

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANTONIO ONATE, JR., on behalf of himself and  
all others similarly situated,

Plaintiff,

v.

AHRC HEALTH CARE, INC.,

Defendant.

Case No.: 1:20-cv-08292-JW

**JOINT STIPULATION OF  
SETTLEMENT AND RELEASE**

This Joint Stipulation of Settlement and Release (the “Agreement”) is entered into by and between Antonio Onate, Jr. (“Onate” or “Named Plaintiff”), individually and on behalf of the classes of individuals he seeks to represent (“Class Members” and collectively with Named Plaintiff, the “Plaintiffs”) and AHRC Health Care, Inc. (“Defendant”). Plaintiffs and Defendants are referred to herein collectively as “Parties,” and each, a “Party.”

**RECITALS**

**WHEREAS**, on October 5, 2020, Onate filed a proposed class and collective action complaint (the “Complaint”) against Defendant in the United States District Court for the Southern District of New York (the “Court”), captioned *Onate v. AHRC Health Care, Inc.*, 1:20-cv-08292, on behalf of himself and all other current and former non-exempt hourly paid employees (“Hourly Employees”) and salaried overtime eligible employees (“Salaried Employees”) who worked for Defendant during the six years preceding the filing of the Complaint (the “Litigation”);

**WHEREAS**, Onate, by and through the Complaint, generally alleges that Defendant owes Class Members unpaid straight and overtime compensation under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), and also asserts claims pursuant to Rule 23 of the Federal Rules of Civil Procedure against Defendant under the wage and hour laws of New York (the “NYLL”);

**WHEREAS**, on January 8, 2021, Defendant filed its Answer to the Complaint, generally denying the allegations therein;

**WHEREAS**, on February 9, 2023, the Court granted Plaintiffs’ motion for collective certification and notice was subsequently distributed to members of the conditionally certified class. In response, 1,120 individuals opted-in, including 11 individuals who opted-in prior to the distribution of the collective notice;

**WHEREAS**, on December 14, 2023, the Court granted, in part, Plaintiffs' motion for class certification pursuant to Rule 23 of the Federal Rules of Civil Procedure, certifying a class of Hourly Employees and a class of Salaried Employees on each of Plaintiffs' claims, except for Plaintiffs' off-the-clock claims, and appointed McLaughlin & Stern, LLP as Class Counsel (the "Class Certification Order");

**WHEREAS**, the purpose of this Agreement is to settle fully and finally all Released Claims (as hereinafter defined) between Named Plaintiff, Class Members and Defendant, including all claims asserted in the Litigation;

**WHEREAS**, Defendant denies all of the allegations made by Named Plaintiff in the Litigation and denies that it is liable or owes damages to anyone with respect to the alleged facts or causes of action asserted in the Litigation;

**WHEREAS**, over the course of several months, counsel for Named Plaintiff and Defendant participated in numerous good-faith settlement discussions, including participation in a full-day mediation before Stephen Sonnenberg, Esq. on March 20, 2025 (the "Settlement Discussions"); and after extensive negotiations at the mediation and weeks of subsequent negotiations amongst counsel for the Parties, the Named Plaintiff and Defendant reached an accord resulting in this Agreement;

**WHEREAS**, without admitting or conceding any class or individual liability or damages whatsoever, and without admitting or conceding that any straight or overtime compensation was improperly calculated and/or withheld from Named Plaintiff and/or any Class Members, Defendant has agreed to settle the Litigation on the terms and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing the Litigation;

**WHEREAS**, solely for the purpose of settling this Litigation, and without admitting or conceding that class and/or collective certification is appropriate, and further without admitting any wrongdoing or liability, Defendant has agreed to the dissemination of a notice of settlement pursuant to the FLSA and the Federal Rules of Civil Procedure to cover the Released Claims to all Class Members employed by Defendant during the Relevant Period (as defined below);

**WHEREAS**, Class Counsel (defined herein) have analyzed and evaluated the disputed facts, the merits of the claims made against Defendant in the Litigation, and the defenses and arguments asserted by Defendant; have obtained and reviewed tens of thousands of pages of documents relating to Defendant's compensation policies and practices; have deposed a number of executives employed by Defendant; have defended the depositions of numerous Class Members; have analyzed Defendant's time and payroll data for hundreds of Class Members; and have engaged experts in the wage and hour field to analyze and opine on Named Plaintiff's claims and the extent of Class Member damages;

**WHEREAS**, Class Counsel have considered the benefits of this Agreement for the Named Plaintiff and Class Members, based upon their experience with similar cases and their analysis and

evaluation of a number of factors (including sharply disputed facts), and have recognized the substantial risks of continued litigation, including the possibility that the Litigation, if not settled now, might not result in any individual or class recovery whatsoever, or might result in a recovery that is less favorable or that may not realize any benefit for several years; the possibility that the certified classes might be decertified in the future; and based upon such considerations and experience, Class Counsel is satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate, and that this Agreement is in the best interests of the Named Plaintiff and Class Members.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth in this Agreement, as well as the good and valuable consideration provided for herein, the Parties hereto agree to a full and complete settlement of the Litigation on the following terms and conditions:

## **I. DEFINITIONS**

The following capitalized terms used in this Agreement shall have the meanings ascribed to them below.

- 1.1 Agreement.** “Agreement” means this Joint Stipulation of Settlement and Release and all exhibits.
- 1.2 Acceptance Period.** “Acceptance Period” means the ninety (90) day period that a Class Member has to sign and cash a Settlement Check. If the end of the Acceptance Period falls on a Sunday or holiday, the deadline to sign and cash a Settlement Check will be the next business day that is not a Sunday or holiday.
- 1.3 Class Counsel.** “Class Counsel” means McLaughlin & Stern, LLP, 260 Madison Avenue, New York, New York 10016.
- 1.4 Class Members.** “Class Members” means Named Plaintiff and all members of the FLSA Class and the Rule 23 Class. The total number of Class Members shall include all Hourly Employees and all Salaried Employees, excluding those in the Home Health Department, who work or worked for AHRC at any time from October 5, 2014 through the date of the Preliminary Approval Order. Also excluded are those individuals identified on Schedule A who previously requested exclusion after receiving notice of the Class Certification Order.
- 1.5 Class Records.** “Class Records” means sufficient documentary evidence showing the number of workweeks worked by Class Members at any time from October 5, 2014 through the date of the Preliminary Approval Order.
- 1.6 Court.** “Court” means the United States District Court for the Southern District of New York.

- 1.7 Days.** “Days” means business days if the specified number is less than ten (10), and calendar days if the specified number is ten (10) or greater.
- 1.8 Defendant’s Counsel.** “Defendant’s Counsel” means Clifton Budd & DeMaria, LLP, The Empire State Building, 350 Fifth Avenue, 61st Floor, New York, NY 10118.
- 1.9 Effective Date.** The “Effective Date” means the date that is (i) thirty (30) days after the entry of the Final Approval Order by the Court approving this Agreement, with the time to appeal from such Final Approval Order having expired and no notice of appeal or timely motion to extend the time to appeal having been filed; or (ii) if a timely notice of appeal has been filed, fourteen (14) days after the date that the latest of the following, if applicable, has occurred: (a) the final affirmance of an appeal of the Final Approval Order; (b) the expiration of the time for a petition for a writ of certiorari to review any affirmance on appeal of the Final Approval Order; (c) if a writ of certiorari is granted, the final affirmance of the Final Approval Order following review pursuant to the grant of that writ; or (d) the final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on certiorari to review the Final Approval Order.
- 1.10 Employer Payroll Taxes.** “Employer Payroll Taxes” means all taxes and withholdings an employer may be required to make arising out of or based upon the payment of wages in this Litigation, including, without limitation, all federal and state obligations, such as FICA, FUTA, and SUTA.
- 1.11 Fairness Hearing.** “Fairness Hearing” means the hearing before the Court relating to the Motion for Final Approval.
- 1.12 Final Approval Order.** “Final Approval Order” means the final Order entered by the Court after the Fairness Hearing (i) approving the terms and conditions of this Agreement; (ii) ordering the release of the Released Claims (iii) approving the distribution of the Settlement Checks and Service Award; (iv) approving the amounts of all settlement and professional fees and costs, including Class Counsel’s attorneys’ fees and the reimbursement of Class Counsel’s expenses; and (v) approving the dismissal of the Litigation with prejudice, and the entry of Judgment pursuant to this Stipulation in accordance with Fed. R. Civ. P. 58.
- 1.13 FLSA Class Members.** “FLSA Class Members” means any and all current and former Hourly Employees and Salaried Employees who performed work for Defendant during the period from October 5, 2017 through the date of the Preliminary Approval Order.
- 1.14 Gross Settlement Amount.** “Gross Settlement Amount” means Five Million, One Hundred Fifty Thousand and 00/100 Dollars (\$5,150,000.00), which Defendant shall pay to the Settlement Claims Administrator to settle the Litigation as set forth in this Agreement. The Gross Settlement Amount shall fully resolve and satisfy any claims for: (i) attorneys’ fee, expenses, and costs approved by the Court, (ii) the Court-approved costs

