plaintiffs and a separate notice to Opt-In Plaintiffs who are also Class Members, such Notices, which shall include a link to a website where Class Members and Opt-In Plaintiffs can read the full notice of the Settlement and fill out a Claim Form; and (ii) mail a Class Notice to Class Members, a separate Opt-in Plaintiff Notice

to Opt-in Plaintiffs and a separate notice to Opt-In Plaintiffs who are also Class Members. Thirty (30) days thereafter, the Settlement Administrator will also send a Notice Reminder via email to Class Members and Opt-In Plaintiffs who have not yet returned a claim form or, in the case of Class Members, a Request for Exclusion, unless the first Notice email was not opened, in which such case the Settlement Administrator will send the Notice Reminder via U.S. mail. The Class Notice to Class Members shall state that Class Members who do not opt-out of the Settlement (by timely returning a Request for Exclusion) will release any and all claims against Defendants.

c. All claim forms, objections to the Settlement, and Requests for Exclusion from the Settlement must be postmarked within sixty (60) days from the date of the mailing of the Class Notice to Class Members (the “Claim Deadline”) in order to be considered valid, timely, and effective.

d. All claim forms must be postmarked or submitted online within sixty (60) days from the date of the mailing of the Notice to Opt-In Plaintiffs (the “Claim Deadline”) in order to be considered valid, timely, and effective.

e. Within ten (10) calendar days after the Claim Deadline, the Settlement Administrator shall provide the Parties with copies of all timely and executed claim forms. Class Counsel shall file all timely and executed claim forms with the Court.

f. No later than twenty-one (21) days following the Claim Deadline, the Settlement Administrator shall prepare and tender to Class Counsel and Defendant’s Counsel a Report containing the following information and/or documentation: (1) the name and last known address (as updated through the claims administration process) of each Claimant; (2) the name, last known address, and last known telephone number of each Class Member who submitted a valid Request for Exclusion; and (3) the percentage of Class Members who submitted timely

Requests for Exclusion. For each Claimant, the Report shall further provide: (a) the estimated gross Settlement Payment to that Claimant; (b) the amount of the Settlement Payment attributed to an expense reimbursement; and (c) the amount of the Settlement Payment attributed to interest, penalties, and non-wage recovery (the "Report").

g. No later than fourteen (14) days in advance of the Final Approval Hearing, or by such other date as the Court may direct: (1) Class Counsel shall file a Motion for Final Approval of the Settlement, as well as for an Award of Attorneys' Fees and Costs, and Service Payments by the date set by the Court; and (2) the Parties shall submit a proposed order granting final approval of the Settlement.

h. No later than seven (7) days before the Effective Date, the Settlement Administrator shall advise counsel for Defendant of the portion of the Gross Settlement Fund needed to fund the QSF to pay Service Awards, Settlement Payments to Claimants, Class Counsel's attorneys' fees and costs, and Settlement Administration Costs.

i. No later than fourteen (14) calendar days after the Effective Date, Defendant will transfer to the QSF those portions of the Fund that are needed to pay Service Awards, Settlement Payments to Claimants, Class Counsel's attorneys' fees and costs, and Settlement Administration Costs.

j. Within twenty-one (21) calendar days of the Effective Date, the Settlement Administrator shall mail: (i) to each Claimant, by first class mail to his or her last-known address reflected in the Report, a check or checks representing their net Settlement Payment listed in the Report; and (ii) Service Payment checks to Named Plaintiffs and Service Award Recipients by Federal Express or similar delivery method. The same day, the Settlement

Administrator shall wire transfer the Court-approved attorneys' fees and costs to Class Counsel to the location and account that they direct.

k. The deadline for recipients to cash checks shall be 150 days from the date the checks are issued by the Settlement Administrator.

l. Within ten (10) calendar days of the deadline for recipients to cash settlement checks, the Settlement Administrator shall provide copies of all endorsed checks to the Parties in a filing-ready format.

m. Within ten (10) calendar days of receipt of endorsed settlement checks in filing-ready format, Class Counsel shall file them with the Court.

n. Any funds remaining from uncashed settlement checks will remain the property of Defendant and shall be returned by the Settlement Administrator to Defendant.

10. **Plan For Allocation Of The Net Settlement Fund Among The Opt-In Plaintiffs And Class Members; Tax Treatment Of Settlement Awards**

a. The Claims Administrator shall allocate the amount in the Net Settlement Fund among all Opt-in Plaintiffs and Class Members pursuant to a "points" formula as follows:

- (1) All Claimants shall receive a minimum payment of \$25.00.
- (2) Opt-in Plaintiffs shall be assigned one (1.0) point for each pay period during which they worked as a delivery driver between May 13, 2013 and October 3, 2022 ("Opt-In Plaintiff Relevant Period").
- (3) Class Members shall be assigned one (1.0) point for each pay period during which they worked during the relevant statute of limitations period, as set forth in Section IV.1, and October 3, 2022 ("Class Member Relevant Period").

b. To calculate the portion of the Net Settlement Fund that shall be apportioned to each Class Member and/or Opt-in Plaintiff ("Allocated Amount"), the Claims Administrator shall: (i) multiply the minimum payment of \$25.00 by the number of Opt-In Plaintiffs and Class Members ("Minimum Payment Amount"); (ii) subtract the Minimum

Payment Amount from the Net Settlement Fund (“Net Settlement Fund After Minimum Payment”); (iii) determine the sum of the total number of points for all Opt-in Plaintiffs and/or Class Members; (iv) divide the Net Settlement Fund After Minimum Payment by the sum calculated in subsection (iii) of this Paragraph to determine the amount allocated to each point; and (v) to determine each Claimant’s Allocated Amount take the sum of (a) \$25.00 and (b) multiply the amount allocated to each point by the number of points assigned to each Class Member and/or Opt-in Plaintiff.

c. The allocated amounts for Class Members who do not submit a timely and valid claim form or who submit a timely and valid Request for Exclusion shall remain the property of Defendant.

d. The allocated amounts for Opt-In Plaintiffs who do not submit a timely and valid claim form shall remain the property of Defendant.

e. Funds from settlement checks that are not cashed within 150 days from the date the Settlement Administrator issues checks to Claimants shall remain the property of Defendant and shall be returned by the Settlement Administrator to Defendant.

f. For income and payroll tax purposes, the Parties agree that seventy-five percent (75%) of each Settlement Payment shall be treated as a reimbursement of self-paid business expenses related to the use of the Claimant’s vehicles and no taxes or payroll shall be withheld from those payments. The remaining twenty-five percent (25%) of each Settlement Payment shall be treated as statutory penalties and shall not be subject to required withholdings and deductions and shall be reported as non-wage income as required by law. The Settlement Administrator shall not withhold any taxes from the portion of each Settlement Payment treated as statutory penalties. The Settlement Administrator shall issue to each Claimant who receives

and negotiates the Settlement Payment a Form 1099. Other than the withholding and reporting requirements herein, the Claimants shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income or other taxes on payments received pursuant to this Settlement Agreement.

11. **Attorneys' Fees Award And Service Awards**

a. Class Counsel shall move the Court to award a portion of the Fund to Class Counsel as Attorneys' Fees and Litigation Expenses. The total Attorneys' Fees award shall not exceed \$6,666,666.67. The total Litigation Expenses award shall not exceed \$650,000. Defendant will not object to or contest this request by Class Counsel for Court approval of these amounts consistent with applicable law. The Court's award of a lesser amount than that requested by Class Counsel shall not nullify the Settlement.

b. No later than twenty-one (21) days following the Effective Date, the Settlement Administrator shall pay to Class Counsel, to the location and account they shall direct at that time, from the QSF the Attorneys' Fees and Litigation Expenses that are awarded by the Court.

c. Class Counsel may appeal any award of Class Counsel's Attorneys' Fees and Litigation Expenses if the sum awarded by the Court falls below the amount requested by Class Counsel, provided that the request Class Counsel makes is consistent with the provision of this Settlement Agreement. If Class Counsel elects not to appeal or if the Court of Appeals affirms the decision, only the reduced amounts will be deemed to be Class Counsel's Attorneys' Fees and Litigation Expenses for purposes of this Settlement Agreement. Any amounts not awarded for Class Counsel's Attorneys' Fees and Litigation Expenses shall be added to the Net Settlement Amount available for allocation to Settlement Participants.

d. The payment of the Attorneys' Fees and Litigation Expenses award to Class Counsel shall constitute full and final satisfaction of the obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, costs, or litigation expenses in the Lawsuit incurred by any attorney on behalf of the Named Plaintiffs, Opt-in Plaintiffs, and the Class Members, and shall relieve Defendant, the Settlement Administrator, and Defendant's Counsel of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of the Named Plaintiffs, Opt-in Plaintiffs, and the Class Members. As an inducement to Defendant to enter into this Agreement, and as a material condition thereof, the Named Plaintiffs and Class Counsel hereby irrevocably and unconditionally release, acquit, and forever discharge any claim they may have against the Released Parties for attorneys' fees or costs arising from or relating to the individuals and matters identified in this Agreement. As a further inducement to Defendant to enter into this Agreement, and as a material condition thereof, the Named Plaintiffs and Class Counsel further understand and agree that the attorneys' fee and cost payments made pursuant to this Agreement will be the full, final, and complete payment of all attorneys' fees and costs that are released, acquitted, or discharged under this Agreement. As further inducement to Defendant to enter into this Agreement, and as a material condition thereof, the Named Plaintiffs and Class Counsel warrant, represent, and covenant that they will not, nor will any of their employees, agents, or representatives of their firms, file any claims for attorneys' fees or costs, including, but not limited to, bills of costs or requests for attorneys' fees, for any fees and/or costs arising out of this matter, and the Named Plaintiffs and Class Counsel hereby irrevocably and unconditionally release, acquit, and forever discharge the Released Parties of any liability for such attorneys' fees and/or costs. Further, the Named Plaintiffs and Class Counsel represent and warrant that no

attorney, other than Class Counsel, has any attorneys' fee lien on or claim to any proceeds arising out of, by virtue of, or in connection with this matter, and that the terms of this Agreement shall fully satisfy any and all claims by any attorney arising out of or by virtue of or in connection with this matter. Nothing in this Paragraph shall preclude Plaintiffs from appealing the award of Class Counsel's fees, costs, and/or Service Awards if the sum awarded by the Court falls below the requested amount.

e. Class Counsel will apply for "Service Awards" in a total aggregate amount up to and not to exceed \$45,000 for the various Named Plaintiffs and \$56,000 for the various Service Award Recipients to be paid for their time and effort spent in depositions, conferring with Class Counsel, pursuing the Lawsuit, and in recovering wages on behalf of all Opt-in Plaintiffs and Class Members. Defendant agrees not to oppose this request consistent with applicable law. Plaintiffs will request that the \$45,000 be allocated as follows: (1) \$5,000 to the following Named Plaintiffs: Richard Sobol, Muhammed Sultan, Amanda Hubbard, Joshua Boyland, Edgar Bustamante, Milton Dearry, Aaron Nelson, Jacob Pontow, Renard Webb, and (2) \$1,000 to the following individuals:

- (1) Roberts, Latricia
- (2) Wehby, Robert David
- (3) Aicardi, Alvaro Luis
- (4) West, Cristaline Marie
- (5) Williams, Leonard Charles
- (6) Langdon, Matthew
- (7) Green, Dana Andrew
- (8) Croce, Maximilian D
- (9) Allen, Craig Leland

- (10) Kim, Jared
- (11) Wheat, Joseph Anthony
- (12) Beamon, Yolanda
- (13) Brown, Carl Allen
- (14) King, Ashlee Nannelle
- (15) Durden, Kadara Lashon
- (16) Eckert, Sandra Leann
- (17) Paderes, Andrew Manera
- (18) Wray, Robert L.
- (19) Chestnut, Shea Douglas
- (20) Foran, Brian Glenn
- (21) Emler, Christopher Jeffrey
- (22) Steinberg, Noah
- (23) Wilson, Saint DJ
- (24) Woube, Mulugeta
- (25) Stevens, Joseph L.
- (26) McKelvy, Patricia
- (27) Ascencio, Hector
- (28) Johnson, Bret
- (29) Sanchez, Pilar
- (30) Fields, Rodney Lewis
- (31) Sutton, Jennifer
- (32) Timm, Daniel Lee
- (33) Kisielewicz, Henry Boleslaw
- (34) Cunningham, Pamela E.

