

1 SHANNON LISS-RIORDAN (SBN 310719)
sliss@llrlaw.com
2 ANNE KRAMER (SBN 315131)
(akramer@llrlaw.com)
3 LICHTEN & LISS-RIORDAN, P.C.
4 729 Boylston Street, Suite 2000
Boston, MA 02116
5 Telephone: (617) 994-5800
6 Facsimile: (617) 994-5801

7 *Attorneys for the Settlement Class*

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

12/14/2020
Clerk of the Court
BY: JUDITH NUNEZ
Deputy Clerk

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 JACOB RIMLER and GIOVANNI
12 JONES, on behalf of themselves and all
others similarly situated,

13 Plaintiffs,

14 v.

15 POSTMATES, INC.,

16 Defendant.

Case No.: CGC-18-567868

DECLARATION OF SHANNON LISS-RIORDAN IN SUPPORT OF PLAINTIFFS' SUPPLEMENTAL BRIEFING IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF REVISED CLASS ACTION SETTLEMENT

Dept.: 304

Trial Date: None Set
Hon. Anne-Christine Massullo

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DECLARATION OF SHANNON LISS-RIORDAN IN SUPPORT OF PLAINTIFFS' SUPPLEMENTAL
BRIEFING IN SUPPORT OF PRELIMINARY APPROVAL OF
REVISED CLASS ACTION SETTLEMENT

Case No.: CGC-18-567868

1 I, Shannon Liss-Riordan, declare as follows:

2 1. I am a partner at the law firm of Lichten & Liss-Riordan, P.C. and am lead
3 attorney for the settlement class in the above-captioned matters. I submit this declaration in
4 support of Plaintiffs' Supplemental Briefing in support of Preliminary Approval of Revised Class
5 Action Settlement. I have personal knowledge of the information set forth herein.

6 2. In this case, Plaintiffs have alleged that Defendant Postmates is a takeout food
7 delivery service that has misclassified the couriers who made deliveries to Postmates customers
8 as independent contractors instead of employees under California law. Specifically, Plaintiffs
9 have alleged that Postmates' misclassification of its couriers has caused it to violate the California
10 Labor Code by failing to reimburse these individuals for their necessary business expenses and
11 failing to pay minimum wage and overtime (among other violations).

12 3. As set forth in Plaintiffs' prior papers, on July 19, 2019, I mediated this case along
13 with Lee v. Postmates, Inc. (N.D. Cal.) Civ. No. 3:18-cv-03421 (a class action on behalf of
14 California drivers) and Albert v. Postmates, Inc., (N.D. Cal.) Civ No. 3:18-cv-07592 (a second
15 PAGA action).

16 4. After exchanging extensive data and concluding exhaustive and in-depth
17 discussions, I reached an agreement with Postmates to settle the claims of California Postmates
18 couriers and a release of all PAGA claims for a total of \$11.5 million, with \$250,000 to be
19 allocated to the settlement of the PAGA claims. In the interest of efficiency both for the courts
20 and the parties, the parties agreed to seek final approval of both the class-action and PAGA
21 settlement from this Court.

22 5. The parties filed their Preliminary Approval Motion in October 2019. On
23 November 22, 2019, the Court issued its first in a series of tentative rulings, seeking supplemental
24 briefing on a number of issues regarding the proposed settlement. In response to the Court's
25 tentative orders, Plaintiffs submitted extensive supplemental briefing on January 15, 2020, and
26 April 28, 2020. The Parties also made various modifications to the settlement in response to the
27

1 Court's feedback, including amending the opt-out procedures to allow counsel to opt their clients
2 out of the settlement and adding almost \$500,000 the settlement for a total of \$11.9 million and a
3 PAGA allocation of \$500,000.

4 6. Following the Court's most recent tentative ruling, the Parties reconvened for a
5 further mediation session on October 29, 2020, with mediator Tripper Ortman. In advance of this
6 mediation session, Postmates provided Plaintiffs with updated data. Armed with this data,
7 Plaintiffs refined their damages estimates, and following this mediation session, the Parties
8 reached a revised settlement, which nearly triples the amount of money to be paid and extends the
9 release through 2020.

10 7. Specifically, the revised settlement proposes to pay \$32 million to settle claims
11 against Postmates on behalf of California couriers who performed at least one delivery from June
12 3, 2017, to January 1, 2021.

13 8. I have set forth my valuation of the claims at issue in this case at length in prior
14 filings. My methodology for calculating exposure was the same here as it was previously except
15 that I updated my projections based on the updated data.

16 9. Based on the updated data, I projected that the class size would be approximately
17 679,000 couriers by January 1, 2021, and that these couriers would have driven approximately
18 376,000,000 miles.

19 10. Based on these projections, I now estimate the class claim for expense
20 reimbursement through January 1, 2021, could be worth as much as \$213 million. I calculated
21 potential expense reimbursement damages by multiplying the total estimated miles by the average
22 of the IRS fixed rate during the applicable time frame (which ranged from 54 to 58 cents per
23 mile), which is what Plaintiffs would argue applied at trial. Postmates would argue, however, that
24 the IRS variable rate for mileage should apply which ranged from 17 to 20 cents per mile during
25 the applicable period. If the lower rate were used, the potential expense damages would be
26 approximately \$67 million.

1 11. I now estimate the class claim for minimum wage violations could be worth \$142
2 million, and the class claim for overtime violations for the same period could be worth \$2.7
3 million.¹

4 12. Using Plaintiffs' most valuable claim of expense reimbursement and extrapolating
5 the parties' prior \$11.9 million settlement on a recovery-per-mile basis through the estimated
6 miles through January 1, 2021, would have yielded a new settlement amount of \$24.7 million.
7 Thus, the revised \$32 million settlement represents a **30% improvement** over the initial
8 settlement.

9 13. Based upon the data provided by Postmates, the potential damages had more than
10 doubled since the release date of the last proposed settlement. However, we were able to
11 negotiate a revised settlement that nearly tripled the previous settlement. Further, in this
12 negotiation, the Parties agreed to increase the allocation for PAGA penalties eight-fold, from
13 \$500,000 to \$4 million, covering the same period through January 1, 2021.

14 14. With respect to PAGA penalties, based upon updated data I received from
15 Postmates, I estimate that the PAGA claim for expense reimbursement could be worth as much as
16 \$923 million, the PAGA claim for pay statements could be worth approximately \$462 million, the
17 PAGA claim for minimum wage violations could be worth approximately \$190 million, the
18 PAGA claim for overtime could be worth approximately \$161 million,² and the PAGA claim for
19 willful misclassification would be worth as much as \$3.4 billion. These increases are due to
20 Postmates' unprecedented rate of growth during the pandemic. Thus, without stacking, the
21

22 _____
23 ¹ Plaintiffs refer the Court to the analysis at pp. 3-6 of their Further Supplemental Briefing
24 dated April 28, 2020, which includes a detailed summary of the claims being settled and potential
barriers to succeeding on the merits of these claims.