and fees of the Administrator, (iii) all amounts to be paid to all Class Members for releasing claims as set forth herein, (iv) any Court-approved service award, (v) any other costs associated with effectuating the settlement, including the payment of the Class Members' taxes and the Employer Payroll Taxes. Under no circumstance will Defendant be liable to pay more than the Gross Settlement Amount.

- 1.15 Litigation.** "Litigation," as set forth in the Introduction, means the litigation initiated by the Complaint, alleging violations of the FLSA and NYLL captioned: *Oate v. AHRC Health Care, Inc.*, 1:20-cv-08292.
- 1.16 Named Plaintiff.** "Named Plaintiff," as set forth in the Introduction, means Antonio Oate, Jr.
- 1.17 Net Settlement Fund.** "Net Settlement Fund" means the remainder of the Gross Settlement Amount after deductions for: (i) all Court-approved settlement administration fees, costs, and expenses, including but not limited to, the Settlement Claim Administrator's fees and costs and the cost of all notices; (ii) Court-approved attorneys' fees and expenses incurred by Class Counsel; (iii) Court-approved Service Award to Named Plaintiff as specified herein; (iv) a special reserve fund as specified herein; and (v) any other costs, expenses, fees, or other distributions associated with the settlement of the Litigation, including without limitation, both the employer's and employees' share of federal and state taxes in accordance with Section 1.10 of this Agreement.
- 1.18 Notice or Notices.** "Notice" or "Notices" means the Court-approved Notice of Proposed Settlement of Class and Collective Action Lawsuit and Fairness Hearing, to be attached as exhibits to Named Plaintiff's anticipated motion for a Preliminary Approval Order, together with any subsequent Court-approved notices that may be sent by the Settlement Claims Administrator pursuant to this Agreement.
- 1.19 Objector.** "Objector" means an individual who files a timely objection to this Agreement, and does not include any individual who opts-out of this Agreement.
- 1.20 Opt-out Statement.** "Opt-out Statement" means a written signed statement that an individual Class Member has decided to opt-out and not be included in this Agreement, to the extent the Court permits Class Members a new opportunity to request exclusion, as further described in Section 2.5 and Schedule B, which is timely submitted by such individual to the Settlement Claim Administrator.
- 1.21 Participating Class Members.** "Participating Class Members" means those individuals who negotiate their Settlement Checks before the end of the ninety (90) day Acceptance Period.

- 1.22 Parties.** “Parties,” as set forth in the Introduction, means, collectively, Named Plaintiff and Defendant.
- 1.23 Plaintiffs.** “Plaintiffs” means Named Plaintiff and the Class Members.
- 1.24 Preliminary Approval Order.** “Preliminary Approval Order” means the Order entered by the Court in substantially the form attached to Plaintiffs’ prospective motion for preliminary approval, preliminarily approving the terms and conditions of this Agreement, and directing the manner and timing of providing Notices to the Class Members.
- 1.25 Qualified Settlement Fund or QSF.** “Qualified Settlement Fund” or “QSF” means the interest-bearing account established by the Settlement Claims Administrator for the Gross Settlement Amount paid by Defendant. The QSF will be controlled by the Settlement Claims Administrator subject to the terms of this Agreement and the Court’s Orders for Preliminary Approval and Final Approval. Interest earned in the QSF will become part of the Gross Settlement Amount and is subject to the same distribution as agreed upon herein.
- 1.26 Released Claims.** “Released Claims” collectively means the Released Federal Law Claims and the Released State Law Claims.
- 1.27 Released Federal Law Claims.** “Released Federal Law Claims” collectively means any and all federal law wage-and-hour claims, obligations, demands, actions, rights, causes of action, and liabilities against Releasees, of whatever kind and nature, character and description, whether known or unknown, and whether anticipated or unanticipated, including unknown claims, by an FLSA Class Member that accrued against the Releasees from the beginning of the world up to and including the Effective Date, that arises out of the same factual predicate alleged in the Litigation for any type of relief under the Fair Labor Standards Act of 1938 (“FLSA”), including without limitation FLSA claims for wages, overtime, damages, unpaid costs, penalties (including late payment penalties), premium pay, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, and any related or derivative claims, including but not limited to related or derivative claims arising under the Employment Retirement Income Security Act (“ERISA”).
- 1.28 Released State Law Claims.** “Released State Law Claims” collectively means any and all wage-and-hour claims, obligations, demands, actions, rights, causes of action, and liabilities under New York law (including but not limited to New York Labor Law, the New York Wage Theft Prevention Act, and the New York Minimum Wage Act) against the Releasees of whatever kind and nature, character and description, whether known or unknown, and whether anticipated or unanticipated, including unknown claims, by a Rule 23 Class Member that accrued against the Releasees from the beginning of the world up to and including the Effective Date, that arises out of the same factual predicate alleged in the Litigation including without limitation claims under any legal theory (including but not limited to claims for breach of contract and/or terms and conditions of an applicable

collective bargaining agreement) for failure to pay minimum wage, failure to pay overtime, failure to pay for all hours worked, failure to provide meal and rest periods, failure to timely pay final wages, and/or failure to furnish accurate wage statements or other notices (including but not limited to notices of pay rate and payday under Section 195.1 of the New York Labor Law), and any and all claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest, and/or penalties, and any related or derivative claims, including but not limited to related or derivative claims under ERISA, related tort, and/or violations of any other state or local statutory and common law.