- (35) Brooks, Earl
- (36) Willis, Jackie
- (37) Mitchell E. Blackburn
- (38) Hendricks, Collin
- (39) Macias, Wilson F.
- (40) Shuman, Matthew
- (41) Johnson, Jared Michael
- (42) Clark, Lora Lee
- (43) Gober, James
- (44) Baugh, Malik
- (45) Nuncio, Edward F.
- (46) Canady, Shermaine Christina
- (47) Zuckerberg, Andrew
- (48) Thomason, Michael
- (49) Chihota, William
- (50) Munoz, Felipe
- (51) Graffiti, Travis
- (52) Abolzadeh, Michael
- (53) Matthews, Lisa
- (54) Saraji, Ahmed
- (55) Ditizio, Tori
- (56) Law, Ki Hang

(“Service Award Recipients”). Defendant agrees not to oppose such applications, so long as each is consistent with the provisions of this Settlement Agreement and applicable law. The Service Awards shall be paid from the Fund, in addition to the Settlement Payments, in the form of a

check, and the awards shall be subject to the Court's approval. All Service Awards shall be treated as non-wage income and shall not be subject to required withholdings and deductions and shall be reported as non-wage income on an IRS Form 1099 as required by law. Any amounts for Service Awards not awarded by the Court shall be added to the Net Settlement Amount available for distribution to all Claimants.

f. To be eligible for a Service Payment, the Named Plaintiffs and Service Award Recipients shall execute a General Release and Waiver of all claims against the Released Parties. A copy of the General Release and Waiver is attached as Exhibit B to this Settlement Agreement. Such settlement instruments must be executed for the Named Plaintiffs and Service Award Recipients to be eligible for a Service Payment.

g. The application for Service Awards is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Lawsuit. The outcome of the Court's ruling on the application for Service Payments will not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Final Approval of the Settlement.

h. No later than twenty-one (21) days following the Effective Date, the Settlement Administrator shall pay the Service Payments approved by the Court to each individual entitled to receive one. The Parties agree that the Service Payment is in addition to the Settlement Payments to which the recipients are otherwise entitled under this Settlement Agreement. The Settlement Administrator shall issue a Form 1099 to each Named Plaintiff and Service Award Recipient receiving a Service Award.

12. **Representations And Responsibilities of The Parties**

a. The Parties agree that they shall: (1) perform all duties as stated in this Settlement Agreement; (2) refrain from initiating communications with Class Members

regarding the Settlement (and Defendant will refrain from communicating with Opt-in Plaintiffs regarding the Settlement); and (3) refrain from encouraging any Class Members to exclude themselves from the settlement or object to it. In the event any Class Member communicates with the Parties regarding the Settlement, the Parties shall refer the individual to the Class Notice. In the event any Opt-in Plaintiff communicates with Defendant regarding the Settlement, Defendant shall refer the individual to the Opt-in Plaintiff Notice.

b. Pursuant to the requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, Defendant shall timely notify the appropriate governmental authorities including, but not limited to, the Attorneys General of the United States and New York. Defendant also agrees to timely provide documents and information to the appropriate governmental authorities pursuant to § 1715 (“CAFA Notice”).

c. Class Counsel represent that, to the best of their knowledge, as of the date the Settlement Agreement is executed, they do not represent any other current or former employees of Defendant (or Defendant’s affiliates) who are planning to file claims against Defendant (or Defendant’s affiliates) that are not covered by the Releases set forth herein.

13. **Notice Of Settlement**

a. Notice of the Settlement shall be provided to Class Members and Opt-In Plaintiffs only. Class Members and Opt-In Plaintiffs shall submit Claim Forms, and Class Members shall submit any objections to the Settlement, and/or any Requests for Exclusion from the Class, using the following procedures:

(1) **Notice To Class Members.** On the timetable specified in Section 9 of this Settlement Agreement, the Settlement Administrator shall send a copy of the Class Notice, attached hereto as Exhibit C, to the Class Members. The Class Notice will be mailed and emailed using the most current mailing and email address information, which the Settlement

Administrator shall obtain by running each Class Member's name and address through the National Change of Address (NCOA) database or comparable databases, along with the Claim Form and pre-paid return envelope, to Class Members via First Class regular U.S. mail. The front of the envelopes containing the Class Notice will be marked with words identifying the contents as important and/or time sensitive. The emailed Class Notice shall include a link to a website where Class Members can read the full notice of the Settlement and complete and submit a claim form. The Class Notice will include the estimated average settlement award payment. For any Class Notice returned as undeliverable, the Settlement Administrator shall promptly perform one skip trace and conduct a second mailing for any Class Member for whom the Settlement Administrator identified a forwarding or alternative address, whether through the U.S. Postal Service or through an Accurint or comparable database search. If after this second mailing, the Class Notice is again returned as undeliverable, the notice mailing process shall end for that Class Member.

(2) Thirty (30) days from the sending of the original Class Notice, the Settlement Administrator also will send a Notice Reminder to Class Members who have not yet returned claim forms or Requests for Exclusion via email unless the first Notice email was not opened, in which such case, the Settlement Administrator will send the Notice Reminder via U.S. mail.

(3) Notice To Opt-In Plaintiffs. On the timetable specified in Section 9 of this Settlement Agreement, the Settlement Administrator shall send a copy of the Opt-In Plaintiff Notice, attached hereto as Exhibit D, to Opt-In Plaintiffs via email and First Class regular U.S. mail. The Opt-In Plaintiff Notice will be emailed mailed using the most current mailing and email address information, which the Settlement Administrator shall obtain by

running each Opt-in Plaintiff's name and address through the NCOA database or comparable databases. The front of the envelopes containing the Opt-In Plaintiff Notice will be marked with words identifying the contents as important and/or time sensitive about the litigation. The emailed Opt-In Plaintiff Notice shall include a link to a website where Opt-In Plaintiffs can read the full notice of the Settlement and complete and submit a claim form. The Opt-in Plaintiff Notice will include the estimated average settlement award payment. For any Opt-in Plaintiff Notice returned as undeliverable, the Settlement Administrator shall promptly perform one skip trace by running the Opt-In Plaintiff's name and address through the NCOA database or comparable databases and conduct a second mailing for any Opt-In Plaintiff for whom the Settlement Administrator identified a forwarding or alternative address. If after this second mailing, the Opt-In Plaintiff Notice is again returned as undeliverable, the notice mailing process shall end for that Opt-In Plaintiff.

(4) Thirty (30) days from the original Opt-In Plaintiff Notice, the Settlement Administrator will also send a Notice Reminder to Opt-In Plaintiffs who have not yet returned claim forms via email unless the first Notice email was not opened, in which such case the Settlement Administrator will send the Notice Reminder via U.S. mail.

(5) Notice to Opt-In Plaintiffs Who Also Class Members. On the timetable specified in Section 9 of this Settlement Agreement, the Settlement Administrator shall send a copy of the Class and Collective Action Notice, attached hereto as Exhibit E, to Opt-In Plaintiffs who are also members of the Class. The Notice Plan with respect to the Class and

Collective Action Notice shall be the same as the Notice Plan set forth in Sections IV.13.a.(1)-(4).

(6) Updated Contact Information

The Class Notice and Opt-In Plaintiff Notice will inform Class Members and Opt-In Plaintiffs to contact the Settlement Administrator to provide any update to their mailing addresses. Class Counsel will forward any updated contact information it receives from Class Members and Opt-In Plaintiffs to the Settlement Administrator. The Settlement Administrator will update the Database with any updated contact information it receives from Class Counsel, Class Members, or Opt-In Plaintiffs.

14. **Procedure For Returning Claim Form, Objecting To, Or Requesting Exclusion From The Class Action Settlement**

a. Procedure For Returning Claim Form. The Class Notice and Opt-In Plaintiff Notice shall include a Claim Form that a Class Member or Opt-In Plaintiff must execute and timely return in order to receive a Settlement Payment. Claim Forms may be submitted electronically or by hardcopy. Claim Forms must be postmarked or otherwise returned no later than sixty (60) days after the date the Class Notice or Opt-In Plaintiff Notice is first mailed (the “Claim Deadline”). Class Members or Opt-In Plaintiffs who fail to timely return an executed Claim Form will not receive a Settlement Payment.

b. The date of submission of a Claim Form to the Settlement Administrator is deemed to be the earlier of: (a) the date the Claim Form is deposited in the U.S. Mail, postage pre-paid, as evidenced by the postmark; (b) the date the Claim Form is tendered for delivery to a private courier service, as indicated by a shipping envelope; or (c) the date of receipt by the Settlement Administrator of the Claim Form. The Settlement Administrator shall review each Claim Form to determine its timeliness and completeness and to verify its execution. In the event

a Claim Form is timely but is not complete or executed, the Settlement Administrator shall immediately notify the Class Member or Opt-In Plaintiff, via first class U.S. mail, about the deficiency. The Class Member or Opt-In Plaintiff must cure the deficiency by submitting a complete and executed Claim Form before the Claim Deadline. Any Class Member or Opt-In Plaintiff who fails to return a complete and executed Claim Form before the Claim Deadline will not be eligible to receive a Settlement Payment.

c. Procedure For Objecting. The Class Notice shall provide that Class Members who wish to object to the Settlement must mail a written statement objecting to the Settlement to the Clerk of the Court and the Settlement Administrator. Such written statement must be postmarked by the Claim Deadline. No Class Member shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) or to object to the Settlement, and no written objections or briefs submitted by any Class Member shall be received or considered by the Court at the Final Approval Hearing, unless written notice of the Class Member's intention to appear at the Final Approval Hearing (if such Class Member does intend to appear either personally or through counsel), and/or copies of any written objections or briefs, have been mailed to the Clerk of the Court and the Settlement Administrator on or before the Claim Deadline. Any objection to the Settlement must be in writing, and must include at least the following: (1) the words "I object to the Papa John's delivery driver settlement"; (2) a statement of the objections being asserted and a description of each objection; (3) if the objector intends to appear at the Fairness Hearing, the words "I intend to appear at the Fairness Hearing"; (4) a list of any witnesses who may be called to testify at the Final Approval Hearing, whether in person, by deposition, or affidavit; and (5) a list of any exhibits, and copies of the same, that the objector may offer at the Final Approval Hearing. Written objections also must state the case name, the

Class Member's full name and address, and the calendar year or years during which the Class Member performed work for Defendant as a delivery driver. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether an objection to the Settlement has been timely submitted. No later than ten (10) days after the Claim Deadline, the Settlement Administrator shall furnish to Class Counsel and Defendant's Counsel copies of any objections received from Class Members. Class Members who fail to submit timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. A Class Member who submits a timely Request for Exclusion may not object to the Settlement.

d. Procedure For Requesting Exclusion. The Class Notice shall provide that Class Members who wish to exclude themselves from the Class must submit a written statement requesting exclusion from the Class on or before the Claim Deadline (a "Request for Exclusion"). The Request for Exclusion must state: "I exclude myself from the Papa John's delivery driver settlement. I affirm that I was an employee of Papa John's." The Request for Exclusion must include the Class Member's full name, address, telephone number, the last four digits of the Social Security number the Class Member used when working for Defendant, and the Request for Exclusion must be signed by the Class Member. All Requests for Exclusion must be received by the Settlement Administrator by the Claim Deadline. Any Class Member who submits a timely and valid Request for Exclusion will not: (i) be entitled to any recovery under the Settlement; (ii) be bound by the Settlement or any orders or judgments entered in this Lawsuit; or (iii) be entitled to or have any right to object, appeal or comment, or challenge any order of the Court.

Upon receipt of a Request for Exclusion, the Settlement Administrator shall date-stamp the original and promptly notify and send a copy of the Request for Exclusion to both Defendant's Counsel and Class Counsel. If a fully completed and properly executed request for exclusion is not received by the Settlement Administrator by the Claims Deadline, then that Class Member will be deemed to have forever waived his or her right to opt out of the Settlement Class. If a Class Member submits both a timely Claim Form and a timely Request for Exclusion, whichever document was mailed later will govern, and if both documents were mailed simultaneously, or the sequence of mailings cannot be determined, then the Claim Form shall govern. Any Class Member who fails to Opt Out of the Settlement Class by filing a timely Request for Exclusion shall be bound by the terms of this Settlement.

15. **No Solicitation Of Settlement Objections Or Exclusions**

The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement or Requests for Exclusion from the Class, or appeal from the Court's Final Judgment.

16. **Procedure For Class Members Who Return Claims Forms To Opt-In To The FLSA Claims Process**

All Class Members who return a Claim Form shall give their consent in writing to become a party plaintiff in the FLSA collective action claims asserted in the lawsuit, in accordance with 29 U.S.C. § 216(b), for purposes of this Settlement. The Class Notice shall provide that Class Members who timely return a Claim Form thereby consent in writing to become a party plaintiff in this action pursuant to 29 U.S.C. § 216(b) and release all claims asserted in the Second Amended Complaint under the FLSA, including but not limited to any claims for alleged failure to pay minimum wages or overtime. Within 10 days of the Claim

Deadline, the Settlement Administrator shall provide the Parties the returned Claim Forms. Plaintiffs will file the timely returned claim forms with the Court. The Parties agree that this procedure satisfies the requirements of 29 U.S.C. § 216(b) for Class Members to join the FLSA claims in this Lawsuit for purposes of this Settlement.