25 ² In my previous declarations related to the original settlement, I inadvertently used the
26 incorrect penalty amounts, and therefore calculated PAGA overtime penalties at \$179 million.
27 Using the correct amounts of \$50 for the first violation and \$100 for any subsequent violations,
the correct estimate for PAGA overtime penalties for the original settlement period was \$89.5
million.

1 maximum PAGA penalties could reach anywhere from \$161 million to \$3.4 billion; if stacking
2 penalties were permitted, they could reach as high as \$5.1 billion

3 15. The \$4 million PAGA allocation in the revised settlement accounts for as much as
4 2.5%, and as little as .08%, of the potential stacked penalties. Without the willful
5 misclassification penalties, the \$4 million PAGA allocation accounts for .23% of the potential
6 stacked penalties. Even at this low end, and even accounting for Postmates' unprecedented and
7 unexpected growth this year, this allocation is proportionally four times as much as the .02%
8 allocation in the prior proposed settlement.

9 16. These new estimates were calculated as follows: first, for the willful
10 misclassification claim, Plaintiffs were provided with data by Postmates regarding the number of
11 new couriers who began working for Postmates through July 2020, the most recent month for
12 which reliable data was available at the time of the mediation. I used this information to project
13 that roughly the same number of "new" couriers would begin working for Postmates each month
14 through the end of 2020. Using these extrapolated figures, I took the total number of couriers
15 projected to work for Postmates through the end of 2020, added it to the existing settlement class,
16 and multiplied by \$5,000 per courier. See Cal. Lab. Code § 226.3. For the other Labor Code
17 violations, I reached these figures by taking the existing data we were provided by Postmates
18 regarding the total number of pay periods in which a violation of that particular Labor Code
19 provision occurred and then extrapolating through the end of 2020.

20 17. When calculating these PAGA penalties, I assumed that a violation of the expense
21 reimbursement and pay statement statutes occurred during every pay period. However, for
22 overtime and minimum wage, I assumed that violations occurred less frequently based on data
23 provided by Postmates in conjunction with the mediation for a sampling of hundreds of couriers,
24 as described in my prior declarations. I did not assume that a minimum wage or overtime
25 violation would occur for every courier during every pay period, as that was inconsistent with
26 what the data demonstrated.

1 Postmates' records. It is highly unlikely that that the Dispute Resolution Fund would be depleted
2 before these individuals receive their settlement shares.

3 22. Attached hereto as **Exhibit A** is a further revised version of the Settlement
4 Agreement as agreed to by the parties.

5 23. Attached hereto as **Exhibit B** is a further revised version of the Settlement
6 Agreement with redlines showing the most recent changes made to the Settlement Agreement
7 since the prior revision was submitted in June 2020.

8 24. Attached hereto as **Exhibit C** is a further revised version of the Notice as agreed to
9 by the parties.

10 25. Attached hereto as **Exhibit D** is a further revised version of the Notice showing
11 the most recent changes made to the Notice since the prior revision was submitted in June 2020.

12 26. Attached hereto as **Exhibit E** is the parties' agreed-upon proposed Second
13 Amended Complaint, which has not been revised since the prior version was submitted in June
14 2020.

15
16 I declare under penalty of perjury under the laws of the state of California and the United
17 States of America that the foregoing is true and correct.

18 Executed on December 14, 2020, in Boston, Massachusetts.


19
20 By: 
21 Shannon Liss-Riordan

EXHIBIT A

1 SHANNON LISS-RIORDAN (SBN 310719)
(sliss@llrlaw.com)
2 ANNE KRAMER (SBN 315131)
(akramer@llrlaw.com)
3 LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000
4 Boston, MA 02116
Telephone: (617) 994-5800
5 Facsimile: (617) 994-5801

6 *Attorneys for Plaintiffs Jacob Rimler, Giovanni*
Jones, Dora Lee, Kellyn Timmerman, and
7 *Joshua Albert, on behalf of themselves and*
others similarly situated and in their capacities
8 *as Private Attorney General Representatives*

GIBSON, DUNN & CRUTCHER LLP
THEANE EVANGELIS, SBN 243570
tevangelis@gibsondunn.com
DHANANJAY S. MANTHRIPRAGADA,
SBN 254433
dmanthripragada@gibsondunn.com
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: 213.229.7000
Facsimile: 213.229.7520

MICHELE L. MARYOTT, SBN 191993
mmaryott@gibsondunn.com
SHAUN A. MATHUR, SBN 311029
smathur@gibsondunn.com
3161 Michelson Drive
Irvine, CA 92612-4412
Telephone: 949.451.3800
Facsimile: 949.475.4668

Attorney for Defendant Postmates Inc.

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12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SAN FRANCISCO

15 JACOB RIMLER, GIOVANNI JONES,
16 DORA LEE, KELLYN TIMMERMAN, and
17 JOSHUA ALBERT on behalf of themselves
and others similarly situated and in their
capacities as Private Attorneys General
Representatives,

18 Plaintiffs,

19 v.

20 POSTMATES INC.,

21 Defendant.
22

CASE NO. CGC-18-567868

**SECOND AMENDED CLASS ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

23
24 This Second Amended Class Action Settlement Agreement and Release, including Exhibits A
25 through C hereto (“Settlement Agreement” or “Agreement”), is made and entered into by,
26 between, and among Plaintiffs Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman, and
27 Joshua Albert (“the *Rimler* Plaintiffs”), Plaintiffs Melanie Anne Winns, Ralph John Hickey, Jr.,
28 Steven Alvarado, and Kristie Logan (“the *Winns* Plaintiffs”), and Plaintiff Shericka Vincent

1 (“Plaintiff Vincent”), on behalf of themselves and the Settlement Class, as defined below, on the one
2 hand, and Defendant Postmates Inc.¹ (“Defendant” or “Postmates”) on the other hand.

3 Plaintiffs and Defendant (collectively, the “Parties”) enter into this Agreement to effect a full
4 and final settlement and preclusive judgment resolving all claims brought or that could have been
5 brought against Postmates in *Rimler v. Postmates, Inc.*, Case No. CGC-18-567868, in the Superior
6 Court of California, San Francisco County, and the related appeal docketed at No. A156450 in the
7 California Court of Appeal, First Appellate District, including as amended pursuant to this
8 Agreement (taken together, the case shall be referred to as “the Action”), and all claims based on or
9 reasonably related thereto. This Agreement is intended to fully and finally compromise, resolve,
10 discharge, and settle the Released Claims, as defined and on the terms set forth below, and to the full
11 extent reflected herein, subject to the approval of the Court.