- 1.29 Releasees.** “Releasees” means AHRC Health Care, Inc., NYSARC, Inc., New York City Chapter (dba AHRC New York City), AHRC NYC Home Care Services, Inc., Superior Direct Care, Inc., AHRC NYC New Projects, Inc., AHRC NYC Properties, Inc., AHRC NYC Development Company, Inc., AHRC NYC Guardianship Fund, Inc., AHRC Health Care, Inc. (dba Access and Access Community Health Center), AHRC New York City Foundation, Inc., NYSARC, Inc.(dba The ARC New York), and each of their respective present and former affiliates, divisions, subsidiaries, parents, successors, assigns, and/or predecessors, and/or each of their respective affiliated, related and/or merged entities; and/or each of its and/or their respective present and/or former officers, partners, directors, employees, agents, attorneys, shareholders, investors, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under or in concert with any of them, and any individual or entity that could be jointly liable with any of them.
- 1.30 Relevant Period.** “Relevant Period” means the period from October 5, 2014 through the Effective Date.
- 1.31 Rule 23 Class Members.** “Rule 23 Class Members” means any and all current and former Hourly Employees and Salaried Employees who performed work for Defendant during the period from October 5, 2014, through the date of the Preliminary Approval Order.
- 1.32 Settlement Claims Administrator.** The “Settlement Claims Administrator” means Analytics LLC. The Settlement Claims Administrator will be responsible for locating Class Members; mailing the Notices to Class Members; emailing Notices to the Class Members (where applicable); responding to inquiries from Class Members; setting up and maintaining a website for Class Members to learn about the Settlement; calculating Class Members’ settlement allocations; reporting on the state of the Settlement to the Parties; establishing and administering the QSF; distributing settlement payments; calculating and withholding Class Members’ shares of applicable payroll taxes (including, without limitation, federal, state, and local income tax withholding, FICA, Medicare and any state or local employment taxes); calculating and paying from the Gross Settlement Amount the Employer Payroll Taxes required pursuant to the Settlement; remitting such withheld funds

to the appropriate taxing authorities and providing any related tax reporting; preparing and filing all tax returns necessary for the Settlement and the QSF; preparing a declaration regarding its due diligence in the settlement administration process; and performing such other duties as the Parties may jointly direct or as are specified herein, including, without limitation, such duties as are specifically set forth in Sections 2 and 3 hereof. All settlement administration amounts, including but not limited to, the Settlement Claims Administrator's fees and costs, shall be paid from the Gross Settlement Amount in the QSF. If the Settlement is not given final approval by the Court and does not become Effective, then any settlement administration fees and costs incurred shall be divided and paid equally between Defendant and Plaintiff. Defendant shall be responsible for providing notice of the Settlement to the appropriate state and federal officials pursuant to the Class Action Fairness Act within ten (10) days of the filing of Plaintiff's motion for preliminary approval.

**1.33 Settlement Checks.** "Settlement Checks" means checks issued to Class Members for their share of the Net Settlement Fund calculated in accordance with this Agreement.

## **II. APPROVAL AND CLASS NOTICE**

**2.1 Binding Agreement.** This Agreement is a binding agreement and contains all material agreed-upon terms for the Parties to seek a full and final settlement of the Litigation.

**2.2 Retention of the Settlement Claims Administrator.** The Settlement Claims Administrator will be responsible for the services defined in Section 1.32 and as further set forth below.

(A) The Settlement Claims Administrator will provide regular reports to the Parties regarding the status of the mailing of the Notices to Class Members; a summary of the individuals who have requested to opt-out or submitted objections, and a summary of the individuals who have negotiated the Settlement Checks; the claims administration process; distribution of the Settlement Checks; and other matters relating to the Settlement.

(B) Within ten (10) days of the close of the Acceptance Period, the Settlement Claims Administrator shall prepare a final list of all Class Members who timely negotiated their Settlement Checks, together with copies of the front and backside of the Settlement Checks (reflecting the Class Members' Consents to Join), and provide such information and documents to Class Counsel and Defendant. The Settlement Claims Administrator, Named Plaintiff, and Class Counsel shall use such information for purposes of settlement of this case only, and shall not disclose such information to other persons or entities except as expressly provided herein or as required by law. The Settlement Claims Administrator will update and supplement this information as necessary.

- (C) The Settlement Claims Administrator will promptly provide an IRS Form W-9 to Defendant following its engagement by the Parties. Defendant shall cooperate with the Settlement Claims Administrator, provide accurate information based on the records in its possession and control necessary to calculate the amounts of the Settlement Checks, provide reasonably available data to assist the Settlement Claims Administrator in locating Class Members, including social security numbers if requested, and provide other reasonably available information in its possession or control related to the administration of the Settlement.

### **2.3 Preliminary Approval Motion.**

- (A) On or before June 3, 2025, Named Plaintiff shall move the Court for preliminary approval of this Agreement (“Preliminary Approval Motion”) and entry of the Preliminary Approval Order. The Preliminary Approval Motion will be provided to Defendant for review at least three (3) days prior to filing with the Court, and Named Plaintiff will consider and discuss Defendant’s reasonable comments. In connection with the Preliminary Approval Motion, Named Plaintiff will submit to the Court all exhibits, including the proposed Preliminary Approval Order.
- (B) In the Preliminary Approval Motion, Class Counsel will inform the Court of the intended process to obtain a “Preliminary Approval Order” that will, among other things: (1) schedule a fairness hearing on the question of whether the proposed Agreement should be finally approved as fair, reasonable, and adequate to the Class Members; (2) approve as to form and content the proposed Notice; (3) direct the emailing and mailing of the Notice by First-Class United States Mail to the Class Members; and (4) preliminarily approve this Agreement.
- (C) The Preliminary Approval Motion also will seek to schedule the date(s) for individuals to opt-out of (to the extent the Court permits Class Members a new opportunity to request exclusion) or provide objections to this Agreement; for Named Plaintiff to file a Motion for Final Approval; and for a Fairness Hearing for Final Approval of the Settlement before the Court at the earliest practicable date.
- (D) The Parties will work together, diligently and in good faith, to obtain expeditiously a Preliminary Approval Order, Final Approval Order, and final Judgment and dismissal with prejudice. Any disputes which arise between the Parties related to the Parties’ efforts to obtain a Preliminary Approval Order, a Final Approval Order, and a final Judgment and dismissal with prejudice shall be submitted to this Court.
- (E) Defendant shall pay the full Gross Settlement Amount into the QSF held by the Settlement Claims Administrator within ninety (90) calendar days of the entry of the Preliminary Approval Order.

## **2.4 Notice to Class Members.**

- (A) Within fourteen (14) days of the Court's entry of a Preliminary Approval Order, Defendant will provide the Settlement Claims Administrator the following information, in electronic form, for all Class Members: name, last known addresses, email addresses (to the extent maintained), and social security numbers ("Class List").
- (B) Additionally, within fourteen (14) days after entry of the Preliminary Approval Order, Defendant shall provide Class Records to Class Counsel and the Settlement Claims Administrator for purposes of individual Class Member damage calculations within the applicable liability periods set forth in Sections 1.5, 1.13, and 1.31 above.
- (C) Within fourteen (14) days of the receipt of the Class List, or as soon thereafter as practicable, the Settlement Claims Administrator will email (to the extent produced) and mail to all Class Members, via First-Class United States Mail, postage prepaid, the Court-approved Notice of Settlement of Class and Collective Action Lawsuit and Fairness Hearing.
- (D) The Settlement Claims Administrator will take reasonable steps to obtain the correct address of any Class Members for whom a Notice is returned by the United States Post Office as undeliverable, and shall attempt re-mailings as described in this Agreement. The Settlement Claims Administrator will notify Class Counsel and Defendant's Counsel of any Notice sent to a Class Member that is returned as undeliverable after the first emails and mailing, as well as any such Notice returned as undeliverable after any subsequent emailing and mailing(s) as set forth in this Agreement.

**2.5 Class Member Opt-Outs.** The parties shall address F.R.C.P. 23(e)(4) in the motion for Preliminary Approval. Plaintiff shall take no position on the issue. Defendant shall petition the Court that a new opportunity to be excluded is not appropriate in this case. If the Court grants new opportunity to be excluded under F.R.C.P. 23(e)(4), then the terms set forth in in Schedule B (2.5 Alternative Opt-Out Procedure) shall apply as though set forth fully herein. If the Court does not grant a new opportunity to be excluded under FRCP 23(e)(4), then the terms set forth in Schedule B (2.5 Alternative Opt-out Procedure) shall be of no force or effect.