17. **Final Settlement Approval Hearing And Entry Of Final Judgment**

a. Within the time period set by the Court, Class Counsel will file a motion seeking approval of the agreed-upon award of attorneys' fees and costs relating to their representation of the Named Plaintiffs, Opt-in Plaintiffs, and Class Members. Defendant will not oppose Class Counsel's application so long as it is consistent with the provisions of this Settlement Agreement and applicable law.

b. Within the time period set by the Court, Class Counsel shall file with the Court: (a) a mutually agreed upon motion for Final Approval of the Settlement; (b) a copy of the Settlement Administrator's Declaration; and (c) a mutually agreed upon proposed order granting final approval of the Settlement.

c. In the proposed order granting final approval, and at the Final Approval Hearing, the Parties will request that the Court, among other things, enter a Final Approval Order and Final Judgment that:

- (1) states that there is a *bona fide* legal dispute between the Parties as to whether the Named Plaintiffs, Class Members and Opt-in Plaintiffs were properly compensated;
- (2) approves the Settlement Agreement and adjudicates the terms thereof to be a final, fair, reasonable, adequate, and binding resolution of all claims as set forth in this Agreement by all of the Named Plaintiffs, Opt-in Plaintiffs, and Class Members who have not timely opted out;
- (3) approves the Settlement Agreement as final, fair, reasonable, adequate, and binding, and directs consummation of its terms and provisions;

- (4) provides that all Class Members who timely returned completed claim forms irrevocably consent to join and opt-in to the FLSA collective action in this Lawsuit for purposes of this Settlement;
- (5) dismisses the Lawsuit with prejudice and permanently bars and enjoins all Class Members who have not submitted a timely Request for Exclusion from filing or prosecuting against Released Parties any individual or class or collective claims action released herein, no earlier than ten (10) days after the date Class Counsel files endorsed settlement checks; and
- (6) retains jurisdiction in connection with the Settlement.

d. Only counsel for the Parties and counsel for Class Members who have filed timely objections to the Settlement Agreement may participate in the Final Approval Hearing.

e. If the Court enters an Order denying Final Approval, enters a Final Approval Order that is not materially consistent with this Agreement, or if the Final Approval Order is set aside by appeal, the Parties will meet and confer regarding whether the parties will jointly: (i) seek reconsideration or appellate review of the relevant Order; (ii) attempt to renegotiate the settlement and seek Court approval of the renegotiated settlement; or (iii) do neither. If any reconsideration and/or appellate review is denied, or a mutually agreed-upon settlement is not approved, the Lawsuit will proceed as if the parties had never reached a settlement or sought the Court's approval.

18. **Undistributed Settlement Awards**

a. A Class Member or Opt-In Plaintiff who does not timely return a completed and valid Claim Form, or a Class Member who excludes himself or herself from this Settlement by returning a Request for Exclusion, will not be a Claimant and will not receive any Settlement Payment.

b. Claimants will have 150 days after the issuance of the checks by the Settlement Administrator to cash their checks. The Settlement Administrator will issue checks which on their face are not valid more than 150 days after their date of issuance. If any Claimant's settlement check is not cashed within that 150-day period, the check will be void. In such event, any Claimant whose check was not cashed will be deemed to have waived irrevocably any right or claim to his or her payment from the Fund, but the Settlement nevertheless will be binding upon the Claimant.

c. If a Claimant's check remains uncashed after the 150-day period, the amount of such settlement checks shall remain the property of Defendant and shall be returned by the Settlement Administrator to Defendant.

19. **Defendant's Legal Fees And Settlement Administration Costs**

All of Defendant's own legal fees, costs and expenses incurred in this Lawsuit shall be borne by Defendant. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement.

20. **Severability**

Should any provision of the Settlement Agreement be determined by the Court to be illegal, invalid, unenforceable, or fail to gain approval for any reason, the Parties shall negotiate in good faith (including involving retired Judge Andersen if necessary) in an effort to modify the Settlement by substituting a new provision for the provision that the Court declined to approve that is as close as possible to the original provision and is acceptable to the Court. If the Parties are unable to negotiate the replacement provision, the Parties will retain a neutral arbitrator to determine the terms or wording of any replacement provision. If the Parties, with the assistance of a neutral arbitrator, are unable to craft a provision that is acceptable to the Court, then

whichever Party is negatively affected by the Court's determination shall have the option to declare this Settlement null and void and the Parties shall return to litigation with neither side prejudiced by the attempted Settlement. Plaintiffs may not enact this clause on the sole basis that the Court determines that attorneys' fees or incentive awards should be lower than as agreed by the Parties.

21. **Voiding The Agreement**

If this Settlement Agreement is not ultimately approved by the Court, the Settlement shall be deemed null and void, of no force and effect, of no probative value, and the Parties hereto represent, warrant, and covenant that it will not be used or referred to for any impermissible purpose. The Parties agree that if more than 5% of the Class Members exercise their right to opt-out of the class, Defendant will have the unilateral right to declare the settlement void in its entirety upon written notice to Class Counsel.

Prior to the Effective Date, should any material provision of the Settlement Agreement be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, or fail to gain approval for any reason, Defendant shall, in its sole discretion, have the option to declare the Settlement void in its entirety upon notice to Class Counsel within twenty-one (21) days of such determination.

22. **Settlement Bar**

The Settlement Agreement is contingent upon the Court entering a settlement bar order that prohibits any Class Member who does not opt-out of the class or Opt-In Plaintiff from bringing any claim released pursuant to Section 5 of this Agreement.

23. **Certification Of Distribution Of Settlement Checks**

The Settlement Administrator shall provide Class Counsel and counsel for Defendant with an accounting of the proceeds disbursed.

24. **No Effect On Employee Benefits**

The Settlement Awards and Service Awards shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, 401(k) plans, retirement plans, etc.) of the Named Plaintiffs, Opt-In Plaintiffs, and Class Members. The Parties agree that any Settlement Awards and Service Awards paid to the Named Plaintiffs, Opt-In Plaintiffs, and Class Members under the terms of this Settlement Agreement do not represent any modification of their previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Settlement Awards and Service Awards paid to former employees hereunder shall not be considered “compensation” in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

25. **Amendment Or Modification**

This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors in interest. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties and approved by the Court.

26. **Entire Agreement**

This Settlement Agreement and any Exhibits constitute the entire agreement among these Parties relating to any and all matters addressed in the Settlement Agreement, and all prior or contemporaneous negotiations, agreements, understandings, representations, and statements, whether oral or written and whether by one of the Parties or such Parties’ legal counsel, including the terms of the Memorandum of Understanding of All-Inclusive Settlement executed

by the Parties, shall be deemed merged into this Settlement Agreement. No rights hereunder may be waived or modified except in a writing signed by all Parties and approved by the Court.

27. **Authorization To Enter Into Settlement Agreement**

Counsel for all Parties warrant and represent they are expressly authorized by the Parties who they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

28. **Binding On Successors And Assigns**

This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto.

29. **No Prior Assignments**

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

30. **Kentucky Law Governs**

All terms of this Settlement Agreement and the Exhibits hereto shall be governed by and interpreted according to the laws of the Commonwealth of Kentucky.

31. **Counterparts**

This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Electronic signatures and signatures transmitted by fax or .pdf shall have the same effect as an original ink signature.

32. **This Settlement Is Fair, Adequate, And Reasonable**

The Parties warrant and represent they have conducted a thorough investigation of the facts and allegations in the Lawsuit. The Parties further represent and warrant that they believe this Settlement Agreement represents a fair, adequate, and reasonable Settlement of this action and that they have arrived at this Settlement Agreement through extensive arms-length negotiations, taking into account all relevant factors, present and potential.

33. **Retention Of Jurisdiction**

The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Settlement, and all Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the terms of this Settlement Agreement. Any claim concerning enforcement of the Settlement Agreement, or the subject matter hereof after execution, will be resolved solely and exclusively by the U.S. District Court for the Southern District of New York.

34. **Cooperation And Drafting**

Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction made to this Settlement Agreement, the Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her, or its counsel participated in the drafting of this Settlement.

The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and taking

such other action as reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and cooperation of the Defendant and its counsel, take all necessary steps to secure the Court's final approval of this Settlement.

Should the Court not enter the Preliminary Approval Order, not approve the Settlement Agreement, or if Defendant declares the Settlement Agreement null and void pursuant to Section 20 or 21 of the Settlement Agreement, the terms of this Settlement Agreement will be null and void, the Parties will retain all rights and defenses in the Lawsuit, and all negotiations and information and materials pertaining in any way to this Agreement or the settlement of the Lawsuit, unless otherwise produced during the course of the Lawsuit, will be inadmissible

35. **Invalidity Of Any Provision**

Before declaring any provision of this Settlement Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

36. **Circular 230 Disclaimer**

Each Party to this Settlement Agreement acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers regarding this Settlement Agreement, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) each Party (A) has relied exclusively upon his, her or its own,

independent legal and tax advisers for advice (including tax advice) in connection with this Settlement Agreement, (B) has not entered into this Settlement Agreement based upon the recommendation of any Party or any attorney or advisor to any other Party, and (C) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other Party to avoid any tax penalty that may be imposed on that Party; and (3) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

37. **Publicity**

The Parties will agree that prior to the public court docket filing of the motion for preliminary settlement approval, they will keep all terms of the settlement confidential; provided however, that Defendant may publicly disclose the Settlement and its terms as required by law (e.g., SEC filings). If Class Counsel receives any third-party inquiries prior to the filing of the motion for settlement approval, Class Counsel will give prompt notification of any such inquiries or media contacts to Defendant's Counsel. In addition, and separate from disclosures by Defendant as may be required by law, the Parties will agree on a joint media statement to be used to respond to any third-party inquiries about the settlement upon or after the filing of the motion to approve the Settlement and on the day of the appropriate forum's ultimate approval of the Settlement or thereafter. Class Counsel also agree that they will not make any non-privileged statements or post it on their websites or in social media postings other than the agreed upon joint media statement. Nothing shall bar Class Counsel from communicating about the Settlement with their clients or in Court filings or disclosing the fact of their representation of their clients in this matter.

38. **Notice To The Parties**


Unless otherwise stated herein, any notice to the Parties required or provided for under this Settlement Agreement will be in writing and may be sent by electronic mail, hand delivery, or U.S. mail, postage prepaid, as follows:

If to Class Counsel:
Jeremiah Frei-Pearson
Email: jfrei-pearson@fbfglaw.com
Finkelstein, Blankinship,
Frei-Pearson & Garber, LLP
1 North Broadway, Suite 900
White Plains, New York 10601

If to Defendant's Counsel:
Gerald L. Maatman, Jr.
E-mail: gmaatman@duanemorris.com
Duane Morris LLP
190 South LaSalle Street, Suite 3700
Chicago, Illinois 60603-3433

DATED: 12-15, 2022

Named Plaintiffs, Opt-in Plaintiffs, and Class Members

By: 
Jeremiah Frei-Pearson
FINKELSTEIN, BLANKINSHIP,
FREI-PEARSON & GARBER, LLP
1 North Broadway, Suite 900
White Plains, New York 10601
Tel: (914) 298-3281
Fax: (914) 824-1561
jfrei-pearson@fbfglaw.com
Counsel for Plaintiffs, the Class, and the Collective

DATED: Dec-14-2022, 2022

Papa John's International, Inc.

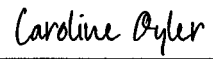
By: 
Its: Chief Legal & Risk Officer and Corporate Secretary

EXHIBIT 2

Redline of Settlement Agreement

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X

WILLIAM DURLING, MICHAEL MORRIS,	:
JAMES MORTON, JR., RICHARD SOBOL,	:
MUHAMMAD SULTAN and TOM WOLFF	:
for themselves and all others similarly situated,	:
	:
Plaintiff,	:
	:
- against -	:
	:
PAPA JOHN’S INTERNATIONAL, INC.,	:
	:
Defendant.	:
-----	X
-	

Case No. 7:16-CV-03592
Class/Collective Action

**AMENDED AND RESTATED CLASS AND COLLECTIVE ACTION
SETTLEMENT AGREEMENT**

This [Amended and Restated](#) Class and Collective Action Settlement Agreement (“Settlement” or “Settlement Agreement”) is made by Richard Sobol and Muhammed Sultan (“*Durling* Named Plaintiffs”), Amanda Hubbard, Joshua Boyland, Edgar Bustamante, Milton Dearry, Aaron Nelson, Jacob Pontow, Renard Webb (“*Hubbard* Named Plaintiffs”) (collectively together *Durling* Named Plaintiffs and *Hubbard* Named Plaintiffs, “Named Plaintiffs”), on behalf of themselves and Opt-in Plaintiffs and Class Members (as defined in Section III), and Defendant Papa John’s International, Inc. (“Defendant”) (Named Plaintiffs, Opt-in Plaintiffs, Class Members, and Defendant are, collectively, referred to as the “Parties”), subject to Court approval, to settle the litigation entitled *Durling, William, et al. v. Papa John’s International, Inc.*, No. 16 Civ. 3592 (S.D.N.Y.) (“*Durling*”), and its companion case, *Hubbard, et al. v. Papa*

John's International, Inc., No. 19-CV-00022 (W.D. Ky.) ("*Hubbard*") (collectively together *Durling* and *Hubbard*, the "Lawsuit") on the terms in this Settlement Agreement.