12 **I. RECITALS**

13 This Agreement is made in consideration of the following facts:

14 1.1 WHEREAS, on July 5, 2018, Plaintiff Jacob Rimler filed a California Private
15 Attorneys General Act (“PAGA”), Labor Code § 2698, *et seq.*, representative action complaint in the
16 Superior Court of California, San Francisco County (Case No. CGC-18-567868), asserting on behalf
17 of himself and all couriers classified by Postmates as independent contractors in California various
18 wage-related claims against Postmates arising from Postmates’ alleged misclassification of couriers
19 as independent contractors. On July 11, 2018, Plaintiff Rimler filed a First Amended Complaint,
20 which added Plaintiff Giovanni Jones (“the *Rimler* Action”);

21 1.2 WHEREAS, on August 17, 2018, Postmates filed a Petition for an Order Compelling
22 Arbitration, which the *Rimler* Plaintiffs opposed. On January 2, 2019, the Court denied Postmates’
23 Petition, and Postmates filed a notice of appeal. On December 9, 2020, the California Court of
24 Appeal, First Appellate District, issued its decision affirming the trial court’s Order;

25 1.3 WHEREAS, on May 8, 2018, Plaintiff Dora Lee filed a class action complaint in the
26 Superior Court of California, San Francisco County (Case No. CGC-18-566394), on behalf of herself

27
28 ¹ Postmates, Inc. is now Postmates, LLC f/k/a Postmates Inc., and its parent corporation is Uber Technologies, Inc.

1 and a proposed class consisting of all couriers in California classified by Postmates as independent
2 contractors, asserting various wage-related claims against Postmates arising from Postmates' alleged
3 misclassification of couriers as independent contractors. On June 8, 2018, Postmates filed a Notice
4 of Removal to the United States District Court for the Northern District of California, Case No. 3:18-
5 cv-03421-JCS. On July 23, 2018, Postmates filed a Motion to Compel Arbitration. On October 15,
6 2018, the Court granted Plaintiff Lee's Motion for Leave to Amend the Complaint to add Plaintiffs
7 Kellyn Timmerman and Joshua Albert, and granted Postmates' Motion to Compel Arbitration of
8 Plaintiff Lee's claims. On November 6, 2018, Postmates filed a Motion to Compel Arbitration for
9 Plaintiff Timmerman. On December 17, 2018, the Court granted Postmates' Motion to Compel
10 Arbitration and dismissed the case so that Plaintiffs Lee and Timmerman could pursue an appeal to
11 the United States Court of Appeals for the Ninth Circuit. On January 4, 2019, Plaintiffs Lee and
12 Timmerman filed a notice of appeal, which is pending as Ninth Cir. Case No. 19-15024 (together
13 with the case dismissed by the Northern District of California, the "*Lee Action*"). Subsequently,
14 Plaintiffs Lee and Timmerman moved the District Court to certify its orders for interlocutory review.
15 The Court granted the motion, and Plaintiffs Lee and Timmerman filed a petition in Ninth Cir. Case
16 No. 19-80055, seeking permission to appeal. On July 30, 2019, the Ninth Circuit denied the petition;

17 1.4 WHEREAS, on December 17, 2018, the District Court in *Lee* severed Plaintiff Joshua
18 Albert's claims to proceed as a separate case, Northern District of California Case No. 3:18-cv-
19 07592-JCS. On January 4, 2019, Plaintiff Albert filed a Second Amended Complaint asserting a
20 PAGA claim based on various wage-related claims against Postmates arising from Postmates' alleged
21 misclassification of couriers as independent contractors (the "*Albert Action*"). The parties were
22 engaged in written discovery until they requested and received a stay to participate in mediation;

23 1.5 WHEREAS, on November 2, 2017, Plaintiff Melanie Anne Winns filed a California
24 Private Attorneys General Act ("PAGA"), Labor Code § 2698, et seq., representative action
25 complaint (Case No. CGC-17-562282) in the Superior Court of California, San Francisco County,
26 asserting on behalf of herself and all couriers classified by Postmates as independent contractors in
27 California various wage-related violations arising from Postmates' alleged misclassification of
28 couriers as independent contractors (the "*Winns Action*"). On December 22, 2017, Plaintiff Winns

1 filed a First Amended Complaint, which added Plaintiffs Ralph John Hickey Jr., Steven Alvarado,
2 and Kristie Logan. On January 23, 2018, Postmates filed a Petition to Compel Arbitration in *Winns*,
3 which the *Winns* Plaintiffs opposed. On September 24, 2018, the Court partially granted and partially
4 denied Postmates' motion to compel arbitration, and Postmates filed a notice of appeal;

5 1.6 WHEREAS, on May 8, 2019, Plaintiff Vincent filed a PAGA representative action
6 complaint (Case No. RG19018205) in the Superior Court of California, Alameda County, asserting
7 on behalf of herself and all couriers classified by Postmates as independent contractors in California
8 various wage-related violations arising from Postmates' alleged misclassification of couriers as
9 independent contractors (the "*Vincent* Action"). On June 25, 2019, Postmates filed a Petition to
10 Compel Arbitration in *Vincent*, which has not yet been ruled on;

11 1.7 WHEREAS, the *Rimler* Plaintiffs and Postmates attended an in-person mediation
12 session in July 2019 with professional mediator Tripper Ortman of Ortman Mediation, who is
13 experienced in mediating class action disputes. Before agreeing to the terms of the first proposed
14 arm's-length settlement, and in preparation for the mediation, the parties engaged in extensive
15 informal discovery, exchanging information, documents and voluminous data, which enabled the
16 parties and the mediator to thoroughly evaluate Plaintiffs' claims and the claims of the putative
17 Settlement Class Members, and the likely outcomes, risks, and expense of pursuing litigation;

18 1.8 WHEREAS, the *Rimler* Plaintiffs and Postmates filed a Motion for Preliminary
19 Approval of Class Settlement and a Proposed Settlement on October 8, 2019;

20 1.9 WHEREAS, Plaintiffs filed a revised proposed settlement agreement and a stipulation
21 to file a proposed Second Amended Complaint adding other named plaintiffs, including Plaintiffs
22 Melanie Ann Winns, Ralph John Hickey Jr., Steven Alvarado, Kristie Logan, and Shericka Vincent,
23 and additional claims against Postmates under California's Unfair Competition Law, the California
24 Labor Code, Wage Order 9, and the Fair Labor Standards Act ("FLSA") on June 8, 2020;

25 1.10 WHEREAS, the Court denied Plaintiffs' Motion for Preliminary Approval of Class
26 Settlement on June 17, 2020 without prejudice and "encourage[d] the parties to continue settlement
27 negotiations in hopes that they are able to present another agreement for preliminary approval that is
28 otherwise consistent with [the Court's] order";

1 1.11 WHEREAS, the Court issued an order on June 17, 2020, coordinating the *Rimler*,
2 *Winns*, and *Vincent* Actions with three other similar matters pending against Postmates: *Santana v.*
3 *Postmates, Inc.*, Case No. BC720151 (Los Angeles Super. Ct.); *Brown v. Postmates, Inc.*, Case No.
4 BC712974 (Los Angeles Super. Ct.); and *Altounian v. Postmates, Inc.*, Case No. CGC-20-584366
5 (San Francisco Super. Ct.);

6 1.12 WHEREAS, the *Rimler* Plaintiffs and Postmates attended a second mediation through
7 Zoom conference with mediator Tripper Ortman in the Fall of 2020 to discuss a second proposed
8 settlement, before agreeing to this second proposed arm’s-length Settlement Agreement;