## **2.6 Objections to Settlement.**

- (A) Class Members who have not opt-outed out and who wish to object to the proposed settlement must do so in writing. To be considered, a written objection must be

mailed to the Settlement Claims Administrator via First-Class United States Mail, postage prepaid, and be received by the Settlement Claims Administrator within thirty (30) days from the mailing of the Notice to the Class Member. The written objection must include the words, "I object to the settlement in the AHRC wage and hour settlement" as well as all reasons for the objection. Any reasons not included in the written objection will not be considered. The written objection must also include the name, job title, address, and telephone number(s) for the Class Member making the objection. The Settlement Claims Administrator will stamp the date received on the original objection and send dated-stamped copies of each objection to Class Counsel and Defendant's Counsel by email and overnight delivery no later than three (3) days after receipt thereof. Class Counsel will promptly file the date-stamped originals of any and all objections with the Court. It is the responsibility of any Class Member who submits an objection (an "Objector") to retain a copy of the objection and proof of timely mailing hereunder.

- (B) A valid Objector also has the right to appear at the Fairness Hearing either in person or through counsel hired by the Objector. An Objector who wishes to appear at the Fairness Hearing must state his or her intention to do so in writing on his or her written objections at the time he or she submits his or her written objections by including the words, "I intend to appear at the Fairness Hearing" in his or her written objection. An Objector may withdraw his or her objections at any time. No Class Member may appear at the Fairness Hearing unless he or she has submitted a timely objection that complies with all procedures provided in this Section. No Class Member may present an objection at the Fairness Hearing based on a reason not stated in his or her written objections. A Class Member who has submitted an Opt-out Statement may not submit objections to the Settlement.
- (C) The Parties may file with the Court written responses to any filed objections no later than three (3) days before the Fairness Hearing.

## **2.7 Challenges to Allocation.**

- (A) The Notices sent to Class Members shall advise them of their dates of employment during the relevant limitations period as well as the estimated amount of their settlement payment, and provide directions on how to challenge that allocation.
- (B) To be effective, any challenge to the allocation must be postmarked within thirty (30) days from the mailing of the Notice to the Class Member.
- (C) The Settlement Claims Administrator shall promptly advise the Parties of any challenge to the allocation by a Class Member, which challenge shall be resolved as provided in Section 3.1(F).

- 2.8 Motion for Judgment and Final Approval.** Not later than fifteen (15) days before the Fairness Hearing (unless otherwise ordered by the Court), Named Plaintiff will submit a Motion for Judgment and Final Approval. The Motion for Judgment and Final Approval will be provided to Defendant's Counsel for review at least five (5) days prior to filing with the Court, and Class Counsel will consider and discuss defense counsel's reasonable comments.
- 2.9 Entry of Judgment.** At the Fairness Hearing, the Parties will request that the Court, among other things, (a) enter Judgment in accordance with this Agreement; (b) approve the Settlement and this Agreement as final, fair, reasonable, adequate, and binding on all Rule 23 Class Members who have not timely opted out; (c) approve the FLSA settlement; (d) approve Class Counsel's application for fees and litigation expenses and service awards to Named Plaintiff; (e) approval of Defendant's compliance with the Class Action Fairness Act ("CAFA"); and (f) dismiss the Litigation in its entirety with prejudice.
- 2.10 Effect of Revocation or Failure to Grant Preliminary or Final Approval.** In the event the Court fails to enter Judgment in accordance with this Agreement, or such Judgment does not become Final as defined herein, or the Agreement does not become Effective, (i) this Agreement shall have no force or effect, other than this Section 2.10 and the non-admission provisions in Section 4.3; (ii) neither this Agreement, nor any other related papers or orders, nor the negotiations leading to the Settlement, shall be cited to, used, or admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; (iii) none of the Parties will be deemed to have waived any claims, objections, defenses, or arguments with respect to the issue of class certification or the merits of Named Plaintiff's claims or any other issue; (iv) all monies paid by the Defendant into the QSF shall promptly be returned by the Settlement Claims Administrator to the Defendant (less the actual costs and fees incurred by the Claims Administrator) and (v) the Litigation will proceed as if no Settlement had been attempted unless the Parties jointly agree to: (1) seek reconsideration or appellate review of the decision denying entry of Judgment, or (2) attempt to renegotiate the Settlement and seek Court approval of the renegotiated Settlement. In the event this Agreement does not become Final and the Notices of Proposed Settlement of Class and Collective Action Lawsuit and Fairness Hearing have been sent to the Class Members, the Settlement Claims Administrator will provide notice, in a form to be jointly agreed upon by the Parties, to the Class Members that the Agreement did not receive final approval and that, as a result, no payments will be made to Class Members under the Agreement. Such notice shall be mailed by the Settlement Claims Administrator via First-Class United States Mail, postage prepaid, to the addresses used by the Settlement Claims Administrator in emailing and mailing the Notice of Proposed Settlement of Class and Collective Action Lawsuit and Fairness Hearing. Any fees incurred by the Settlement Administrator for administering the settlement that was not finally approved will be paid by the parties on a 50/50 basis.

**2.11 Releases and Consents to Join.**

- (A) Class Members agree and acknowledge that the consideration to be provided, as set forth in this Agreement is being made to settle, extinguish, and release all of Class Members' claims in the Litigation against the Releasees and that Class Members would not otherwise receive the consideration provided under the terms of this Agreement under any of Defendant's policies, plans, practices and/or procedures or pursuant to any prior agreement or contract (written or oral, express or implied). All Class Members who do not timely return Opt-out Statements will be issued a Settlement Check by the Settlement Claims Administrator from the QSF in accordance with the Final Approval Order. If the Court does not permit Class Members a new opportunity to request exclusion, all Class Members will be issued a Settlement Check by the Settlement Claims Administrator from the QSF in accordance with the Final Approval Order.
- (B) All Settlement Checks shall contain on the back of the check, the following limited endorsement:

**“CONSENT TO JOIN AND FINAL RELEASE OF CLAIMS:**

By endorsing or cashing this check, I consent to join in the case entitled *Oate v. AHRC Health Care, Inc.*, 1:20-cv-08292, now pending in the United States District Court for the Southern District of New York, and agree to be bound by the Settlement Agreement negotiated by Class Counsel in that case, and irrevocably and unconditionally waive, release, extinguish, acquit, and forever discharge the Released Federal Law Claims and Released State Law Claims as defined in the Notice I received with this check.

\_\_\_\_\_  
Signature”

- (C) The Settlement Claims Administrator shall instruct the bank from which the payments shall be made that a check shall be void if any of the language set forth in Section 2.11(B) has been crossed out, excised, deleted, or amended. Any Settlement Check that is negotiated, however, shall signify the consent of such Class Member to join the case and to the releases in the Released Federal Claims and Released State Law Claims as a matter of law, regardless of whether the check is signed or the language set forth in Section 2.11(B) has been crossed out, excised, deleted, or amended.
- (D) The Settlement Checks will be mailed to Class Members by the Settlement Claims Administrator within thirty (30) days after the Effective Date.

- (E) Defendant and the Settlement Claims Administrator shall exchange such information as is necessary and reasonably available for the Settlement Claims Administrator to make proper tax withholdings and comply with tax reporting obligations as described in Section 3.5.

**2.12 Magistrate Judge.** Contemporaneously with the execution of this Agreement, and subject to the Court's approval, the Parties shall take such steps as is necessary to consent to the jurisdiction of Magistrate Judge Jennifer Willis over the entirety of the Litigation, including approval of the Settlement. If the Court rejects or otherwise revokes the Parties' consent to the jurisdiction of Magistrate Judge Willis, the Parties shall nonetheless be bound by the terms of this Agreement and shall proceed to seek preliminary and final approval of the Settlement before the District Judge on the same terms and conditions set forth herein.