I. Recitals

1. These Recitals are an integral part of this Agreement.
2. On May 13, 2016, Plaintiffs William Durling, Chris Bellaspica, Michael Morris, James Morton, Jr., and Tom Wolff filed a Complaint in the U.S. District Court for the Southern District of New York against Defendant asserting claims under the Fair Labor Standards Act on behalf of a putative members of a potential collective action and claims under the New York Labor Law, N.Y. Lab. Law, Art. 19 § 650 et seq., ("NYLL"), the Pennsylvania Minimum Wage Act of 1968, 43 P.S. §§ 333.101, et seq. ("PMWA"), the New Jersey Wage and Hour Law, N.J.S.A. 34:11-6a, et seq. ("NJWHL") and the Delaware Minimum Wage Act, 19 Del. C. § 901 et seq. ("DMWA"), on behalf of a putative class actions under Rule 23 of the Federal Rules of Civil Procedure.
3. PJPA, LLC ("PJPA"), a Papa John's franchisee, employed Plaintiffs Bellaspica, Wolff, and Morris (the "PJPA Plaintiffs"). This settlement does not involve the PJPA Plaintiffs, or opt-in plaintiffs who were employed by PJPA or other Papa John's franchisees (including Plaintiff Durling).
4. On March 29, 2017, and again on March 1, 2018, the Court denied conditional certification of a proposed nationwide collective action that would have included ~~employees~~[delivery drivers](#) who worked at Papa John's franchisees. (March 29, 2017 Minute Entry; March 1, 2018 Minute Entry.)
5. On July 20, 2018, the Court granted conditional certification of a nationwide collective action involving current or former delivery drivers of corporate-owned Papa John's

Stores and jointly owned Papa John's Stores where Defendant (or a subsidiary of Defendant) is the majority owner who are reimbursed on a per-delivery basis. (July 20, 2018 Minute Entry.)

Approximately 9,276 Opt-In Plaintiffs joined the lawsuit.

6. On April 18, 2018, Plaintiffs filed a Motion for Leave to File Consolidated Class / Collective Action Complaint, which the Court granted in part, insofar as it pertained to adding Muhammed Sultan as a named plaintiff and denied in part with respect to adding Boyland, Nelson, and Tourville as named plaintiffs. (April 18, 2018 Minute Entry.) In addition, Plaintiff Chris Bellaspica was removed as a named Plaintiff.

7. On February 12, 2019, Plaintiffs Amanda Hubbard, Joshua Boyland, Edgar Bustamante, Milton Dearry, Aaron Nelson, Jacob Pontow, and Renard Webb filed *Hubbard, et al. v. Papa John's International Inc., No. 19-CV-00022* in the U.S. District Court for the Western District of Kentucky on behalf of seven Rule 23 putative classes. That litigation has been stayed pending the outcome of the *Durling* litigation.

8. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the claims alleged by Plaintiffs and denies that litigation of the Lawsuit on a class or collective-wide basis is appropriate. Specifically, Defendant denies that it maintained any pay or employment practices that failed to comply with the FLSA or the state laws at issue in *Hubbard*, denies that it otherwise violated any federal or state law, and denies that the facts justify class, collective, or representative-wide treatment under the governing legal standards.

9. The Parties now desire to settle, fully and finally, all claims that Plaintiffs asserted in any iteration of the Second Amended Complaint in *Durling*, or the Complaint in *Hubbard*, or that could have asserted based on the facts alleged in the Amended Complaint in *Durling* or the Complaint in *Hubbard* on the terms set forth in this Settlement Agreement.

10. The Named Plaintiffs and their Counsel believe that it is in the best interests of the Opt-In Plaintiffs in *Durling* and the Class Members in *Hubbard* to resolve this matter at this time and that this Settlement represents a fair, adequate, and reasonable resolution that avoids the expense, delay, diversion, and risk of protracted and complex litigation.

11. If the Settlement Agreement does not become final for any reason, nothing from the settlement process, including documents created or shared as part of the settlement process or settlement administration, but not including any documents or information that otherwise was produced in the Lawsuit, shall be admissible evidence in the Lawsuit or used in any way contrary to the interests of the Named Plaintiffs, Class Members, Opt-In Plaintiffs, or Defendant.

12. This Settlement Agreement contains all of the agreements between the Named Plaintiffs, Plaintiffs' Counsel, Defendant, and Defendant's Counsel relating to this settlement of the Lawsuit [and supersedes the Class and Collective Action Settlement Agreement entered into by the Parties on November 14, 2022](#). At all times, the negotiations leading to the Settlement Agreement were adversarial, non-collusive, and arms-length.

II. No Admission Of Liability

The Parties agree that Defendant, in settling these two Lawsuits, expressly denies liability or wrongdoing of any kind associated with the claims asserted by the Named Plaintiffs, Opt-In Plaintiffs, and Class Members, and that Defendant enters into this settlement solely for purposes of avoiding the costs and disruption of ongoing litigation and to settle any and all outstanding claims in the Lawsuit. This Settlement Agreement shall not in any way be construed as an admission by Defendant that it acted wrongfully or illegally with respect to the Named Plaintiffs, Opt-in Plaintiffs, Class Members, or any other person, collectively or individually, or that those individuals have any rights whatsoever against Defendant, and Defendant specifically disclaims

any liability to or wrongful acts against the Named Plaintiffs, Opt-in Plaintiffs, and Class Members, on the part of Defendant, and its predecessors, successors, and assigns, their current and former direct and indirect parents, affiliates¹, subsidiaries, divisions, and related business entities, and their current and former officers, directors, shareholders, employees, agents, and representatives. The Parties agree that none of them has prevailed on the merits, nor shall this Settlement Agreement serve or be construed as evidence that any Party has so prevailed. This Settlement Agreement is a settlement document and shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce its terms.

III. Individuals Covered By This Settlement

This Settlement Agreement applies to all Named Plaintiffs, Opt-in Plaintiffs, and Class Members. “Opt-in Plaintiffs” are defined as all individuals who filed Consent to Join opt-in forms in *Durling* and all individuals who opt into this settlement agreement after receiving notice. “Class Members,” for the purposes of settlement only, are defined as all individuals who were employed [as a delivery driver](#) at a Papa John’s corporate or joint venture restaurant in: (1) Kentucky at any time between February 12, 2014 and October 3, 2022; (2) Colorado at any time between February 12, 2016 and October 3, 2022; (3) Missouri at any time between February 12, 2014 and October 3, 2022; (4) Florida at any time between February 12, 2014 and October 3, 2022; (5) Maryland at any time between February 12, 2016 and October 3, 2022; (6) Minnesota at any time between February 12, 2013 and October 3, 2022; and (7) Illinois at any time between February 12, 2009 and October 3, 2022. The Parties agree that the U.S. District Court for the Southern District of New York has jurisdiction over all Rule 23 Sub-Class Members for settlement purposes only.

¹ For purposes of this Settlement Agreement, the term “affiliate” shall not include Papa John’s branded franchises in which Papa John’s International Inc. is not a majority owner.

IV. Settlement Terms

1. Certification Of The Settlement Class For Settlement Purposes Only

The Parties agree that the Class shall be certified for settlement purposes only. The Class consists of individuals employed [as delivery drivers](#) at a Papa John's corporate or joint venture restaurant during the following specified dates in the following specified locations:

a. Colorado at any time between February 12, 2016 and October 3, 2022 represented by proposed class representative Aaron Nelson;

b. Florida at any time between February 12, 2014 and October 3, 2022 represented by proposed class representative Edgar Bustamante;

c. Illinois at any time between February 12, 2009 and October 3, 2022 represented by proposed class representative Jacob Pontow;

d. Kentucky at any time between February 12, 2014 and October 3, 2022, represented by proposed class representatives Richard Sobol and Amanda Hubbard;

e. Maryland at any time between February 12, 2016 and October 3, 2022, represented by proposed class representative Milton Dearry;

f. Minnesota at any time between February 12, 2013 and October 3, 2022, represented by proposed class representative Reynard Webb; and

g. Missouri at any time between February 12, 2014 and October 3, 2022, represented by proposed class representative Joshua Boyland.

The Settlement Agreement is contingent upon the approval and certification by the Court, for settlement purposes only, of the State Law Class under Rule 23 of the Federal Rules of Civil Procedure. If the Court does not approve any portion of the Settlement Agreement for any reason, Defendant does not waive, and instead expressly reserves, its rights to challenge the

propriety of class certification for any purpose as if this Settlement Agreement had not been submitted to the Court by the Parties.

2. **Preliminary Approval**

Promptly upon execution of this Settlement Agreement, and no later than November 14, 2022, the Named Plaintiffs shall move the Court for an order in the form of the Preliminary Approval Order attached as Exhibit A, or as may be modified by subsequent mutual agreement of the Parties in writing and approved by the Court, that, among other things:

- a. Grants preliminary approval of the Settlement Agreement, subject only to the objections of Class Members and final review by the Court;
- b. Certifies the Class for settlement purposes only, appoints Class Counsel, appoints Class Representatives, and appoints the Settlement Administrator;
- c. Approves as to form and content the “Notice of Class Action Settlement,” “Notice of Collective Action Settlement,” and the “Notice Reminder”;
- d. Approves as to form and content the proposed Claim Form;
- e. Directs the distribution of the Notice documents by email to Class Members and Opt-In Plaintiffs;
- f. Directs the distribution of the Notice Reminder to be sent thirty (30) days after the Notice documents first sent via mail and email to Class Members and Opt-In Plaintiffs who have not submitted a Claim Form or, in the case of Class Members, a Request for Exclusion by that date (the Notice Reminder will be sent via email unless the first notice email was not opened, in which such case the Notice Reminder will be sent via mail);
- g. Schedules a final hearing on the question of whether the proposed settlement, including without limitation payment of attorneys’ fees, costs, and the Service Payments, should be given final approval as fair and reasonable; and
- h. Enjoins Class Members from filing or prosecuting up to the date of entry of a Final Approval Order, or the voiding of the Settlement Agreement, any claims, suits, or administrative proceedings regarding claims released by them under the Settlement unless and until such Class Members have submitted valid and timely Requests for Exclusion with the Settlement Administrator and the Claim Deadline has elapsed.

3. **Final Approval And Effective Date**

a. As used in this Settlement Agreement, “Final Approval” means “the date by which the Court enters an order granting final approval of the Settlement and final judgment in the Lawsuit (the ‘Final Approval Order’).” Plaintiffs shall submit a proposed order agreed by the Parties for Final Approval setting forth the terms of this Settlement Agreement, by incorporation or otherwise, for approval and entry by the Court. Plaintiffs shall provide a proposed version of the Final Approval Order to Defendant and allow Defendant a reasonable opportunity to review the proposed Final Approval Order and provide feedback prior to filing the Final Approval Order with the Court.

b. This Settlement Agreement will become final and effective only upon the occurrence of all of the following events: (a) the Agreement is executed by the Parties and by Plaintiffs’ Counsel and Defendant’s Counsel; (b) the Court Orders Preliminary Approval certifying the Class for settlement purposes only, approving the Settlement under Section 16(b) of the FLSA, appointing Plaintiffs’ Counsel as Class Counsel, appointing the Class Representatives, and appointing the Settlement Administrator; (c) the Court grants preliminary approval of all material terms of the Settlement Agreement, or if the Court makes changes to or fails to approve any material term, Defendant does not exercise its right to void the Settlement; (d) the Notice is sent to the Class Members and Opt-In Plaintiffs; (e) Class Members are afforded the opportunity to file written objections to the Settlement or to exclude themselves from the Settlement by timely submission of a Request for Exclusion; (f) Defendant does not exercise the right to void the Settlement pursuant to Sections 20 or 21 of this Settlement Agreement; and (g) the Court holds the Final Approval Hearing, approves the Settlement, and enters Final Judgment.

c. The term “Effective Date” shall be the later of: (1) the date of the Court’s final approval of the Settlement, if no objections have been lodged; (2) the date that the time for

an appeal has expired without the filing of any appeal if an objection has been lodged; or (3) the date of final resolution of any appeal, writ, or challenge to the Settlement that has been lodged upholding the Settlement. If the Effective Date does not occur, the Court does not grant the Final Approval Order and Final Judgment, or this Settlement Agreement is otherwise nullified pursuant to its terms, this Settlement Agreement shall be null and void, and the agreements described herein shall be of no effect and inadmissible in this or any other action or proceeding. The Parties agree to waive all rights to appeal upon entry of Final Judgment, except that Plaintiffs may appeal the award of Class Counsel's fees, costs, and/or Service Payments if the sums awarded by the Court fall below that requested by Plaintiffs.