9 1.13 WHEREAS, in preparation for the second mediation, Postmates and the *Rimler*
10 Plaintiffs exchanged additional, updated voluminous data, which enabled the parties and the mediator
11 to update their evaluation of Plaintiffs’ claims and the claims of the putative Settlement Class
12 Members, and the likely outcomes, risks, and expense of pursuing litigation;

13 1.14 WHEREAS, the Parties submit this Settlement Agreement in good faith and after
14 having considered the Court’s concerns with the prior proposed settlement;

15 1.15 WHEREAS, Plaintiffs allege generally that Postmates improperly classified them and
16 all putative Settlement Class Members as independent contractors rather than employees, and assert
17 derivative claims related thereto;

18 1.16 WHEREAS, on November 3, 2020, California voters approved Proposition 22,
19 which—after the election results are certified—will be added as section 7451 to the California
20 Business and Professions Code and provides that “an app-based driver is an independent contractor
21 and not an employee or agent with respect to the app-based driver’s relationship with a network
22 company” if certain conditions are met;

23 1.17 WHEREAS, Postmates denies the allegations in the Action; maintains that each
24 courier’s claims must be individually arbitrated pursuant to any arbitration agreement to which that
25 courier may be bound; denies that it has engaged in any wrongdoing; denies that any Settlement
26 Class Member was ever an employee of Postmates; denies that Plaintiffs’ allegations state valid
27 claims; denies that a litigation class could properly be certified under California Code of Civil
28 Procedure section 382 in the Action; denies that a collective action could properly be certified under

1 the FLSA in the Action; denies that Plaintiffs' claims could properly be maintained as a collective,
2 class, or representative action; and states that it is entering into this Settlement Agreement solely to
3 eliminate the burden, expense, and delay of further litigation and arbitrations, and on the express
4 conditions that: (a) if for any reason the Settlement is not finalized according to the terms of this
5 Agreement, the Settlement and the documents generated as a result of the Settlement shall be void ab
6 initio, and shall not be admissible or usable for any purpose in any of the cases included in the Action
7 or any other civil or administrative proceeding or arbitration; and (b) this Settlement and the
8 documents generated as a result of the Settlement are not admissible or usable in any other civil or
9 administrative proceeding or arbitration, except to the extent necessary to enforce this Settlement and
10 the orders, judgment and agreements arising from this Settlement;

11 1.18 WHEREAS, a bona fide dispute exists as to whether any amount of wages or penalties
12 are due from Postmates to any putative Settlement Class Member or to the California Labor and
13 Workforce Development Agency ("LWDA");

14 1.19 WHEREAS, as a result of the mediation, Plaintiffs and Plaintiffs' Counsel believe that
15 the global Settlement provides a favorable recovery for the Settlement Class, based on the claims
16 asserted, the evidence developed, and the damages that might be proven against Postmates in the
17 Action. The Plaintiffs and Plaintiffs' Counsel further recognize and acknowledge the expense and
18 length of continued proceedings necessary to prosecute the Action against Postmates through trial
19 and appeals. They also have considered the uncertain outcome and the risk of any litigation,
20 especially in complex litigation such as the Action, as well as the difficulties and delays inherent in
21 any such litigation. They are also mindful of the inherent challenges of proof and the strength of the
22 defenses to the alleged claims, and therefore believe that it is desirable that the Released Claims be
23 fully and finally compromised, settled, and resolved with prejudice as set forth herein, subject to the
24 approval of the Court;

25 1.20 WHEREAS, Plaintiffs and Plaintiffs' Counsel, based on their own independent
26 investigations and evaluations, have examined the benefits to be obtained under the terms of this
27 Settlement Agreement, have considered the claims of the Plaintiffs, the claims of the average
28 Settlement Class Member, the risks associated with the continued prosecution of the Action, and the

1 likelihood of success on the merits of the Action, and believe that, after considering all the
2 circumstances, including the uncertainties surrounding the risk of further litigation and the defenses
3 that Postmates has asserted and could assert, the proposed Settlement set forth in this Agreement is
4 fair, reasonable, adequate, in the best interests of the Plaintiffs and the Settlement Class, and confers
5 substantial benefits upon the Settlement Class;

6 1.21 WHEREAS, Plaintiffs warrant and represent that they are effecting this Settlement
7 and executing this Agreement after having received full legal advice as to their respective rights and
8 have had the opportunity to obtain independent counsel to review this Agreement;

9 1.22 WHEREAS, the Parties further agree that the Agreement, the fact of this Settlement,
10 any of the terms of this Agreement, and any documents filed in connection with the Settlement shall
11 not constitute, or be offered, received, claimed, construed, or deemed as, an admission, finding, or
12 evidence of: (i) any wrongdoing by any Released Parties; (ii) any violation of any statute, law, or
13 regulation by Released Parties; (iii) any liability on the claims or allegations in the Action on the part
14 of any Released Parties; (iv) any waiver of Postmates' right to arbitration or the enforceability of any
15 Postmates arbitration agreement; or (v) the propriety of certifying a litigation class or collective
16 action or pursuing representative relief under PAGA in the Action or any other proceeding; and shall
17 not be used by any Person for any purpose whatsoever in any administrative or legal proceeding,
18 including but not limited to arbitrations, other than a proceeding to enforce the terms of the
19 Agreement. There has been no final determination by any court as to the merits of the claims
20 asserted by Plaintiffs against Postmates, nor has there been any final determination as to whether a
21 class or collective action should be certified or whether representative claims may properly be
22 pursued, other than for settlement purposes only;

23 1.23 WHEREAS, for settlement purposes only, Postmates will stipulate to the certification
24 of class claims that are subject to the certification requirements of California Code of Civil Procedure
25 section 382, on the express conditions that Postmates does not waive its right to compel arbitration
26 and if this Settlement Agreement is not preliminarily or finally approved, this paragraph, the
27 Settlement Agreement, and any class certified pursuant to the Settlement Agreement are all void ab
28

1 initio. Postmates disputes that certification is proper for the purposes of litigating the class claims
2 proposed in or flowing from the claims asserted in the *Rimler* lawsuit;

3 1.24 WHEREAS, for settlement purposes only, Postmates will stipulate to the conditional
4 certification of FLSA claims that are subject to the certification requirements of the Fair Labor
5 Standards Act, 29 U.S.C. § 201, et seq., on the express conditions that Postmates does not waive its
6 right to compel arbitration and if this Settlement Agreement is not preliminarily or finally approved,
7 this paragraph, the Settlement Agreement, and any collective action certified pursuant to the
8 Settlement Agreement are all void ab initio. Postmates disputes that conditional certification is
9 proper for the purposes of litigating the FLSA claims proposed in or flowing from the claims asserted
10 in the *Rimler* lawsuit;

11 1.25 WHEREAS, the Parties desire to compromise and settle all Released Claims,
12 including all issues and claims that have been, could have been, or should have been brought against
13 Postmates or related persons in the Action, and all claims brought on a putative class and
14 representative basis in the *Rimler* lawsuit; and

15 1.26 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND
16 AGREED, by the Plaintiffs for themselves and on behalf of the Settlement Class and by Postmates,
17 that, subject to the approval of the Court, the Action shall be settled, compromised, and dismissed, on
18 the merits and with prejudice, and the Released Claims shall be finally and fully compromised,
19 settled, and dismissed as to the Released Parties, in the manner and upon the terms and conditions
20 hereafter set forth in this Settlement Agreement.