### **III. Settlement Terms**

#### **3.1 Settlement Amount.**

- (A) Defendants shall pay a maximum Gross Settlement Amount of Five Million One Hundred Fifty Thousand and 00/100 Dollars (\$5,150,000.00), which shall fully resolve and satisfy any and all amounts to be paid to Class Members, any claim for attorneys' fees and litigation expenses, any Court-approved Service Award to Named Plaintiff as more fully set forth herein, all payroll taxes and all other applicable taxes (including the Employer Payroll Taxes), interest, and the Settlement Claims Administrator's fees and costs. Defendant will not be required to pay more than the Gross Settlement Amount under the terms of this Agreement for any purpose whatsoever, including but not limited to Class Counsel's attorneys' fees and expenses.
- (B) Provided it has timely received a Form W-9 from the Settlement Claims Administrator and any other tax forms or information needed, Defendant shall deposit the Gross Settlement Amount into the QSF within ninety (90) calendar days of the Preliminary Approval Order. Any interest accrued from the QSF shall immediately be added to and become part of the Gross Settlement Amount.
- (C) Within thirty (30) days of the Effective Date, the Settlement Claims Administrator shall mail the Settlement Checks. Class Members will have ninety (90) days from the date of mailing to cash their Settlement Checks (*i.e.*, the Acceptance Period). Class Members will be informed of the date of the end of the Acceptance Period in the Notices. The Settlement Claims Administrator shall notify the Parties in writing of the date Notices will be sent at least two (2) business days before transmission. Settlement Checks not cashed within the Acceptance Period will be void and a stop-payment directive shall be placed by the Settlement Claims Administrator with the applicable bank with respect to all uncashed Settlement Checks. However, Class

Members who, within sixty (60) days after the expiration of the Acceptance Period, demonstrate to the Settlement Claims Administrator good cause for not timely cashing their checks shall be issued replacement checks, and shall have an additional thirty (30) days to cash the replacement check from the date of the mailing of the replacement check.

- (D) Rule 23 Class Members who do not timely cash their Settlement Checks during the Acceptance Period will be still bound by the terms of the Released State Law Claims. FLSA Class Members who do not timely cash their Settlement Checks during the Acceptance Period will not be bound by the terms of the Released Federal Law Claims.
- (E) Within thirty (30) days after the end of the Acceptance Period, the amount of the uncashed Settlement Checks shall be placed into an interest-bearing escrow account maintained by the Settlement Claims Administrator and used as a Reserve Fund (as described in Section 3.4(B)(2)). The Settlement Claims Administrator shall promptly advise counsel for the Parties of (i) any Class Members who file late or deficient claims, (ii) any Class Members who dispute their allocation based on the settlement formula, or (iii) any other individuals who have come forward as individuals who were not identified as Class Members but who have a good-faith claim for participation. Defendant shall decide, after a good faith conference with Class Counsel, whether such individuals may participate in the Settlement. If accepted, such individuals shall be considered Participating Class Members for all purposes under this Agreement. The Parties will confer in good faith in an effort to resolve any dispute relating to a Class Member's damage allocation and, if the Parties are unable to reach an agreement, the Settlement Claims Administrator shall decide the dispute, and its decision will be final. It will be presumed that Defendant's records are accurate unless the Class Member provides conclusive documentary evidence otherwise.
  - (1) Any individual who is accepted as a Class Member or whose allocation is permitted to be increased in accordance with this Section 3.1(E) by a date that is at least fourteen (14) days prior to the distribution of the Settlement Checks shall be paid from the Net Settlement Fund, and the calculations for all other Class Members shall be adjusted as necessary in accordance with Section 3.4.
  - (2) Any individual who is accepted as a Class Member or whose allocation is permitted to be increased in accordance with this Section 3.1(E) after the date that is fourteen (14) days prior to the distribution of the Settlement Checks shall be paid from the Reserve Fund. Additionally, any amount needed to satisfy any claim for relief allowed pursuant to Fed. R. Civ. P. 60(b)(1) or 60(d) shall be paid from the Reserve Fund.

- (3) Once settlement funds (the Net Settlement Fund and Reserve Fund) no longer remain to accept additional claims or adjust allocations, no further claims shall be accepted and no further changes to allocations shall be made. In no event shall the acceptance of any individuals as Class Members or the making of any changes to allocations in accordance with this Section 3.1(E) result in Defendant being required to pay more than the Gross Settlement Amount.
  - (4) One-half of the amount remaining in the Reserve Fund not distributed to these individuals after 180 days from the end of the Acceptance Period will be refunded to Defendant. The other one-half of the amount remaining in the Reserve Fund shall be distributed to an agreed-upon *cy pres* organization to be selected by the parties and approved by the Court.
- (F) To the extent that a Class Member submits a timely Opt-Out Statement, the amount attributable to that Class Member shall be re-allocated to the Net Settlement Fund.

### **3.2 Settlement Amounts Payable as Attorneys' Fees and Expenses.**

- (A) At the Fairness Hearing and Motion for Final Approval, Class Counsel will petition the Court for an award of attorneys' fees of no more than one-third of the Gross Settlement Amount, and, in addition, for reimbursement of their litigation costs and expenses to be paid from the QSF. Defendant will not oppose this application. Other than depositing the Settlement Amount with the Settlement Claims Administrator for the QSF, Defendant shall have no liability for Class Counsel's attorneys' fees and expenses.
- (B) The substance of Class Counsel's application for attorneys' fees and costs is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the Settlement of the Litigation. The outcome of any proceeding related to Class Counsel's application for attorneys' fees and costs shall not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Final Approval. Class Counsel shall have the right to appeal the Court's determination with respect to their application for attorneys' fees and costs. Upon the determination of any such appeal, fees and costs sought by Class Counsel but not awarded shall be returned to the Net Settlement Fund.
- (C) Attorneys' fees and expenses will be paid to Class Counsel by the Settlement Claims Administrator from the Gross Settlement Amount in the QSF no later than 10 calendar days after the issuance of an Order from the Court awarding Class Counsel's attorneys' fees and litigation expenses.

### **3.3 Service Award to Named Plaintiff.**

- (A) In return for services rendered to the Class Members, at the Fairness Hearing, Onate will apply to the Court for \$10,000.00 as a Service Award. Defendant will not oppose such application.
- (B) The application for a Service Award is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the Settlement of the Litigation. The outcome of the Court's ruling on the application for a Service Award will not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Final Approval or for Final Judgment and Dismissal. The amount of a Service Award sought but not awarded shall be returned to the Net Settlement Fund.
- (C) Within thirty (30) days of the Effective Date, the Settlement Claims Administrator shall mail the Court-approved Service Award to Onate.

### **3.4 Net Settlement Fund and Allocation to Class Members.**

- (A) The allocation to Class Members for Settlement Checks will be made from the Net Settlement Fund.
- (B) A Class Member's proportionate share of the Net Settlement Fund will be determined by the Settlement Claims Administrator pursuant to the following formula:
  - (1) Within 14 days of entry of the Preliminary Approval Order, Defendant will provide Class Counsel and the Settlement Claims Administrator for settlement purposes only with the Class Records. For the sake of clarity, nothing herein shall obligate Defendant to produce records which do not exist or which are otherwise not in its custody or control. The Settlement Claims Administrator will then calculate each Class Member's expected total Settlement Amount based on a *pro rata* allocation from the applicable number of workweeks per Class Member from the Gross Settlement Amount. Each Class Member will be assigned an individual percentage amount of the Gross Settlement Amount based on their individual number of workweeks compared to the total amount of such workweeks attributable to the entire Class. Each Class Member's percentage amount of the Gross Settlement Amount shall be assigned to the Net Settlement Fund and in order to compute that Class Member's share of the Net Settlement Fund (an "Individual Settlement Amount"). For example, if there are 100,000 total workweeks amongst all Class Members and an individual Class Member is allocated 200 workweeks, that Class Member's percentage of the Net Settlement Fund is 0.2%, and if the Net Settlement Fund is \$3,400,000,

then that Class Member's Individual Settlement Amount would be \$6,800 (subject to the applicable tax withholdings as described in Section 3.5). A Class Member shall only be entitled to receive that Class Member's percentage of the Net Settlement Fund as calculated above. If any Class Member has timely submitted an Opt-out Statement, then the individual percentage amount of the Gross Settlement Amount for that Class Member will revert back to the total Net Settlement Fund. Class Counsel represents that it will not use the Class Records for any purpose other than to effectuate the settlement contemplated by this Agreement.