4. **Payments To Opt-in Plaintiffs And Class Members Who Submit Valid And Timely Claim Forms**

A Settlement Payment shall be made to each Claimant as set forth in this Settlement Agreement. Opt-In Plaintiffs and Class Members must timely return a valid Claim Form to receive a Settlement Payment ("Claimants"). Opt-In Plaintiffs or Class Members who do not timely submit a valid Claim Form, or Class Members who timely submit a valid Request for Exclusion, shall not receive a Settlement Payment. By submitting a Claim Form, a Class Member shall be deemed to have opted-in to the Action for purposes of the FLSA.

5. **Release Of Claims**

a. **The Named Plaintiffs And Service Award Recipients General Releases**

In exchange for their Service Payments, the Named Plaintiffs and Service Award Recipients ("Service Award Recipients") shall sign the general release and waiver of claims attached to this Settlement Agreement as Exhibit B. The Service Award Recipients agree to release and forever discharge all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted

against the Defendant, including its divisions, subsidiaries, affiliates, sibling entities, investors, predecessors, and successors, and each of their current and former owners, stockholders, directors, officers, members, fiduciaries, employees, attorneys, representatives, and agents (the “Released Parties”), whether in tort, contract, or for violation of any state or federal statute, rule, or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any of the Released Parties committed or omitted prior to the execution hereof with the sole exception of any claims which cannot be released as a matter of law (the “General Release”). The General Release includes any unknown claims the Service Award Recipients do not know or suspect to exist in their favor at the time of the General Release, which, if known by them, might have affected their settlement with, and release of, the Released Parties by the Service Award Recipients, or might have affected their decision not to object to this Settlement or the General Release. In exchange for providing this General Release, the Settlement Administrator shall pay the Service Award Recipients their Service Award and their Settlement Payments from the Qualified Settlement Fund (“QSF”). The Settlement Administrator shall provide Defendant’s counsel with copies of General Releases consistent with the terms of this Paragraph executed by the Service Award Recipients within three (3) days after their execution.

b. Release For Opt-In Plaintiffs

Upon the Effective Date, Opt-In Plaintiffs, on behalf of themselves and their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have fully and finally released and discharged Defendant, its divisions, subsidiaries, affiliates, sibling entities, investors, predecessors, and successors, and each of their current and former owners, stockholders, directors, officers, members, fiduciaries, employees, attorneys, representatives, and agents (the “Released Parties”) from any and all claims that were or could have been asserted in the *Durling* litigation that are based on or arise out of the facts alleged in any version of the

complaints filed in the *Durling* litigation, including without limitation any claims under the Fair Labor Standards Act, including, but not limited to any claims for alleged failure to maintain required business records related to employees' vehicle expenses or vehicle expense reimbursements, failure to reimburse vehicle expenses, pay minimum wage or overtime wages, unlawful deductions, unlawful withholdings, wage notice violations, wage statement violations, failure to pay all wages due upon termination of employment, or tip misappropriation, and any claim for liquidated or multiple damages, penalties, restitution, interest, attorneys' fees or costs, declaratory relief, equitable relief, or injunctive relief for any such claims during the time period of the Opt-In Plaintiff Relevant Period through the Effective Date of the Agreement (collectively, the "Opt-In Plaintiffs' Released Claims"). Nothing in this provision releases any claims that cannot be released as a matter of law, but this paragraph will be given the broadest possible interpretation allowable by law. Opt-In Plaintiffs forever shall be barred from accepting, joining, or instituting any suit, class action, collective action, administrative claim, or other claim of any sort or nature whatsoever against the Released Parties, for the time periods specified herein, concerning, related to, or arising from any of the Opt-In Plaintiffs' Released Claims.

c. Release For Class Members

Upon the Effective Date, Class Members who do not opt out of the Agreement by filing a timely and valid Request for Exclusion, on behalf of themselves and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have fully and finally released and discharged Defendant and the Released Parties from any and all suits, actions, causes of action, claims, or demands for unpaid wages (including overtime wages), damages, reimbursements, unpaid advances, civil and/or statutory penalties, liquidated damages, punitive damages, multiple damages, interest, attorneys' fees, litigation costs, restitution, and/or equitable relief for any and all claims that were or could have been asserted in the *Hubbard* litigation that

are based on or arise out of the facts alleged in any version of the complaints filed in the *Hubbard* litigation, including without limitation, any claims for alleged failure to maintain required business records related to employees' vehicle expenses or vehicle expense reimbursements, failure to reimburse vehicle expenses, pay minimum wage or overtime wages, unlawful deductions, unlawful withholdings, wage notice violations, wage statement violations, failure to pay all wages due upon termination of employment, or tip misappropriation, any claim for liquidated or multiple damages, penalties, restitution, interest, attorneys' fees or costs, declaratory relief, equitable relief, or injunctive relief for any such claims, under the laws of the states of Colorado, Illinois, Florida, Kentucky, Missouri, Minnesota, and Maryland (to the extent you worked for Defendants in those states) during the time period of the Class Member Relevant Period through the Effective Date of the Agreement ("Class Members' Released Claims"). Nothing in this provision releases any claims that cannot be released as a matter of law, but this paragraph will be given the broadest possible interpretation allowable by law. On Final Approval, and notwithstanding the execution or non-execution of releases, all Class Members who have not timely submitted a valid Request for Exclusion shall be deemed to have, and by operation of the Final Approval Order, shall have, fully, finally, and forever settled and released any and all of the Class Members' Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, without regard to the subsequent discovery or existence of such different or additional facts. Class Members who have not timely submitted a valid Request for Exclusion, forever shall be barred from accepting, joining, or instituting any suit, class action, collective action, administrative claim, or other claim of any sort or nature whatsoever against the Released Parties, for the time

periods specified herein, concerning, related to, or arising from any of the Class Members' Released Claims.

6. **Settlement Administration**

a. The Parties select RG/2 Claims Administration to administer this Settlement ("Settlement Administrator"), provided, however, the Parties shall have the right to select or substitute a different Settlement Administrator by mutual agreement. The Settlement Administrator shall be responsible for: (i) mailing and emailing the notice documents required by this Settlement Agreement; (ii) receiving and logging-in the Claim Forms and Requests for Exclusion; (iii) running up to one skip trace on undeliverable mail; (iv) calculating the amounts allocated for Class Members and Opt-In Plaintiffs pursuant to this Agreement; (v) reporting on the status of the administration of the Settlement to the Parties and providing the Parties necessary information; (vi) conferring with Class Counsel and Defendant's counsel to resolve any issues or disputes; (vii) preparing the Report and preparing a declaration regarding its due diligence in the claims administration process; (viii) providing Defendant with copies of all executed releases; (ix) setting up, administering, and making payments from the QSF; (x) advising Defendant of amounts needed to fund the QSF; (xi) distributing Settlement Payments to Named Plaintiffs, Service Award Recipients, Opt-In Plaintiffs, and Class Members; (xii) withholding the shares of the Named Plaintiffs, Service Award Recipients, Opt-in Plaintiffs, and Class Members relative to income, payroll, and other taxes, remitting such funds to the appropriate taxing authorities, and completing any associated tax reporting and filing requirements; (xiii) performing such additional duties as the Parties may mutually direct.

b. The Administration Costs will be paid by out of the QSF, and shall include all costs, including the Settlement Administrator's fee, necessary to administer the Settlement Agreement.

c. The actions of the Settlement Administrator shall be governed by the terms of the Settlement Agreement. Class Counsel and Defendant's Counsel shall provide relevant information and guidance as needed by the Settlement Administrator in the performance of its duties, and engage in related communications with the Settlement Administrator with notice and copies to one another, as appropriate, but without notice or copies to the Opt-In Plaintiffs, Class Members, or the Court unless requested by the Court. In the event that an issue arises that the Settlement Administrator must resolve that is not specifically addressed in the Settlement Agreement or is ambiguously addressed, the Settlement Administrator shall confer with counsel for both of the Parties to resolve the question or issue.

7. **Gross Settlement Amount And Qualified Settlement Fund**

a. Defendant agrees to pay the gross settlement fund of Twenty Million Dollars and No Cents (\$20,000,000.00) ("the Fund"), on a claims-made basis, to fully resolve and satisfy any and all: (i) claims for attorneys' fees and costs, (ii) claims of the Named Plaintiffs, Opt-in Plaintiffs, and Class Members, (iii) Court-approved Service Payments, (iv) settlement administration costs, and (v) all applicable taxes, with any unclaimed payments to remain the property of Defendant. Defendant will not be required to pay more than the amount of the Fund under the terms of this Settlement Agreement.

b. Defendant shall fund a Qualified Settlement Fund ("QSF") with twenty-five percent (25%) of the total Settlement Amount within 30 days after preliminary approval of the Parties' Settlement by the Court.

c. Within 14 calendar days after the Effective Date, Defendant shall transfer into the QSF those portions of the Fund that are to be distributed for Service Payments approved by the Court, Settlement Payments to Claimants, attorneys' fees, and costs approved by the

Court, and settlement administration costs. No funds other than those described in this Settlement Agreement shall be added to or comingled with the QSF. In no event shall the Settlement Administrator withdraw, transfer, pledge, impair, or otherwise make use of the funds in the QSF except as expressly provided in this Settlement Agreement.

d. The QSF will be an interest-bearing escrow account opened, administered, and controlled by the Settlement Administrator. The account shall be opened and administered by the Settlement Administrator as a qualified settlement fund under Section 468B of the IRC and Treas. Reg. § 1.468B-1 *et seq.* While held in the QSF, the funds in the QSF shall accrue interest at the then-current rate of the interest-bearing FDIC insured checking account. The Settlement Administrator shall be the “administrator” of the QSF within the meaning of Treas. Reg. § 1.468B-2(k)(3). Defendant shall be the “transferor” with respect to the QSF within the meaning of Treas. Reg. § 1.468B-1(d)(1). The Settlement Administrator shall provide to Defendant a properly completed and duly executed IRS Form W-9 of the QSF prior to the deposit of the Gross Settlement Amount to the QSF. The Settlement Administrator shall cooperate as requested by Defendant in the making of any election with respect to the QSF, including a “relation-back election” pursuant to Treas. Reg. § 1.468B-1(j). All interest accruing thereon may be used to make payments required under the Settlement Agreement. Any remaining or residual money in the QSF after distribution of the payments required by this Agreement shall remain the property of Defendant.

e. With respect to the QSF, the Settlement Administrator shall: (1) satisfy all federal, state and local income and other tax reporting, return, and filing requirements with respect to the QSF; and (3) satisfy out of the QSF all: (i) taxes (including any estimated taxes, interest or penalties) with respect to the interest or other income earned by the QSF, and (ii) fees,

expenses, and costs incurred in connection with the opening and administration of the QSF and the performance of its duties and function as described in this Settlement Agreement, which such fees, costs and expenses shall be treated as and included in the costs of administering the QSF.

8. **Disbursement Of The QSF**

Subject to the Court's approval, the Settlement Administrator shall use the QSF to pay the following:

- a. Court-approved Settlement Payments to the Claimants;
- b. Service Payments, as awarded by the Court, to the Named Plaintiffs,

which amount shall not exceed \$5,000 for each Named Plaintiff, and shall not exceed \$45,000 in total.

- c. Service Payments, as awarded by the Court, to Service Award Recipients,

which amount shall not exceed \$1,000 for each Service Award Recipient, and shall not exceed \$56,000 in total.

- d. The attorneys' fees and costs of Class Counsel, as awarded by the Court,

which amount shall not exceed \$6,666,666.67 for attorneys' fees and an additional amount of not more than \$650,000 in reasonably incurred litigation expenses; and

- e. A sum to be paid to the Settlement Administrator for its expenses in

administering the Settlement.

9. **Timeline Of Settlement Events**

The Parties contemplate the following timeline for settlement events. The Parties will present this Settlement Agreement to the Court for Preliminary Approval on or before November 14, 2022.