21 II. DEFINITIONS

22 In addition to the terms defined elsewhere in this Settlement Agreement, capitalized terms
23 used in this Settlement Agreement shall have the meanings set forth below:

24 2.1 “Authorized Claimant” means any Settlement Class Member who submits a valid and
25 timely Claim that qualifies for a payment under the terms of this Settlement Agreement and who by
26 validly and timely submitting the Claim using the Claim Form consents to join as a party plaintiff in
27 the Fair Labor Standards Act (“FLSA”) claims in this Action.

1 2.2 “Authorized Claimants’ Released Claims” means all of the Settlement Class
2 Members’ Released Claims as well as any and all claims, debts, liabilities, demands, obligations,
3 guarantees, penalties, costs, expenses, attorneys’ fees, damages, liquidated damages, action or causes
4 of action of whatever kind or nature, whether known or unknown, contingent or accrued, against the
5 Released Parties or any of them based on putative violations of federal law based on or related to the
6 claims asserted in or that could have been asserted in this Action under the FLSA. “Authorized
7 Claimants’ Released Claims” include any unknown claims that an Authorized Claimant does not
8 know or suspect to exist in his or her favor, which if known by him or her, might have affected this
9 Settlement Agreement and release of the Released Parties.

10 2.3 “Bar Date” means the final time and date by which a Claim Form must be postmarked
11 or submitted to the Settlement Administrator for a Settlement Class Member to be eligible to receive
12 an Individual Settlement Payment. The Bar Date shall be sixty (60) days after the Notice Distribution
13 Date and shall be specifically identified and set forth in the Preliminary Approval Order and the
14 Settlement Class Notice.

15 2.4 “Claim” means the submission to be made by a Settlement Class Member using the
16 Claim Form, which form shall serve as the Settlement Class Member’s means of requesting payment
17 from the Total Settlement Amount and serve as that Settlement Class Member’s Consent to Join as a
18 party plaintiff to the FLSA claims asserted in this Action pursuant to 29 U.S.C. § 216(b).

19 2.5 “Claim Form” means the document included in the Settlement Class Notice without
20 material variation from the relevant portion of Exhibit A. The Claim Form, if signed by a Settlement
21 Class Member and timely and validly submitted to the Settlement Administrator, shall serve as that
22 Settlement Class Member’s Consent to Join as a party plaintiff to the FLSA claims asserted in this
23 Action pursuant to 29 U.S.C. § 216(b), and effect a full and complete release of all claims under the
24 FLSA based on or reasonably related to the claims asserted in this Action. To be valid, a Claim Form
25 must be signed without any deletion or amendment to its language regarding the release of the FLSA
26 claims and without any deletion or amendment to any other portion. If the Court does not finally
27 approve this Settlement Agreement, any Consent to Join and release of the FLSA claims filed on
28 behalf of any Settlement Class Member shall be void ab initio.

1 2.6 “Consent to Join” means a Settlement Class Member’s consent to join as a party
2 plaintiff to the FLSA claims asserted in this Action pursuant to 29 U.S.C. § 216(b). A Settlement
3 Class Member’s signed Claim Form that is timely and validly submitted to the Settlement
4 Administrator shall serve as that Settlement Class Member’s Consent to Join.

5 2.7 “Courier” means any individual who has been approved to use or has used the
6 Postmates platform as an independent contractor courier.

7 2.8 “Superior Court” means the Superior Court of California, San Francisco County.

8 2.9 “Dispute Resolution Fund” means the fund consisting of Two Hundred and Fifty
9 Thousand dollars and no cents (\$250,000) set aside from the Total Settlement Amount to be used: (i)
10 to resolve any bona fide disputes that may arise regarding the calculation and disbursement of
11 Individual Settlement Payments according to the Plan of Allocation, as provided in Section III(8)(f);
12 and (ii) to disburse Individual Settlement Payments to individuals mistakenly excluded from the
13 Settlement Class, as provided in Section III(8)(f). The Dispute Resolution Fund shall be paid from
14 the Total Settlement Amount.

15 2.10 “Effective Date” means seven (7) days after which both of the following events have
16 occurred: (i) the Court’s Final Approval order and Judgment has been entered, and (ii) the Court’s
17 Final Approval order and Judgment have become Final.

18 2.11 “Estimated Miles” means the estimated total number of miles from the location where
19 a delivery offer is accepted to the location where orders are picked up and to the location where
20 orders are delivered, for each Settlement Class Member during the Settlement Period, as determined
21 by Postmates’ records.

22 2.12 “Exclusion/Objection Deadline” means the final date by which a Settlement Class
23 Member may either (i) object to any aspect of the Settlement (pursuant to the Preliminary Approval
24 Order and Section VIII), or (ii) request to be excluded from the Settlement (pursuant to the
25 Preliminary Approval Order and Section VII). The Exclusion/Objection Deadline shall be sixty (60)
26 days after the Notice Distribution Date, and shall be specifically identified and set forth in the
27 Preliminary Approval Order and the Settlement Class Notice.

1 2.13 “Final” when referring to a judgment or order, means that (i) the judgment is a final,
2 appealable judgment; and (ii) either (a) no appeal has been taken from the judgment as of the date on
3 which all times to appeal therefrom have expired, or (b) an appeal or other review proceeding of the
4 judgment having been commenced, such appeal or other review is finally concluded and no longer is
5 subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions
6 for rehearing en banc, petitions for writ of certiorari, or otherwise, and such appeal or other review
7 has been finally resolved in such manner that affirms the judgment order in its entirety.

8 2.14 “Final Approval” means the Court’s entry of an order that the Named Plaintiffs and
9 Postmates will seek from the Court, to be agreed upon by the Parties, and the entry of which shall
10 reflect the Court’s Judgment finally approving the Settlement Agreement.

11 2.15 “Final Approval Hearing” means the hearing that is to take place after the entry of the
12 Preliminary Approval Order and after the Notice Distribution Date for purposes of: (i) entering Final
13 Approval; (ii) determining whether the Settlement Agreement shall be approved as fair, reasonable,
14 and adequate; (iii) ruling upon an application by Settlement Class Counsel for Attorneys’ Fees; and
15 (iv) ruling on the application for a Settlement Class Counsel Award.