- (2) **Reserve Fund:** The Settlement Administrator shall keep fifty percent (50%) of the amount from any uncashed checks as described in Sections 3.1(E) and 3.1(F) in an interest-bearing escrow account held by the Settlement Claims Administrator (*i.e.*, the Reserve Fund). The Reserve Fund shall be used to settle any disputed claims made by (i) Class Members who wish to challenge their individual settlement amount, or (ii) individuals who did not receive the Class Notice or who did not provide a release of their FLSA claims. Any funds remaining in the Reserve Fund after 180 days from the end of the Acceptance Period that were not used to pay Class Members, shall be distributed as follows: one-half to Defendant, and one-half to the agreed upon *cy pres* organization to be agreed upon by the Parties and approved by the Court.
- (3) **Semi-Reversionary Settlement:** This is a semi-revisionary Settlement only with respect to 50% of the Reserve Fund as defined above. Any unclaimed amounts from the Gross Settlement Amount attributable to Class Members that submit valid and timely Opt-Out Statements shall revert back to Defendant. Notwithstanding the above, if any amounts from the Gross Settlement Amount remain in the Reserve Fund more than 180 days from the end of the Acceptance Period, one-half of those funds shall be paid to Defendant and the other one-half shall be paid to the agreed upon *cy pres* organization to be agreed upon by the Parties and approved by the Court.

### 3.5 Tax Characterization.

- (A) For tax purposes, fifty percent (50%) of payments to Class Members pursuant to Section 3.4(B)(1) shall be treated as settlement of claims for back wages and fifty percent (50%) of such payments shall be treated as settlement of claims for interest and/or liquidated damages. To the extent any Settlement payment results in any overpayment of unemployment benefits to any Plaintiff and/or Participating Plaintiff, the amount of any such overpayment shall be the responsibility of the individual Plaintiff and/or Participating Plaintiff, unless prohibited by law.

- (B) Payments treated as settlement of claims for back wages pursuant to Section 3.5(A), or Service Award pursuant to Section 3.3, shall be made net of all applicable employment taxes, including, without limitation, federal, state and local income tax withholding and the employee share of the FICA tax, and shall be reported to the Internal Revenue Service (“IRS”) and to the payee under the payee’s name and social security number on an IRS Form W-2. Payments treated as settlement of claims for interest and/or liquidated damages pursuant to Section 3.5(A) shall be made without withholding and shall be reported to the IRS and to the payee under the payee’s name and social security number on an IRS Form 1099. Payments of attorneys’ fees and costs pursuant to Section 3.2 shall be made without withholding and reported to the IRS and to the payee under the payee’s name and taxpayer identification number, which each such payee shall provide for this purpose, on an IRS Form 1099.
- (C) The Settlement Claims Administrator shall be responsible for making all reporting, deposits, and withholdings with respect to all amounts payable to Participating Class Members required pursuant to any federal, state, or local tax law or regulation hereunder under the EIN of the QSF or the Defendant as required by applicable law.
- (D) The employee portion of all applicable income and payroll taxes will be the responsibility of the individual Participating Plaintiff receiving a Settlement Check or Service Award.
- (E) With respect to payments received pursuant to this Agreement that are not characterized as wage income and reported on an IRS Form W-2, the Named Plaintiff and Participating Class Members assume full responsibility for any and all federal, state, and local taxes or contributions that may hereafter be imposed or required to be paid under any federal, state, or local law of any kind. The Parties believe, in good faith, that the tax treatment of all payments set forth in this Agreement is proper and in compliance with applicable IRS regulations. If, notwithstanding such good faith belief, the IRS or any other federal, state or local government, administrative agency or court determines that any individual Named Plaintiff, Participating Plaintiff, and/or Defendant are liable for any failure by any Named Plaintiff, Participating Plaintiff, and/or Defendant to pay federal, state, or local income, employment or payroll taxes with respect to any payment received pursuant to this Agreement that is not characterized as wage income and reported on an IRS Form W-2, Named Plaintiff and Participating Class Members shall hold Defendant harmless and indemnify Defendant from any payments the Defendant may be required to make (including any payments for interest and penalties) to any taxing authority resulting from the issuance of an IRS Form 1099 and Named Plaintiff’s and/or Participating Class Members’ failure to pay any taxes that any such individual or entity owes related to said income.

- (1) In the event that the IRS or any other federal, state, or local government, administrative agency or court determines that any Named Plaintiff, Participating Plaintiff, and/or any Defendant are liable for any failure by any Named Plaintiff, Participating Plaintiff, and/or Defendant to pay federal, state, or local income, employment or payroll taxes with respect to any payment received pursuant to this Agreement that is not characterized as wage income and reported on an IRS Form W-2 under the applicable provisions of this Section 3.5(E) (a "Tax Claim"), then the Defendant shall give written notice of such Tax Claim to Class Counsel within seven (7) days of such determination. Defendant and/or Defendant's Counsel shall provide Named Plaintiff, Participating Class Members, and/or Class Counsel with a reasonable opportunity to cure such Tax Claim before making a claim for indemnity pursuant to this indemnification provision. Defendant and/or Defendant's Counsel shall reasonably cooperate with Named Plaintiff, Participating Class Members, and/or Class Counsel, to the extent possible, to minimize the costs associated with this indemnity.
  - (2) With respect to payments received pursuant to this Agreement that are characterized as professional fees and costs, Class Counsel shall assume responsibility of any and all federal, state, and local taxes or contributions which may hereafter be imposed or required to be paid under any federal, state, or local law of any kind. The Parties believe, in good faith, that the tax treatment of all payments set forth in this Agreement is proper and in compliance with applicable IRS regulations. If, notwithstanding such good faith belief, the IRS or any other federal, state, or local government, administrative agency or court determines that Class Counsel is liable for any federal, state, or local taxes or contributions with respect to any payment received pursuant to this settlement that is characterized as professional fees and costs, Class Counsel shall be responsible for said payments and shall hold Defendant harmless for said payments.
- (F) Other than as set forth above, Defendant will not make from the payment to the Named Plaintiff and Participating Class Members any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or matching employer contributions, wage garnishments, or charity withholdings, and entry of the Final Approval Order and Judgment by the Court shall be deemed authority not to make such deductions, withholdings, or additional payments. Any amount paid to Named Plaintiff and Participating Class Members shall not form the basis for any additional contributions to, benefits under, or any other monetary entitlement under, count as earnings or compensation with respect to or be considered to create any credit, apply to, or be applied for purposes of, or otherwise affect the calculation of any

deferred compensation, bonus, benefit, retirement, pension, 401(k) or other compensation or benefit plan provided by Defendant. The amounts paid pursuant to this Agreement are not compensation or wages for hours worked, hours paid, or any similar measuring term as defined by any plans and programs for purposes of eligibility, vesting, benefit accrual or any other purpose. Plaintiff, on behalf of the Class Members and the Participating Class Members, acknowledges and agrees that he has not relied upon any advice from Defendant as to the taxability of the payments received pursuant to this Agreement.

- (G) The Settlement Claims Administrator shall handle all tax reporting with respect to the payments made pursuant to this Agreement, and, regardless of any provision in this Agreement, shall report the payments in accordance with applicable law.