- a. Within fourteen (14) calendar days after Preliminary Approval, Defendant

will provide: (i) the Settlement Administrator with a class list that shall contain (to the extent

known) the names, social security numbers, email addresses, and last-known mailing addresses (the “Database”) of Class Members and Opt-in Plaintiffs, and (ii) Class Counsel with a copy of the Database with the social security numbers redacted. The Settlement Administrator will keep the Database, and the information contained therein, confidential and will not use them for any purpose other than administration of this Settlement. The Settlement Administrator shall use the Class Members’ and Opt-in Plaintiffs’ names and social security numbers to locate email addresses for the Opt-In Plaintiffs and the Class Members. Class Counsel will treat the Database, and the information contained therein, as Confidential Information within the meaning of the Confidentiality Order entered by the Court on July 18, 2016. Class Counsel will provide the Settlement Administrator with any updated addresses or telephone numbers it has in its possession for Class Members and Opt-in Plaintiffs, if any, within seven (7) calendar days of Defendant’s production of the Database.

b. Within fourteen (14) calendar days after receipt of Defendant’s production of the Database, the Settlement Administrator will: (i) email a Class Notice to Class Members and a separate Opt-In Plaintiffs Notice to Opt-In Plaintiffs and a separate notice to Opt-In Plaintiffs who are also Class Members, such Notices, which shall include a link to a website where Class Members and Opt-In Plaintiffs can read the full notice of the Settlement and fill out a Claim Form; and (ii) mail a Class Notice to Class Members, a separate Opt-in Plaintiff Notice to Opt-in Plaintiffs and a separate notice to Opt-In Plaintiffs who are also Class Members. Thirty (30) days thereafter, the Settlement Administrator will also send a Notice Reminder via email to Class Members and Opt-In Plaintiffs who have not yet returned a claim form or, in the case of Class Members, a Request for Exclusion, unless the first Notice email was not opened, in which such case the Settlement Administrator will send the Notice Reminder via U.S. mail. The Class

Notice to Class Members shall state that Class Members who do not opt-out of the Settlement (by timely returning a Request for Exclusion) will release any and all claims against Defendants.

c. All claim forms, objections to the Settlement, and Requests for Exclusion from the Settlement must be postmarked within sixty (60) days from the date of the mailing of the Class Notice to Class Members (the “Claim Deadline”) in order to be considered valid, timely, and effective.

d. All claim forms must be postmarked or submitted online within sixty (60) days from the date of the mailing of the Notice to Opt-In Plaintiffs (the “Claim Deadline”) in order to be considered valid, timely, and effective.

e. Within ten (10) calendar days after the Claim Deadline, the Settlement Administrator shall provide the Parties with copies of all timely and executed claim forms. Class Counsel shall file all timely and executed claim forms with the Court.

f. No later than twenty-one (21) days following the Claim Deadline, the Settlement Administrator shall prepare and tender to Class Counsel and Defendant’s Counsel a Report containing the following information and/or documentation: (1) the name and last known address (as updated through the claims administration process) of each Claimant; (2) the name, last known address, and last known telephone number of each Class Member who submitted a valid Request for Exclusion; and (3) the percentage of Class Members who submitted timely Requests for Exclusion. For each Claimant, the Report shall further provide: (a) the estimated gross Settlement Payment to that Claimant; (b) the amount of the Settlement Payment attributed to an expense reimbursement; and (c) the amount of the Settlement Payment attributed to interest, penalties, and non-wage recovery (the “Report”).

g. No later than fourteen (14) days in advance of the Final Approval Hearing, or by such other date as the Court may direct: (1) Class Counsel shall file a Motion for Final Approval of the Settlement, as well as for an Award of Attorneys' Fees and Costs, and Service Payments by the date set by the Court; and (2) the Parties shall submit a proposed order granting final approval of the Settlement.

h. No later than seven (7) days before the Effective Date, the Settlement Administrator shall advise counsel for Defendant of the portion of the Gross Settlement Fund needed to fund the QSF to pay Service Awards, Settlement Payments to Claimants, Class Counsel's attorneys' fees and costs, and Settlement Administration Costs.

i. No later than fourteen (14) calendar days after the Effective Date, Defendant will transfer to the QSF those portions of the Fund that are needed to pay Service Awards, Settlement Payments to Claimants, Class Counsel's attorneys' fees and costs, and Settlement Administration Costs.

j. Within twenty-one (21) calendar days of the Effective Date, the Settlement Administrator shall mail: (i) to each Claimant, by first class mail to his or her last-known address reflected in the Report, a check or checks representing their net Settlement Payment listed in the Report; and (ii) Service Payment checks to Named Plaintiffs and Service Award Recipients by Federal Express or similar delivery method. The same day, the Settlement Administrator shall wire transfer the Court-approved attorneys' fees and costs to Class Counsel to the location and account that they direct.

k. The deadline for recipients to cash checks shall be 150 days from the date the checks are issued by the Settlement Administrator.

l. Within ten (10) calendar days of the deadline for recipients to cash settlement checks, the Settlement Administrator shall provide copies of all endorsed checks to the Parties in a filing-ready format.

m. Within ten (10) calendar days of receipt of endorsed settlement checks in filing-ready format, Class Counsel shall file them with the Court.

n. Any funds remaining from uncashed settlement checks will remain the property of Defendant and shall be returned by the Settlement Administrator to Defendant.

10. **Plan For Allocation Of The Net Settlement Fund Among The Opt-In Plaintiffs And Class Members; Tax Treatment Of Settlement Awards**

a. The Claims Administrator shall allocate the amount in the Net Settlement Fund among all Opt-in Plaintiffs and Class Members pursuant to a “points” formula as follows:

- (1) All Claimants shall receive a minimum payment of \$25.00.
- (2) Opt-in Plaintiffs shall be assigned one (1.0) point for each pay period during which they worked as a delivery driver between May 13, 2013 and October 3, 2022 (“Opt-In Plaintiff Relevant Period”).
- (3) Class Members shall be assigned one (1.0) point for each pay period during which they worked during the relevant statute of limitations period, as set forth in Section IV.1, and October 3, 2022 (“Class Member Relevant Period”).

b. To calculate the portion of the Net Settlement Fund that shall be apportioned to each Class Member and/or Opt-in Plaintiff (“Allocated Amount”), the Claims Administrator shall: (i) multiply the minimum payment of \$25.00 by the number of Opt-In Plaintiffs and Class Members (“Minimum Payment Amount”); (ii) subtract the Minimum Payment Amount from the Net Settlement Fund (“Net Settlement Fund After Minimum Payment”); (iii) determine the sum of the total number of points for all Opt-in Plaintiffs and/or Class Members; (iv) divide the Net Settlement Fund After Minimum Payment by the sum calculated in subsection (iii) of this Paragraph to determine the amount allocated to each point;

and (v) to determine each Claimant's Allocated Amount take the sum of (a) \$25.00 and (b) multiply the amount allocated to each point by the number of points assigned to each Class Member and/or Opt-in Plaintiff.

c. The allocated amounts for Class Members who do not submit a timely and valid claim form or who submit a timely and valid Request for Exclusion shall remain the property of Defendant.

d. The allocated amounts for Opt-In Plaintiffs who do not submit a timely and valid claim form shall remain the property of Defendant.

e. Funds from settlement checks that are not cashed within 150 days from the date the Settlement Administrator issues checks to Claimants shall remain the property of Defendant and shall be returned by the Settlement Administrator to Defendant.

f. For income and payroll tax purposes, the Parties agree that seventy-five percent (75%) of each Settlement Payment shall be treated as a reimbursement of self-paid business expenses related to the use of the Claimant's vehicles and no taxes or payroll shall be withheld from those payments. The remaining twenty-five percent (25%) of each Settlement Payment shall be treated as statutory penalties and shall not be subject to required withholdings and deductions and shall be reported as non-wage income as required by law. The Settlement Administrator shall not withhold any taxes from the portion of each Settlement Payment treated as statutory penalties. The Settlement Administrator shall issue to each Claimant who receives and negotiates the Settlement Payment a Form 1099. Other than the withholding and reporting requirements herein, the Claimants shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income or other taxes on payments received pursuant to this Settlement Agreement.

11. **Attorneys' Fees Award And Service Awards**

a. Class Counsel shall move the Court to award a portion of the Fund to Class Counsel as Attorneys' Fees and Litigation Expenses. The total Attorneys' Fees award shall not exceed \$6,666,666.67. The total Litigation Expenses award shall not exceed \$650,000.

Defendant will not object to or contest this request by Class Counsel for Court approval of these amounts consistent with applicable law. The Court's award of a lesser amount than that requested by Class Counsel shall not nullify the Settlement.

b. No later than twenty-one (21) days following the Effective Date, the Settlement Administrator shall pay to Class Counsel, to the location and account they shall direct at that time, from the QSF the Attorneys' Fees and Litigation Expenses that are awarded by the Court.

c. Class Counsel may appeal any award of Class Counsel's Attorneys' Fees and Litigation Expenses if the sum awarded by the Court falls below the amount requested by Class Counsel, provided that the request Class Counsel makes is consistent with the provision of this Settlement Agreement. If Class Counsel elects not to appeal or if the Court of Appeals affirms the decision, only the reduced amounts will be deemed to be Class Counsel's Attorneys' Fees and Litigation Expenses for purposes of this Settlement Agreement. Any amounts not awarded for Class Counsel's Attorneys' Fees and Litigation Expenses shall be added to the Net Settlement Amount available for allocation to Settlement Participants.

d. The payment of the Attorneys' Fees and Litigation Expenses award to Class Counsel shall constitute full and final satisfaction of the obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, costs, or litigation expenses in the Lawsuit incurred by any attorney on behalf of the Named Plaintiffs, Opt-in Plaintiffs, and the Class Members, and shall relieve Defendant, the Settlement Administrator, and Defendant's Counsel

of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of the Named Plaintiffs, Opt-in Plaintiffs, and the Class Members. As an inducement to Defendant to enter into this Agreement, and as a material condition thereof, the Named Plaintiffs and Class Counsel hereby irrevocably and unconditionally release, acquit, and forever discharge any claim they may have against the Released Parties for attorneys' fees or costs arising from or relating to the individuals and matters identified in this Agreement. As a further inducement to Defendant to enter into this Agreement, and as a material condition thereof, the Named Plaintiffs and Class Counsel further understand and agree that the attorneys' fee and cost payments made pursuant to this Agreement will be the full, final, and complete payment of all attorneys' fees and costs that are released, acquitted, or discharged under this Agreement. As further inducement to Defendant to enter into this Agreement, and as a material condition thereof, the Named Plaintiffs and Class Counsel warrant, represent, and covenant that they will not, nor will any of their employees, agents, or representatives of their firms, file any claims for attorneys' fees or costs, including, but not limited to, bills of costs or requests for attorneys' fees, for any fees and/or costs arising out of this matter, and the Named Plaintiffs and Class Counsel hereby irrevocably and unconditionally release, acquit, and forever discharge the Released Parties of any liability for such attorneys' fees and/or costs. Further, the Named Plaintiffs and Class Counsel represent and warrant that no attorney, other than Class Counsel, has any attorneys' fee lien on or claim to any proceeds arising out of, by virtue of, or in connection with this matter, and that the terms of this Agreement shall fully satisfy any and all claims by any attorney arising out of or by virtue of or in connection with this matter. Nothing in this Paragraph shall preclude Plaintiffs from appealing

the award of Class Counsel's fees, costs, and/or Service Awards if the sum awarded by the Court falls below the requested amount.

e. Class Counsel will apply for "Service Awards" in a total aggregate amount up to and not to exceed \$45,000 for the various Named Plaintiffs and \$56,000 for the various Service Award Recipients to be paid for their time and effort spent in depositions, conferring with Class Counsel, pursuing the Lawsuit, and in recovering wages on behalf of all Opt-in Plaintiffs and Class Members. Defendant agrees not to oppose this request consistent with applicable law. Plaintiffs will request that the \$45,000 be allocated as follows: (1) \$5,000 to the following Named Plaintiffs: Richard Sobol, Muhammed Sultan, Amanda Hubbard, Joshua Boyland, Edgar Bustamante, Milton Dearry, Aaron Nelson, Jacob Pontow, Renard Webb, and (2) \$1,000 to the following individuals:

- (1) Roberts, Latricia
- (2) Wehby, Robert David
- (3) Aicardi, Alvaro Luis
- (4) West, Cristaline Marie
- (5) Williams, Leonard Charles
- (6) Langdon, Matthew
- (7) Green, Dana Andrew
- (8) Croce, Maximilian D
- (9) Allen, Craig Leland
- (10) Kim, Jared
- (11) Wheat, Joseph Anthony
- (12) Beamon, Yolanda
- (13) Brown, Carl Allen

- (14) King, Ashlee Nannelle
- (15) Durden, Kadara Lashon
- (16) Eckert, Sandra Leann
- (17) Paderes, Andrew Manera
- (18) Wray, Robert L.
- (19) Chestnut, Shea Douglas
- (20) Foran, Brian Glenn
- (21) Emler, Christopher Jeffrey
- (22) Steinberg, Noah
- (23) Wilson, Saint DJ
- (24) Woube, Mulugeta
- (25) Stevens, Joseph L.
- (26) McKelvy, Patricia
- (27) Ascencio, Hector
- (28) Johnson, Bret
- (29) Sanchez, Pilar
- (30) Fields, Rodney Lewis
- (31) Sutton, Jennifer
- (32) Timm, Daniel Lee
- (33) Kisielewicz, Henry Boleslaw
- (34) Cunningham, Pamela E.
- (35) Brooks, Earl
- (36) Willis, Jackie
- (37) Mitchell E. Blackburn
- (38) Hendricks, Collin