16 2.16 “General Released Claims” includes all of the Settlement Class Members’ Released
17 Claims, with the addition of: (i) violations of Title VII of the Civil Rights Act of 1964; (ii) violations
18 of the Civil Rights Act of 1866; (iii) violations of the Americans with Disabilities Act; (iv) violations
19 of any and all potential claims against Postmates that could be brought under corresponding state or
20 local law; and (v) any claims for wages, penalties, breach of an express or implied contract, breach of
21 the covenant of good faith and fair dealing, breach of fiduciary duty, fraud, misrepresentation,
22 defamation, slander, retaliation, discrimination, harassment, wrongful termination, infliction of
23 emotional distress, loss of future earnings or profits or any other claims based upon any state or
24 federal public policy, or any other alleged wrongful conduct or injury, arising out of or in any way
25 connected with any acts or omissions occurring during the Settlement Period, based on the claims
26 that were alleged in the Action or that arise out of or relate to Plaintiffs’ relationship with Postmates
27 or the services Plaintiffs provided using Postmates’ platform, or that arise out of or relate to the facts
28 alleged in the action, in addition to all claims based on or arising under the federal and state law

1 sections included in the Settlement Class Members' Released Claims and any other equivalent
2 federal, state, or local law of any state or locality in which Plaintiffs reside and/or used Postmates'
3 platform as an independent contractor courier.

4 2.17 "Individual Settlement Payment" means the amount payable from the Total Settlement
5 Amount to each Settlement Class Member who does not timely and properly request exclusion from
6 the Settlement Class and submits a Claim Form. The Individual Settlement Payment shall be
7 calculated pursuant to Section V herein.

8 2.18 "Judgment" means the judgment to be entered in the Action on Final Approval of this
9 Settlement.

10 2.19 "Legally Authorized Representatives" means an administrator/administratrix, personal
11 representative, or executor/executrix of a deceased Settlement Class Member's estate; a guardian,
12 conservator, or next friend of an incapacitated Settlement Class Member; or any other legally
13 appointed Person responsible for handling the business affairs of a Settlement Class Member who is
14 not the Settlement Class Member's counsel.

15 2.20 "Notice Distribution Date" means the date of the initial distribution of the Settlement
16 Class Notice to Settlement Class Members as set forth in Section VI.

17 2.21 "Opt-Out List" means the Court-approved list of all persons who timely and properly
18 request exclusion from the Settlement Class as set forth in Section VII.

19 2.22 "PAGA Claims" means Plaintiffs' representative claims seeking penalties pursuant to
20 PAGA, as alleged in the Rimler Complaint and/or based on any other provision of the Labor Code,
21 Wage Orders, or any other statute or regulation based upon independent contractor misclassification
22 to the fullest extent permitted by law.

23 2.23 "PAGA Payment" means a total payment of \$4,000,000 to settle all claims under the
24 PAGA. From this amount, 75% will be paid to the LWDA for civil penalties pursuant to the PAGA
25 and 25% will be distributed to Settlement Class Members.

26 2.24 "Plaintiffs" means Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman,
27 Joshua Albert, Melanie Anne Winns, Ralph John Hickey, Jr., Steven Alvarado, Kristie Logan, and
28 Shericka Vincent.

1 2.25 “Plaintiffs’ Counsel” means Lichten & Liss-Riordan, P.C., the Mostafavi Law Group
2 APC, and The Bainer Law Firm.

3 2.26 “Plan of Allocation” means the plan for allocating the Total Settlement Amount
4 between and among Settlement Class Members as approved by the Court.

5 2.27 “Preliminary Approval Date” means the date that the Court enters the Preliminary
6 Approval Order and thus: (i) preliminarily approves the Settlement Agreement, and the exhibits
7 thereto, and (ii) enters an order providing for notice to the Settlement Class, an opportunity to opt out
8 of the Settlement Class, an opportunity to submit timely objections to the Settlement, a procedure for
9 submitting Claims, and setting a hearing on the fairness of the terms of the Settlement Agreement,
10 including approval of the Settlement Class Counsel Award.

11 2.28 “Preliminary Approval Order” means the order that the Plaintiffs and Postmates will
12 seek from the Court, without material variation from Exhibit B. Entry of the Preliminary Approval
13 Order shall constitute preliminary approval of the Settlement Agreement.

14 2.29 “Released Claims” shall be construed as broadly as possible to effect complete finality
15 over this litigation involving Postmates. “Released Claims” include (i) Settlement Class Members’
16 Released Claims, (ii) General Released Claims, and (iii) Authorized Claimants’ Released Claims.
17 Notwithstanding any other provision of this Settlement Agreement, “Released Claims” do not include
18 claims for personal injuries. Moreover, the release of any claims under the FLSA contemplated by
19 this Settlement Agreement shall be effectuated only after a Settlement Class Member has timely and
20 validly submitted a Claim Form and thereby Consented to Join as a party to the FLSA claims asserted
21 in this action pursuant to 29 U.S.C. § 216(b).

22 2.30 “Released Parties” means (i) Postmates Inc. and its past, present, and future parents,
23 subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities,
24 whether foreign or domestic, that are owned or controlled by Postmates (but not including couriers
25 who use the Postmates platform); and (ii) the past, present, and future shareholders, officers,
26 directors, members, investors, agents, employees, agents, consultants, representatives, fiduciaries,
27 insurers, attorneys, legal representatives, predecessors, successors, and assigns of the entities listed in
28 (i).

1 2.31 “Second Amended Complaint” means the Second Amended Complaint, without
2 material variation from Exhibit C, that Settlement Class Counsel shall seek to file in Rimler, the lead
3 lawsuit, pursuant to Paragraph 3.6 and shall file concurrently with the submission of the motion for
4 preliminary approval of the Settlement so that the Second Amended Complaint may be filed
5 promptly upon entry of the Preliminary Approval Order. The Second Amended Complaint shall add
6 Dora Lee, Kellyn Timmerman, Joshua Albert, Melanie Anne Winns, Ralph John Hickey, Jr., Steven
7 Alvarado, Kristie Logan, and Shericka Vincent as named Plaintiffs.

8 2.32 “Service Awards” means the amount approved by the Court to be paid to each
9 Plaintiff in addition to their respective Individual Settlement Payments, in recognition of their efforts
10 in coming forward as named plaintiffs. The Service Award amount payable to Plaintiffs is not to
11 exceed Five Thousand Dollars (\$5,000) each.

12 2.33 “Settlement” means the settlement of this Action between and among Plaintiffs and
13 Postmates, as set forth in this Settlement Agreement, and including all attached Exhibits, which are
14 an integral part of this Settlement Agreement and are incorporated in their entirety by reference.

15 2.34 “Settlement Administrator” means Simpluris, the administrator selected by the parties.

16 2.35 “Settlement Administrator Expenses” means the maximum amount to be paid to the
17 Settlement Administrator from the Total Settlement Amount, which shall be \$945,000. All
18 Settlement Administrator Expenses are to be paid exclusively from the Total Settlement Amount.

19 2.36 “Settlement Class” means any and all individuals who entered into an agreement with
20 Postmates to use the Postmates platform as an independent contractor to offer delivery services to
21 customers, and used the Postmates platform as an independent contractor courier to accept or
22 complete at least one delivery in California during the Settlement Period.