#### **IV. RELEASE**

##### **4.1 Release of Claims.**

By operation of the entry of the Final Approval Order and Judgment, and except as to such rights or claims as may be created by this Agreement:

- (A) Each individual Rule 23 Class Member who has not timely and validly opted-out pursuant to this Agreement forever and fully releases the Released State Law Claims against the Releasees. To the extent the Court does not permit Class Members a new opportunity to request exclusion, each individual Rule 23 Class Member forever and fully releases the Released State Law Claims against the Releasees pursuant to this Agreement.
- (B) Each individual FLSA Class Member who has not timely and validly opted-out pursuant to this Agreement and endorses or cashes his or her Settlement Check forever and fully releases the Released Federal Law Claims and Released State Law Claims against the Releasees. If an FLSA Class Member has not timely and validly opted-out, but fails to endorse or cash his or her Settlement Check, such class member will forever and fully release the Released State Law Claims, but not the Released Federal Law Claims.
- (C) In addition to the Released State Law Claims and Released Federal Law Claims, the Named Plaintiff forever and fully releases Defendant and the Releasees from any and all claims, actions, causes of action, lawsuits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints and demands whatsoever, whether in law or equity, known or unknown, which against the Defendant and/or Releasees the Named Plaintiff and his heirs, executors, administrators, successors, and assigns, ever had, may now have, or hereafter later

determine to have or had upon, or by reason of, any cause or thing whatsoever, including, but not limited to relating to their employment or termination of employment, including claims arising under the Age Discrimination in Employment Act (“ADEA”), Americans With Disabilities Act, the National Labor Relations Act, the FLSA, the Equal Pay Act, ERISA (including but not limited to, breach of fiduciary duty and equitable claims to be brought under §1132(a)(3) of ERISA), the Worker Adjustment and Retraining Notification Act, Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of 1973, the Civil Rights Acts of 1866, 1871 and 1991, including Section 1981 of the Civil Rights Act, the Family and Medical Leave Act, and/or any other federal, state or local human rights, civil rights, wage-hour, pension or labor law, rule, statute, regulation, constitution or ordinance and/or public policy, contract or tort law, or any claim of retaliation under such laws, or any claim of breach of any contract (whether express, oral, written or implied from any source), or any claim of intentional or negligent infliction of emotional distress, tortious interference with contractual relations, wrongful or abusive or constructive discharge, defamation, prima facie tort, fraud, negligence, loss of consortium, malpractice, breach of duty of care, breach of fiduciary duty or any action similar thereto against Defendant or Releasees, including any claim for attorneys’ fees, expenses or costs based upon any conduct from the beginning of the world up to and including the Effective Date; provided, however, that Named Plaintiff does not waive any right to file an administrative charge with the Equal Employment Opportunity Commission (“EEOC”), subject to the condition that they agree not to seek, or in any way obtain or accept, any monetary award, recovery or settlement therefrom; and further provided, however, that Named Plaintiff does not release any claim for breach of the terms of the Agreement.

- (1) This Settlement is intended to include in its effect all claims identified in this Section 4.1(C), including claims that Named Plaintiff does not know or suspect to exist in his favor against Defendant and/or Releasees at the time of the release. Named Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he may otherwise have had relating to the claims identified in this Section 4.1(C).
- (2) The Named Plaintiff, who is over 40 years of age at the time he is presented with this Agreement, shall have twenty-one (21) calendar days to consider the Agreement, and seven (7) days to revoke his entitlement to a Service Award and the general release of claims in this Section 4.1(C) following his execution of the Agreement, and such provisions shall not be effective or enforceable as to such Named Plaintiff until the expiration of this seven-day revocation period. Any revocation by the Named Plaintiff shall pertain solely to the payment of his Service Award and the general release set forth

in this Section 4.1(C). Upon such revocation, such Named Plaintiff shall not be paid any Service Award, and shall not release claims under this Section 4.1(C), but this Agreement shall otherwise remain valid and enforceable in all other respects, and such Named Plaintiff shall continue to be considered a Class Member for purposes of participating in the Settlement and releasing the Released State Law Claims and the Released Federal Law Claims. Further, Named Plaintiff is hereby advised to consult with an attorney of his choosing before executing this Agreement, and represents that he has done so with Class Counsel.

- (3) Nothing in this Release shall prohibit or restrict Named Plaintiff from:
    - (i) providing information to, or otherwise assisting in, an investigation by Congress, the EEOC, the Securities and Exchange Commission or any other federal regulatory or law enforcement agency or self-regulatory organization;
    - (ii) complying with a lawful subpoena or other legal process, subject to the terms of the Agreement; or
    - (iii) engaging in any conduct that is required or protected by law.
  - (4) Named Plaintiff further covenants that he will not participate in any other legal actions against Defendant relating to claims released by this Stipulation, and will not opt-in, will withdraw any opt-in, and will opt-out of those actions if they become aware of such actions.
- (D) Except as provided in this Agreement, Class Counsel and Named Plaintiff, on behalf of the Class Members individually and collectively, hereby irrevocably and unconditionally release, acquit, and forever discharge any claim that he, she or they may have against Defendant for attorneys' fees or costs associated with Class Counsel's representation of the Named Plaintiff and Class Members in the Litigation. Class Counsel further understands and agrees that any fee payments approved by the Court will be the full, final and complete payment of all attorneys' fees and costs associated with Class Counsel's representation in the Litigation.

**4.2 Non-Admission of Liability.** Nothing relating to this Agreement, or any communications, papers, or orders related to the Settlement, shall be cited to as, construed to be, admissible as, or deemed an admission by Defendant and/or Releasees of any liability, culpability, negligence, or wrongdoing toward the Named Plaintiff, the Class Members, or any other person, and Defendant and/or Releasees specifically disclaim any liability, culpability, negligence, or wrongdoing toward the Named Plaintiff, the Class Members, or any other person, or that class or collective action certification is appropriate in this or any other matter. Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and contingencies. This Agreement, and any communications, papers, or orders related to the Settlement, may not be cited to, used, or admitted as evidence of liability or that class or

collective action certification is appropriate. There has been no determination by any Court as to the merits of the claims asserted by Named Plaintiff against Defendant and/or Releasees. Furthermore, nothing in this Agreement shall be considered any form of waiver of any releases by Defendant and/or Releasees.

## V. INTERPRETATION AND ENFORCEMENT

- 5.1 Cooperation Between the Parties; Further Acts.** The Parties shall reasonably cooperate with each other and shall use their reasonable best efforts to obtain the Court's approval of this Agreement and all of its terms. Each Party, upon the request of any other Party, shall perform such further acts and execute and deliver such other documents, including confirmatory discovery, as are reasonably necessary to carry out the provisions of this Agreement.
- 5.2 Non-Interference with Settlement.** Pending the District Court's decision on preliminary and final approval of the Settlement and entry of the Court's Final Approval Order and Judgment, Named Plaintiff and all Class Members and anyone acting on behalf of any Class Member shall be barred and enjoined from: (a) further litigation in this Litigation; (b) filing, or taking any action directly or indirectly, to commence, prosecute, pursue or participate on a class or collective action basis any action, claim or proceeding against Defendant in any forum in which any of the claims released by this Agreement are asserted, or which in any way would prevent any such claims from being extinguished; or (c) seeking certification of a class action that involves any such claims.
- 5.3 No Assignment.** Class Counsel and Named Plaintiff, on behalf of the individual Class Members, represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Litigation, or any related action.
- 5.4 Entire Agreement.** This Agreement and its exhibits constitute the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement.
- 5.5 Binding Effect.** This Agreement shall be binding upon the Parties and, with respect to the Named Plaintiff, his spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys, and assigns.
- 5.6 Arms'-Length Transaction; Materiality of Terms.** The Parties have negotiated all the terms and conditions of this Agreement at arms'-length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement, unless otherwise expressly stated.