- (39) Macias, Wilson F.
- (40) Shuman, Matthew
- (41) Johnson, Jared Michael
- (42) Clark, Lora Lee
- (43) Gober, James
- (44) Baugh, Malik
- (45) Nuncio, Edward F.
- (46) Canady, Shermaine Christina
- (47) Zuckerberg, Andrew
- (48) Thomason, Michael
- (49) Chihota, William
- (50) Munoz, Felipe
- (51) Graffiti, Travis
- (52) Abolzadeh, Michael
- (53) Matthews, Lisa
- (54) Saraji, Ahmed
- (55) Ditizio, Tori
- (56) Law, Ki Hang

(“Service Award Recipients”). Defendant agrees not to oppose such applications, so long as each is consistent with the provisions of this Settlement Agreement and applicable law. The Service Awards shall be paid from the Fund, in addition to the Settlement Payments, in the form of a check, and the awards shall be subject to the Court’s approval. All Service Awards shall be treated as non-wage income and shall not be subject to required withholdings and deductions and shall be reported as non-wage income on an IRS Form 1099 as required by law. Any amounts for

Service Awards not awarded by the Court shall be added to the Net Settlement Amount available for distribution to all Claimants.

f. To be eligible for a Service Payment, the Named Plaintiffs and Service Award Recipients shall execute a General Release and Waiver of all claims against the Released Parties. A copy of the General Release and Waiver is attached as Exhibit B to this Settlement Agreement. Such settlement instruments must be executed for the Named Plaintiffs and Service Award Recipients to be eligible for a Service Payment.

g. The application for Service Awards is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Lawsuit. The outcome of the Court's ruling on the application for Service Payments will not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Final Approval of the Settlement.

h. No later than twenty-one (21) days following the Effective Date, the Settlement Administrator shall pay the Service Payments approved by the Court to each individual entitled to receive one. The Parties agree that the Service Payment is in addition to the Settlement Payments to which the recipients are otherwise entitled under this Settlement Agreement. The Settlement Administrator shall issue a Form 1099 to each Named Plaintiff and Service Award Recipient receiving a Service Award.

12. **Representations And Responsibilities of The Parties**

a. The Parties agree that they shall: (1) perform all duties as stated in this Settlement Agreement; (2) refrain from initiating communications with Class Members regarding the Settlement (and Defendant will refrain from communicating with Opt-in Plaintiffs regarding the Settlement); and (3) refrain from encouraging any Class Members to exclude themselves from the settlement or object to it. In the event any Class Member communicates

with the Parties regarding the Settlement, the Parties shall refer the individual to the Class Notice. In the event any Opt-in Plaintiff communicates with Defendant regarding the Settlement, Defendant shall refer the individual to the Opt-in Plaintiff Notice.

b. Pursuant to the requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, Defendant shall timely notify the appropriate governmental authorities including, but not limited to, the Attorneys General of the United States and New York. Defendant also agrees to timely provide documents and information to the appropriate governmental authorities pursuant to § 1715 (“CAFA Notice”).

c. Class Counsel represent that, to the best of their knowledge, as of the date the Settlement Agreement is executed, they do not represent any other current or former employees of Defendant (or Defendant’s affiliates) who are planning to file claims against Defendant (or Defendant’s affiliates) that are not covered by the Releases set forth herein.

13. **Notice Of Settlement**

a. Notice of the Settlement shall be provided to Class Members and Opt-In Plaintiffs only. Class Members and Opt-In Plaintiffs shall submit Claim Forms, and Class Members shall submit any objections to the Settlement, and/or any Requests for Exclusion from the Class, using the following procedures:

(1) Notice To Class Members. On the timetable specified in Section 9 of this Settlement Agreement, the Settlement Administrator shall send a copy of the Class Notice, attached hereto as Exhibit C, to the Class Members. The Class Notice will be mailed and emailed using the most current mailing and email address information, which the Settlement Administrator shall obtain by running each Class Member’s name and address through the National Change of Address (NCOA) database or comparable databases, along with the Claim Form and pre-paid return envelope, to Class Members via First Class regular U.S. mail. The

front of the envelopes containing the Class Notice will be marked with words identifying the contents as important and/or time sensitive. The emailed Class Notice shall include a link to a website where Class Members can read the full notice of the Settlement and complete and submit a claim form. The Class Notice will include the estimated average settlement award payment. For any Class Notice returned as undeliverable, the Settlement Administrator shall promptly perform one skip trace and conduct a second mailing for any Class Member for whom the Settlement Administrator identified a forwarding or alternative address, whether through the U.S. Postal Service or through an Accurint or comparable database search. If after this second mailing, the Class Notice is again returned as undeliverable, the notice mailing process shall end for that Class Member.

(2) Thirty (30) days from the sending of the original Class Notice, the Settlement Administrator also will send a Notice Reminder to Class Members who have not yet returned claim forms or Requests for Exclusion via email unless the first Notice email was not opened, in which such case, the Settlement Administrator will send the Notice Reminder via U.S. mail.

(3) Notice To Opt-In Plaintiffs. On the timetable specified in Section 9 of this Settlement Agreement, the Settlement Administrator shall send a copy of the Opt-In Plaintiff Notice, attached hereto as Exhibit D, to Opt-In Plaintiffs via email and First Class regular U.S. mail. The Opt-In Plaintiff Notice will be emailed mailed using the most current mailing and email address information, which the Settlement Administrator shall obtain by running each Opt-in Plaintiff's name and address through the NCOA database or comparable databases. The front of the envelopes containing the Opt-In Plaintiff Notice will be marked with words identifying the contents as important and/or time sensitive about the litigation. The

emailed Opt-In Plaintiff Notice shall include a link to a website where Opt-In Plaintiffs can read the full notice of the Settlement and complete and submit a claim form. The Opt-in Plaintiff Notice will include the estimated average settlement award payment. For any Opt-in Plaintiff Notice returned as undeliverable, the Settlement Administrator shall promptly perform one skip trace by running the Opt-In Plaintiff's name and address through the NCOA database or comparable databases and conduct a second mailing for any Opt-In Plaintiff for whom the Settlement Administrator identified a forwarding or alternative address. If after this second mailing, the Opt-In Plaintiff Notice is again returned as undeliverable, the notice mailing process shall end for that Opt-In Plaintiff.

(4) Thirty (30) days from the original Opt-In Plaintiff Notice, the Settlement Administrator will also send a Notice Reminder to Opt-In Plaintiffs who have not yet returned claim forms via email unless the first Notice email was not opened, in which such case the Settlement Administrator will send the Notice Reminder via U.S. mail.

(5) Notice to Opt-In Plaintiffs Who Also Class Members. On the timetable specified in Section 9 of this Settlement Agreement, the Settlement Administrator shall send a copy of the Class and Collective Action Notice, attached hereto as Exhibit E, to Opt-In Plaintiffs who are also members of the Class. The Notice Plan with respect to the Class and Collective Action Notice shall be the same as the Notice Plan set forth in Sections IV.13.a.(1)-(4).

(6) Updated Contact Information

The Class Notice and Opt-In Plaintiff Notice will inform Class Members and Opt-In Plaintiffs to contact the Settlement Administrator to provide any update to their mailing addresses. Class Counsel will forward any updated contact information it receives from Class

Members and Opt-In Plaintiffs to the Settlement Administrator. The Settlement Administrator will update the Database with any updated contact information it receives from Class Counsel, Class Members, or Opt-In Plaintiffs.

14. **Procedure For Returning Claim Form, Objecting To, Or Requesting Exclusion From The Class Action Settlement**

a. Procedure For Returning Claim Form. The Class Notice and Opt-In Plaintiff Notice shall include a Claim Form that a Class Member or Opt-In Plaintiff must execute and timely return in order to receive a Settlement Payment. Claim Forms may be submitted electronically or by hardcopy. Claim Forms must be postmarked or otherwise returned no later than sixty (60) days after the date the Class Notice or Opt-In Plaintiff Notice is first mailed (the “Claim Deadline”). Class Members or Opt-In Plaintiffs who fail to timely return an executed Claim Form will not receive a Settlement Payment.

b. The date of submission of a Claim Form to the Settlement Administrator is deemed to be the earlier of: (a) the date the Claim Form is deposited in the U.S. Mail, postage pre-paid, as evidenced by the postmark; (b) the date the Claim Form is tendered for delivery to a private courier service, as indicated by a shipping envelope; or (c) the date of receipt by the Settlement Administrator of the Claim Form. The Settlement Administrator shall review each Claim Form to determine its timeliness and completeness and to verify its execution. In the event a Claim Form is timely but is not complete or executed, the Settlement Administrator shall immediately notify the Class Member or Opt-In Plaintiff, via first class U.S. mail, about the deficiency. The Class Member or Opt-In Plaintiff must cure the deficiency by submitting a complete and executed Claim Form before the Claim Deadline. Any Class Member or Opt-In Plaintiff who fails to return a complete and executed Claim Form before the Claim Deadline will not be eligible to receive a Settlement Payment.

c. Procedure For Objecting. The Class Notice shall provide that Class Members who wish to object to the Settlement must mail a written statement objecting to the Settlement to the Clerk of the Court and the Settlement Administrator. Such written statement must be postmarked by the Claim Deadline. No Class Member shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) or to object to the Settlement, and no written objections or briefs submitted by any Class Member shall be received or considered by the Court at the Final Approval Hearing, unless written notice of the Class Member's intention to appear at the Final Approval Hearing (if such Class Member does intend to appear either personally or through counsel), and/or copies of any written objections or briefs, have been mailed to the Clerk of the Court and the Settlement Administrator on or before the Claim Deadline. Any objection to the Settlement must be in writing, and must include at least the following: (1) the words "I object to the Papa John's delivery driver settlement"; (2) a statement of the objections being asserted and a description of each objection; (3) if the objector intends to appear at the Fairness Hearing, the words "I intend to appear at the Fairness Hearing"; (4) a list of any witnesses who may be called to testify at the Final Approval Hearing, whether in person, by deposition, or affidavit; and (5) a list of any exhibits, and copies of the same, that the objector may offer at the Final Approval Hearing. Written objections also must state the case name, the Class Member's full name and address, and the calendar year or years during which the Class Member performed work for Defendant as a delivery driver. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether an objection to the Settlement has been timely submitted. No later than ten (10) days after the Claim Deadline, the Settlement Administrator shall furnish to Class Counsel and Defendant's Counsel copies of any objections received from Class Members. Class Members who fail to submit timely written

objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. A Class Member who submits a timely Request for Exclusion may not object to the Settlement.

d. Procedure For Requesting Exclusion. The Class Notice shall provide that Class Members who wish to exclude themselves from the Class must submit a written statement requesting exclusion from the Class on or before the Claim Deadline (a “Request for Exclusion”). The Request for Exclusion must state: “I exclude myself from the Papa John’s delivery driver settlement. I affirm that I was an employee of Papa John’s.” The Request for Exclusion must include the Class Member’s full name, address, telephone number, the last four digits of the Social Security number the Class Member used when working for Defendant, and the Request for Exclusion must be signed by the Class Member. All Requests for Exclusion must be received by the Settlement Administrator by the Claim Deadline. Any Class Member who submits a timely and valid Request for Exclusion will not: (i) be entitled to any recovery under the Settlement; (ii) be bound by the Settlement or any orders or judgments entered in this Lawsuit; or (iii) be entitled to or have any right to object, appeal or comment, or challenge any order of the Court.

Upon receipt of a Request for Exclusion, the Settlement Administrator shall date-stamp the original and promptly notify and send a copy of the Request for Exclusion to both Defendant’s Counsel and Class Counsel. If a fully completed and properly executed request for exclusion is not received by the Settlement Administrator by the Claims Deadline, then that Class Member will be deemed to have forever waived his or her right to opt out of the Settlement Class. If a Class Member submits both a timely Claim Form and a timely Request for Exclusion,

whichever document was mailed later will govern, and if both documents were mailed simultaneously, or the sequence of mailings cannot be determined, then the Claim Form shall govern. Any Class Member who fails to Opt Out of the Settlement Class by filing a timely Request for Exclusion shall be bound by the terms of this Settlement.

15. **No Solicitation Of Settlement Objections Or Exclusions**

The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement or Requests for Exclusion from the Class, or appeal from the Court's Final Judgment.