23 2.37 “Settlement Class Counsel” means Lichten & Liss-Riordan, P.C.

24 2.38 “Settlement Class Counsel Award” means (i) the attorneys’ fees for Settlement Class
25 Counsel’s litigation and resolution of the Action, including the *Rimler, Lee, Albert, Winns*, and
26 *Vincent* lawsuits, and any and all arbitrations and claims resolved by this Settlement, as awarded by
27 the Court, and (ii) all expenses and costs incurred by Settlement Class Counsel in connection with
28 litigation and resolution of *Rimler, Lee, Albert, Winns*, and *Vincent* lawsuits, and any and all

1 arbitrations and claims resolved by this Settlement, as awarded by the Court, which, together, may
2 not exceed thirty-three percent (33%) of \$32,000,000 (the Total Settlement Amount).

3 2.39 “Settlement Class Information” means information regarding Settlement Class
4 Members that Postmates will in good faith compile from its records and provide to the Settlement
5 Administrator, solely for purposes of the Settlement Administrator’s administration of the settlement,
6 and for no other purpose. Settlement Class Information shall be provided to the Settlement
7 Administrator and shall include, if possible, for each Settlement Class Member: full name, last known
8 address, email address, and Estimated Miles. Because Settlement Class Members’ private
9 information is included in the Settlement Class Information, the Settlement Administrator shall
10 maintain the Settlement Class Information in confidence and shall use and disclose Settlement Class
11 Information only for purposes of this Settlement and for no other purpose; access shall be limited to
12 employees of the Settlement Administrator with a need to use the Settlement Class Information as
13 part of the administration of the Settlement.

14 2.40 “Settlement Class Member” means any member of the Settlement Class.

15 2.41 “Settlement Class Members’ Released Claims” means any and all present and past
16 claims, actions, demands, causes of action, suits, debts, guarantees, obligations, damages, penalties,
17 rights or liabilities, of any nature and description whatsoever, known or unknown, existing or
18 potential, recognized now or hereafter, contingent or accrued, expected or unexpected, pursuant to
19 any theory of recovery (including but not limited to those based in contract or tort, common law or
20 equity, federal, state, or local law, statute, ordinance, or regulation, and for claims for compensatory,
21 consequential, punitive or exemplary damages, statutory damages, penalties, interest, attorneys’ fees,
22 costs, or disbursements) that are based on or reasonably related to the claims alleged in or that could
23 have been alleged in the Rimler Second Amended Complaint, and all misclassification claims, and
24 specifically including: claims pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, et
25 seq. (only for those Settlement Class Members who submit a valid and timely Claim Form);
26 California Labor Code sections 132a, 201-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6,
27 221-224, 225.5, 226, 226.3, 226.7, 226.8, 227, 227.3, 245-249, 351, 353, 432.5, 450, 510, 512, 551-
28 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2753, 2802, 2804; the

1 Private Attorneys General Act (“PAGA”), California Labor Code section 2698 et seq.; California
2 Code of Civil Procedure section 1021.5; California Code of Regulations, title 8, sections 11010 and
3 11040; Industrial Welfare Commission Wage Orders; California Business and Professions Code
4 sections 17200 et seq.; and any other similar state, federal, local, or common law, statute, regulation,
5 or ordinance for unpaid wages, minimum wages, regular wages, tips, overtime wages (including but
6 not limited to calculation of the correct overtime or regular rate), working more than six days in
7 seven, expense reimbursement, wage statements, payroll recordkeeping, reporting time, improper
8 deduction of wages, failure to provide workers’ compensation insurance, meal periods, rest breaks,
9 sick leave, final pay, penalties for timely payment of wages upon discharge, waiting time penalties,
10 PAGA penalties, unfair business practices, all claims arising out of or relating to the statutory causes
11 of action described herein, restitution, interest, costs and expenses, attorneys’ fees, declaratory relief,
12 injunctive relief, liquidated damages, exemplary or punitive damages, civil penalties, equitable
13 remedies, and/or pre- or post- judgment interest at any time during the Settlement Period.

14 2.42 “Settlement Class Notice” means the notice of class, representative, and collective
15 action settlement and enclosed Claim Form to be provided to Settlement Class Members, without
16 material variation from the relevant portion of Exhibit A.

17 2.43 “Settlement Period” means June 3, 2017 through January 1, 2021.

18 2.44 “Total Settlement Amount” means Thirty-Two Million Dollars and zero cents
19 (\$32,000,000), which will resolve all Released Claims, and is the maximum amount that Postmates is
20 obligated to pay under this Settlement Agreement under any circumstances to resolve and settle this
21 Action, subject to Court approval. The Total Settlement Amount includes all costs and fees,
22 including, but not limited to, the Settlement Class Counsel Award, Settlement Administrator
23 Expenses, escrow costs and expenses, Service Awards, interest, all payments to the Settlement Class
24 and Plaintiffs, and the PAGA Payment.

25 2.45 “Void Date” means the date by which any checks issued to Settlement Class Members
26 shall become void, i.e., on the 181st day after mailing.

1 **III. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR**
2 **PRELIMINARY AND FINAL APPROVAL**

3 3.1 Upon execution of this Settlement Agreement, the Plaintiffs shall submit to the Court
4 a motion for preliminary approval of the Settlement. The motion for preliminary approval shall
5 include a proposed plan for sending the Settlement Class Notice to Settlement Class Members within
6 twenty (20) days after the Preliminary Approval Date (the “Notice Distribution Date”), and
7 establishing a period of sixty (60) days from the Notice Distribution Date within which any
8 Settlement Class Member may (i) request exclusion from the respective Settlement Class, (ii) object
9 to the proposed Settlement, or (iii) object to Settlement Class Counsel’s request for the Settlement
10 Class Counsel Award and for Service Awards to the Plaintiffs (the Exclusion/Objection Deadline).
11 The motion for preliminary approval shall also request that any hearing on final approval of the
12 Settlement and any determination on the request for a Settlement Class Counsel Award and Service
13 Awards (the Final Approval Hearing) be set for after the Exclusion/Objection Deadline; that
14 Settlement Class Counsel shall file a petition for the Settlement Class Counsel Award and Service
15 Awards at least twenty-one (21) days before the Exclusion/Objection Deadline; that any opposition
16 briefs on such motions and petitions be filed fourteen (14) days before the Final Approval Hearing;
17 and that any reply briefs on such motions and petitions be filed seven (7) days before the Final
18 Approval Hearing.