- 5.7 Captions.** The captions or headings of the Sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.
- 5.8 Construction.** The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any Party by virtue of draftsmanship.
- 5.9 Governing Law.** This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of New York, without regard to choice of law principles, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.
- 5.10 Continuing Jurisdiction.** The Court shall retain jurisdiction over the interpretation and implementation of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the Settlement contemplated thereby.
- 5.11 Waivers, etc. to Be in Writing.** No waiver, modification or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then only to the extent set forth in such written waiver, modification or amendment, subject to any required Court approval. Any failure by any Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.
- 5.12 Counterparts.** The Parties may execute this Agreement in counterparts, and execution in counterparts shall have the same force and effect as if all Parties had signed the same instrument.
- 5.13 Signatures of Named Plaintiff.** This Agreement is valid and binding if signed by Defendant's representative(s) and the Named Plaintiff.
- 5.14 Facsimile and Scanned Signatures.** Any signature made and transmitted by facsimile or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the Party whose counsel transmits the signature page by facsimile or email.

**IN WITNESS WHEREOF**, the Parties hereto have caused the Settlement to be executed, and this Settlement is AGREED TO.

DATED: June 3, 2025

Signed by:  
*Antonio Onate, Jr.*  
By: 62D82E197BF140E  
ANTONIO ONATE, JR.  
Named Plaintiff and Class Representative

DATED: \_\_\_\_\_, 2025

By: \_\_\_\_\_  
Amy West, Executive Vice President &  
Chief Financial Officer of AHRC New York  
City.

Authorized Representative of  
AHRC Health Care, Inc

**IN WITNESS WHEREOF**, the Parties hereto have caused the Settlement to be executed, and this Settlement is **AGREED TO**.

DATED: \_\_\_\_\_, 2025

By: \_\_\_\_\_  
ANTONIO ONATE, JR.  
Named Plaintiff and Class Representative

DATED: June 3, 2025

By: Amy West  
Amy West, Executive Vice President &  
Chief Financial Officer of AHRC New York  
City.

Authorized Representative of  
AHRC Health Care, Inc

**SCHEDULE A**

<b>Claim No.</b>	<b>Name</b>
1004879	CHERELL RICHARDSON
1005168	LYNN RICHMAN
1005169	MARGARET BLACK
1005303	CATHERINE MOWETTE
1005304	HANNAH WALWYN
1005750	JUSTINA CAPPARELLI
1006207	BRIAN LEMEUR
1006394	LEMUEL ZAMOR
1006606	ROSEMARIE AGRO
1006627	MONICA IODICE
1006628	SAUNDRA KORNEGAY
1006631	ALFRED HA
1006978	TYESHA GRAHAM
1007060	MOHAMMED SABUR SOMUYIWA
1007406	ANDREA LESZCZYNSKI
1007428	YVONNE DIAZ
1007817	MEI-AN LEE
1008079	NATARDIA LEE SOY
1008157	BARBARA ROSSETTI
1008170	VIRGINIA DESARDEN
1008299	DANA MILLER
1008687	HAGER KACHO
1008881	HAE-WOOK CHUNG
1009147	MIGDALIA CAMILO
1009858	VERA KIRILLOVA
1010051	NATHALIE BEAUBRUN
1010104	ESPERANCIA EXAVIER
1011064	JONATHAN REINHARTH
1011174	MARTHE LAUORE
1011238	ADRIENNE MATTHEWS
1011679	KAREN LEWIS
1011717	LATASHA NEIL
1011930	UNNIKRISHNAN SUDHAKARAN
1012431	LUC BERNARD
1012487	MELANIE SICARDO
1012535	ELISA MEDINA ALCANTARA
1012727	ANNA VOLCHENKOVA
1012766	VIVIAN MARTINS

## SCHEDULE B

**2.5 Alternative Opt-Out Procedure.** This Section 2.5 in Schedule B shall only apply to the extent the Court permits a second round of opt-outs.

- (A) Named Plaintiff will submit two proposed Notices in connection with his Motion for Preliminary Approval, one of which will permit existing Class Members a new opportunity to request exclusion, the other one will not. In connection with the Motion for Preliminary Approval, Named Plaintiff will not take any position concerning whether or not Class Members should be given a new opportunity to request exclusion. Should the Court direct that Class Members be given a new opportunity to opt-out, the Notice will inform Class Members of such opportunity, and Section 2.5(B)-(G) in this Paragraph 2.5 of Schedule B shall apply.
- (B) A Class Member who chooses to opt-out of the Settlement as set forth in this Agreement must mail, *via* First Class United States Mail, postage prepaid, a written, signed statement to the Settlement Claims Administrator, which states he or she is opting out of the settlement by saying, "I opt out of the AHRC wage and hour settlement," and which includes his or her name, job title, address, and telephone number(s) (the "Opt-out Statement"). To be effective, an Opt-out Statement must be postmarked within thirty (30) days from the mailing of the Notice to the Class Member (the "Opt-Out Period"). For any deadline under this Agreement that is based on a postmark, in the event that there is no postmark date on the document being mailed by the Class Member, it shall be presumed that the document was mailed five (5) days prior the Settlement Claims Administrator's receipt of the document, excluding any Sunday or other day for which no postal service was provided. It is the responsibility of the individual seeking to opt-out to retain a copy of the Opt-out Statement and proof of timely mailing hereunder.
- (C) Class Members whose first mailing was returned to the Settlement Claims Administrator as undeliverable will be allowed to opt-out or object up to thirty (30) days from the date of the second mailing. The Settlement Claims Administrator shall not attempt more than two (2) mailings of the Notice to any Class Member, and no mailing shall occur more than thirty (30) days after the first mailing to Class Members.
- (D) The Settlement Claims Administrator shall keep accurate records of the dates on which it sends Notices to Class Members.
- (E) The Settlement Claims Administrator will stamp the postmark date on the original of each Opt-out Statement that it receives and shall serve copies of each Opt-out Statement on Class Counsel and Defendant's Counsel not later than three (3) days after receipt thereof. Class Counsel will promptly file with the Clerk of Court stamped copies of any Opt-out Statements. The Settlement Claims Administrator will, within 24 hours of the end of the Opt-Out Period, send a final list of all Opt-out Statements to Class Counsel and Defendant's Counsel by email. The Settlement Claims Administrator will retain the stamped originals of all Opt-out Statements and originals of all envelopes accompanying Opt-out Statements

in its files until such time as the Settlement Claims Administrator is relieved of its duties and responsibilities under this Agreement.

- (F) Any Rule 23 Class Member who does not timely and properly submit an Opt-out Statement pursuant to this Agreement will be deemed to have accepted the Settlement and the terms of this Agreement and will be issued a Settlement Check. Any Rule 23 Class Member who does not properly submit an Opt-out Statement shall be bound by this Settlement and deemed to have released the Released State Law Claims regardless of whether he or she negotiates the Settlement Check. Any Rule 23 Class Member who negotiates a Settlement Check shall be bound by the Settlement and deemed to have released the Released State Law Claims regardless of whether such individual also submitted an Opt-out Statement. Any FLSA Class Member who does not timely and properly submit an Opt-out Statement pursuant to this Agreement and endorses his or her Settlement Check will be deemed to have accepted the Settlement and the terms of this Agreement and deemed to have released the Released Federal Law Claims and Released State Law Claims. An FLSA Class Member must endorse, negotiate, or cash his or her Settlement Check to be deemed to release the Released Federal Law Claims. If an FLSA Class Member does not timely and validly opt-out, but fails to endorse his or her Settlement Check, such class member will forever and fully release the Released State Law Claims, but not the Released Federal Law Claims.
- (G) Named Plaintiff shall not opt-out of the Settlement, and his execution of this Stipulation shall signal his agreement to all of the terms of the Settlement.
- (H) Within 10 days of the conclusion of the Opt-out Period, Defendant shall have the option to cancel the settlement if more than 15% of the Class Members opt-out of the settlement, excluding those individuals in Schedule A who have already opted out. Should Defendants elect such a cancellation, the Parties will revert to their respective positions prior to entering into this Agreement and the Litigation will proceed as if no settlement had been attempted.