16. **Procedure For Class Members Who Return Claims Forms To Opt-In To The FLSA Claims Process**

All Class Members who return a Claim Form shall give their consent in writing to become a party plaintiff in the FLSA collective action claims asserted in the lawsuit, in accordance with 29 U.S.C. § 216(b), for purposes of this Settlement. The Class Notice shall provide that Class Members who timely return a Claim Form thereby consent in writing to become a party plaintiff in this action pursuant to 29 U.S.C. § 216(b) and release all claims asserted in the Second Amended Complaint under the FLSA, including but not limited to any claims for alleged failure to pay minimum wages or overtime. Within 10 days of the Claim Deadline, the Settlement Administrator shall provide the Parties the returned Claim Forms. Plaintiffs will file the timely returned claim forms with the Court. The Parties agree that this procedure satisfies the requirements of 29 U.S.C. § 216(b) for Class Members to join the FLSA claims in this Lawsuit for purposes of this Settlement.

17. **Final Settlement Approval Hearing And Entry Of Final Judgment**

a. Within the time period set by the Court, Class Counsel will file a motion seeking approval of the agreed-upon award of attorneys' fees and costs relating to their representation of the Named Plaintiffs, Opt-in Plaintiffs, and Class Members. Defendant will not oppose Class Counsel's application so long as it is consistent with the provisions of this Settlement Agreement and applicable law.

b. Within the time period set by the Court, Class Counsel shall file with the Court: (a) a mutually agreed upon motion for Final Approval of the Settlement; (b) a copy of the Settlement Administrator's Declaration; and (c) a mutually agreed upon proposed order granting final approval of the Settlement.

c. In the proposed order granting final approval, and at the Final Approval Hearing, the Parties will request that the Court, among other things, enter a Final Approval Order and Final Judgment that:

- (1) states that there is a *bona fide* legal dispute between the Parties as to whether the Named Plaintiffs, Class Members and Opt-in Plaintiffs were properly compensated;
- (2) approves the Settlement Agreement and adjudicates the terms thereof to be a final, fair, reasonable, adequate, and binding resolution of all claims as set forth in this Agreement by all of the Named Plaintiffs, Opt-in Plaintiffs, and Class Members who have not timely opted out;
- (3) approves the Settlement Agreement as final, fair, reasonable, adequate, and binding, and directs consummation of its terms and provisions;
- (4) provides that all Class Members who timely returned completed claim forms irrevocably consent to join and opt-in to the FLSA collective action in this Lawsuit for purposes of this Settlement;
- (5) dismisses the Lawsuit with prejudice and permanently bars and enjoins all Class Members who have not submitted a timely Request for Exclusion from filing or prosecuting against Released

Parties any individual or class or collective claims action released herein, no earlier than ten (10) days after the date Class Counsel files endorsed settlement checks; and

(6) retains jurisdiction in connection with the Settlement.

d. Only counsel for the Parties and counsel for Class Members who have filed timely objections to the Settlement Agreement may participate in the Final Approval Hearing.

e. If the Court enters an Order denying Final Approval, enters a Final Approval Order that is not materially consistent with this Agreement, or if the Final Approval Order is set aside by appeal, the Parties will meet and confer regarding whether the parties will jointly: (i) seek reconsideration or appellate review of the relevant Order; (ii) attempt to renegotiate the settlement and seek Court approval of the renegotiated settlement; or (iii) do neither. If any reconsideration and/or appellate review is denied, or a mutually agreed-upon settlement is not approved, the Lawsuit will proceed as if the parties had never reached a settlement or sought the Court's approval.

18. **Undistributed Settlement Awards**

a. A Class Member or Opt-In Plaintiff who does not timely return a completed and valid Claim Form, or a Class Member who excludes himself or herself from this Settlement by returning a Request for Exclusion, will not be a Claimant and will not receive any Settlement Payment.

b. Claimants will have 150 days after the issuance of the checks by the Settlement Administrator to cash their checks. The Settlement Administrator will issue checks which on their face are not valid more than 150 days after their date of issuance. If any Claimant's settlement check is not cashed within that 150-day period, the check will be void. In such event, any Claimant whose check was not cashed will be deemed to have waived

irrevocably any right or claim to his or her payment from the Fund, but the Settlement nevertheless will be binding upon the Claimant.

c. If a Claimant's check remains uncashed after the 150-day period, the amount of such settlement checks shall remain the property of Defendant and shall be returned by the Settlement Administrator to Defendant.

19. **Defendant's Legal Fees And Settlement Administration Costs**

All of Defendant's own legal fees, costs and expenses incurred in this Lawsuit shall be borne by Defendant. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement.

20. **Severability**

Should any provision of the Settlement Agreement be determined by the Court to be illegal, invalid, unenforceable, or fail to gain approval for any reason, the Parties shall negotiate in good faith (including involving retired Judge Andersen if necessary) in an effort to modify the Settlement by substituting a new provision for the provision that the Court declined to approve that is as close as possible to the original provision and is acceptable to the Court. If the Parties are unable to negotiate the replacement provision, the Parties will retain a neutral arbitrator to determine the terms or wording of any replacement provision. If the Parties, with the assistance of a neutral arbitrator, are unable to craft a provision that is acceptable to the Court, then whichever Party is negatively affected by the Court's determination shall have the option to declare this Settlement null and void and the Parties shall return to litigation with neither side prejudiced by the attempted Settlement. Plaintiffs may not enact this clause on the sole basis that the Court determines that attorneys' fees or incentive awards should be lower than as agreed by the Parties.

21. **Voiding The Agreement**

If this Settlement Agreement is not ultimately approved by the Court, the Settlement shall be deemed null and void, of no force and effect, of no probative value, and the Parties hereto represent, warrant, and covenant that it will not be used or referred to for any impermissible purpose. The Parties agree that if more than 5% of the Class Members exercise their right to opt-out of the class, Defendant will have the unilateral right to declare the settlement void in its entirety upon written notice to Class Counsel.

Prior to the Effective Date, should any material provision of the Settlement Agreement be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, or fail to gain approval for any reason, Defendant shall, in its sole discretion, have the option to declare the Settlement void in its entirety upon notice to Class Counsel within twenty-one (21) days of such determination.

22. **Settlement Bar**

The Settlement Agreement is contingent upon the Court entering a settlement bar order that prohibits any Class Member who does not opt-out of the class or Opt-In Plaintiff from bringing any claim released pursuant to Section 5 of this Agreement.

23. **Certification Of Distribution Of Settlement Checks**

The Settlement Administrator shall provide Class Counsel and counsel for Defendant with an accounting of the proceeds disbursed.

24. **No Effect On Employee Benefits**

The Settlement Awards and Service Awards shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, 401(k) plans, retirement plans, etc.) of the Named Plaintiffs, Opt-In Plaintiffs, and Class Members. The Parties agree that any Settlement Awards and Service

Awards paid to the Named Plaintiffs, Opt-In Plaintiffs, and Class Members under the terms of this Settlement Agreement do not represent any modification of their previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Settlement Awards and Service Awards paid to former employees hereunder shall not be considered “compensation” in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

25. **Amendment Or Modification**

This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors in interest. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties and approved by the Court.

26. **Entire Agreement**

This Settlement Agreement and any Exhibits constitute the entire agreement among these Parties relating to any and all matters addressed in the Settlement Agreement, and all prior or contemporaneous negotiations, agreements, understandings, representations, and statements, whether oral or written and whether by one of the Parties or such Parties’ legal counsel, including the terms of the Memorandum of Understanding of All-Inclusive Settlement executed by the Parties, shall be deemed merged into this Settlement Agreement. No rights hereunder may be waived or modified except in a writing signed by all Parties and approved by the Court.

27. **Authorization To Enter Into Settlement Agreement**

Counsel for all Parties warrant and represent they are expressly authorized by the Parties who they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to

effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

28. **Binding On Successors And Assigns**

This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto.

29. **No Prior Assignments**

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

30. **Kentucky Law Governs**

All terms of this Settlement Agreement and the Exhibits hereto shall be governed by and interpreted according to the laws of the Commonwealth of Kentucky.

31. **Counterparts**

This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Electronic signatures and signatures transmitted by fax or .pdf shall have the same effect as an original ink signature.

32. **This Settlement Is Fair, Adequate, And Reasonable**

The Parties warrant and represent they have conducted a thorough investigation of the facts and allegations in the Lawsuit. The Parties further represent and warrant that they believe this Settlement Agreement represents a fair, adequate, and reasonable Settlement of this action and that they have arrived at this Settlement Agreement through extensive arms-length negotiations, taking into account all relevant factors, present and potential.

33. **Retention Of Jurisdiction**

The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Settlement, and all Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the terms of this Settlement Agreement. Any claim concerning enforcement of the Settlement Agreement, or the subject matter hereof after execution, will be resolved solely and exclusively by the U.S. District Court for the Southern District of New York.

34. **Cooperation And Drafting**

Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction made to this Settlement Agreement, the Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her, or its counsel participated in the drafting of this Settlement.

The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and taking such other action as reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and

cooperation of the Defendant and its counsel, take all necessary steps to secure the Court's final approval of this Settlement.

Should the Court not enter the Preliminary Approval Order, not approve the Settlement Agreement, or if Defendant declares the Settlement Agreement null and void pursuant to Section 20 or 21 of the Settlement Agreement, the terms of this Settlement Agreement will be null and void, the Parties will retain all rights and defenses in the Lawsuit, and all negotiations and information and materials pertaining in any way to this Agreement or the settlement of the Lawsuit, unless otherwise produced during the course of the Lawsuit, will be inadmissible

35. **Invalidity Of Any Provision**

Before declaring any provision of this Settlement Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

36. **Circular 230 Disclaimer**

Each Party to this Settlement Agreement acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers regarding this Settlement Agreement, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) each Party (A) has relied exclusively upon his, her or its own, independent legal and tax advisers for advice (including tax advice) in connection with this Settlement Agreement, (B) has not entered into this Settlement Agreement based upon the recommendation of any Party or any attorney or advisor to any other Party, and (C) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed on that Party; and (3) no attorney or adviser

to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

37. **Publicity**

The Parties will agree that prior to the public court docket filing of the motion for preliminary settlement approval, they will keep all terms of the settlement confidential; provided however, that Defendant may publicly disclose the Settlement and its terms as required by law (e.g., SEC filings). If Class Counsel receives any third-party inquiries prior to the filing of the motion for settlement approval, Class Counsel will give prompt notification of any such inquiries or media contacts to Defendant's Counsel. In addition, and separate from disclosures by Defendant as may be required by law, the Parties will agree on a joint media statement to be used to respond to any third-party inquiries about the settlement upon or after the filing of the motion to approve the Settlement and on the day of the appropriate forum's ultimate approval of the Settlement or thereafter. Class Counsel also agree that they will not make any non-privileged statements or post it on their websites or in social media postings other than the agreed upon joint media statement. Nothing shall bar Class Counsel from communicating about the Settlement with their clients or in Court filings or disclosing the fact of their representation of their clients in this matter.

38. **Notice To The Parties**

Unless otherwise stated herein, any notice to the Parties required or provided for under this Settlement Agreement will be in writing and may be sent by electronic mail, hand delivery, or U.S. mail, postage prepaid, as follows:

If to Class Counsel:

If to Defendant's Counsel:

Jeremiah Frei-Pearson
Email: jfrei-pearson@fbfglaw.com
Finkelstein, Blankinship,
Frei-Pearson & Garber, LLP
1 North Broadway, Suite 900
White Plains, New York 10601

Gerald L. Maatman, Jr.
E-mail: gmaatman@duanemorris.com
Duane Morris LLP
190 South LaSalle Street, Suite 3700
Chicago, Illinois 60603-3433

DATED: _____, 2022

Named Plaintiffs, Opt-in Plaintiffs, and Class Members

By: _____

[Jeremiah Frei-Pearson](#)
[FINKELSTEIN, BLANKINSHIP,](#)
[FREI-PEARSON & GARBER, LLP](#)
[1 North Broadway, Suite 900](#)
[White Plains, New York 10601](#)
[Tel: \(914\) 298-3281](#)
[Fax: \(914\) 824-1561](#)
jfrei-pearson@fbfglaw.com

~~One of the Attorneys for Named~~ [Counsel for](#)
~~Plaintiffs, Opt-in Plaintiffs~~ [the Class,](#) and ~~Class~~
~~Members~~ [the Collective](#)

DATED: _____, 2022

Papa John's International, Inc.

By: _____

Its: _____

Summary report:	
Litera® Change-Pro for Word 10.8.2.11 Document comparison done on 12/15/2022 11:47:16 AM	
Style name: DM - Double Underline Strikethrough	
Intelligent Table Comparison: Active	
Original DMS: iw://DM/DM2/17031280/1	
Modified DMS: iw://DM/DM2/17004875/3	
Changes:	
Add	20
Delete	7
Move From	0
<u>Move To</u>	0
Table Insert	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	27