19 3.2 The Parties stipulate, for settlement purposes only, to certification of the Settlement
20 Class under California Code of Civil Procedure § 382 and California Rules of Court, Rule 3.769,
21 excluding the Settlement Class’s PAGA Claims, and to conditional certification of the Settlement
22 Class under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., on the express condition that if
23 the Settlement is not Preliminarily or Finally Approved, this paragraph, the Settlement Agreement,
24 and any class or collective action certified pursuant to the Settlement Agreement are all void ab initio.
25 The Parties also agree that this stipulation is in no way an admission that class or collective
26 certification is proper under the standard applied for litigation purposes, and that this stipulation shall
27 not be admissible, and may not be used by any person for any purpose whatsoever, in any legal or
28 administrative proceeding, including but not limited to arbitrations, other than a proceeding to
enforce the terms of the Agreement, as further set forth in this Agreement. Postmates expressly

1 reserves the right to oppose certification of any purported class or collective should the settlement fail
2 to become final and effective.

3 3.3 The Settlement is not intended to and may not be deemed to affect the enforceability
4 of any arbitration agreement between Postmates and any member of the Settlement Class, including
5 Plaintiffs.

6 3.4 Settlement Class Counsel and Plaintiffs agree to cooperate in good faith and to use
7 their best efforts to seek a stay in the *Rimler*, *Lee*, *Winns*, and *Vincent* Actions and to keep the *Albert*
8 Action stayed pending Final Approval of the Settlement, and upon Final Approval of the Settlement,
9 Settlement Class Counsel and Plaintiffs agree to dismiss the *Lee*, *Albert*, *Winns*, and *Vincent* Actions
10 with prejudice.

11 3.5 The Parties stipulate to the form of, and agree to submit to the Court for its
12 consideration this Settlement Agreement, and the following Exhibits to this Settlement Agreement:
13 Settlement Class Notice (Exhibit A), [Proposed] Preliminary Approval Order (Exhibit B), and
14 [Proposed] Second Amended Complaint (Exhibit C).

15 3.6 Solely for purposes of implementing this Agreement and effectuating the proposed
16 Settlement, the Parties agree and stipulate that:

17 3.6.1 Plaintiffs' Counsel shall amend the letters sent on behalf of Plaintiffs to the
18 LWDA to add any and all claims alleged in the *Rimler* Action, and any and all potential claims
19 necessary to effectuate the Released Claims.

20 3.6.2 Plaintiffs shall seek the Court's permission to file the Second Amended
21 Complaint, without material variation from Exhibit C, and Postmates shall consent to such
22 amendment pursuant to Cal. Rule of Court 3.1324. The Second Amended Complaint shall be filed
23 concurrently with the submission of the motion for preliminary approval of the Settlement Agreement
24 so that the Second Amended Complaint may be filed or deemed filed promptly upon entry of the
25 Preliminary Approval Order. Obtaining the Court's approval to file the Second Amended Complaint,
26 the subsequent prompt entry of the Second Amended Complaint, and the dismissal of the *Lee*, *Albert*,
27 *Winns*, and *Vincent* Actions are material conditions of this Settlement Agreement. The Parties agree
28 that the filing of the Second Amended Complaint will streamline the settlement process. The Parties

1 further agree and stipulate that the allegations in the Second Amended Complaint are deemed
2 controverted by the answer previously filed by Postmates in response to the currently operative
3 complaint, such that no further responsive pleading from Postmates is required. If for any reason the
4 Settlement Agreement does not become Final or the Effective Date does not occur, the Second
5 Amended Complaint shall not be operative and shall be deemed withdrawn; the parties agree to
6 submit a stipulated motion to strike the Second Amended Complaint, and agree the Court shall strike
7 the allegations of the Second Amended Complaint, so the operative complaint in the *Rimler* Action
8 shall revert to the filed complaint that preceded the Second Amended Complaint; the *Lee, Albert,*
9 *Winns,* and *Vincent* Actions shall proceed based on the operative complaints as currently filed; and
10 the amended letters sent to the LWDA pursuant to paragraph 3.6.1 shall be void ab initio.

11 3.6.3 The Court may enter the Preliminary Approval Order, without material
12 variation from Exhibit B, preliminarily approving the Settlement and this Agreement. Among other
13 things, the Preliminary Approval Order shall grant leave to preliminarily certify the Settlement Class
14 and an FLSA collective for settlement purposes only; approve the Plaintiffs as class representatives,
15 appoint Settlement Class Counsel to represent the Settlement Class, and appoint the Settlement
16 Administrator; approve the Settlement Class Notice, and the notice plan embodied in the Settlement
17 Agreement, and approve them as consistent with California Code of Civil Procedure § 382,
18 California Rules of Court, Rule 3.769, 29 U.S.C. § 201, et seq. and due process; set out the
19 requirements for disputing the information upon which Settlement Class Members' share of the
20 Settlement will be calculated, objecting to the Settlement Agreement, excluding Settlement Class
21 Members from the Settlement Class, all as provided in this Settlement Agreement; provide that
22 certification of the Settlement Class and all actions associated with each certification are undertaken
23 on the condition that each certification and other actions shall be automatically vacated and of no
24 force or evidentiary effect if this Agreement is terminated, as provided in this Agreement, or if the
25 Settlement does not become Final; and schedule the Final Approval Hearing.

26 3.7 Within 10 days of the Preliminary Approval Date, Settlement Class Counsel will
27 notify the LWDA of the Preliminary Approval Order.

1 3.8 At the Final Approval Hearing, Plaintiffs shall request entry of a Final Approval order
2 and Judgment, to be agreed upon by the Parties, the entry of which is a material condition of this
3 Settlement and that, among other things:

4 3.8.1 Finally approves the Settlement as fair, reasonable, and adequate and directs its
5 consummation pursuant to the terms of the Settlement Agreement;

6 3.8.2 Finds that Settlement Class Counsel and Plaintiffs adequately represented the
7 Settlement Class for the purpose of entering into and implementing the Agreement;

8 3.8.3 Re-confirms the appointment of the Settlement Administrator and finds that
9 the Settlement Administrator has fulfilled its initial duties under the Settlement;

10 3.8.4 Finds that the Settlement Class Notice (i) constituted the best practicable
11 notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise
12 Settlement Class Members of the pendency of the Action, and their right to exclude themselves from
13 or object to the proposed settlement and to appear at the Final Approval Hearing; (iii) was reasonable
14 and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv)
15 met all applicable requirements of California Rule of Court 3.769, due process, and any other
16 applicable rules or law;

17 3.8.5 Approves the Opt-Out List and determines that the Opt-Out List is a complete
18 list of all Settlement Class Members who have timely requested exclusion from the Settlement Class
19 and, accordingly, shall neither share in the Settlement nor be bound by the Final Approval order and
20 Judgment;

21 3.8.6 Directs that the Final Approval order and Judgment of dismissal shall be final
22 and entered forthwith;

23 3.8.7 Without affecting the finality of the Final Approval order and Judgment,
24 retains continuing jurisdiction over the Plaintiffs, the Settlement Class and Postmates as to all matters
25 concerning the administration, consummation, and enforcement of this Settlement Agreement;

26 3.8.8 Adjudges that, as of the Final Approval Date, the Plaintiffs and all Settlement
27 Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out
28 List approved by the Court, and their Legally Authorized Representatives, heirs, estates, trustees,

1 executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors,
2 and/or anyone claiming through them or acting or purporting to act for them or on their behalf,
3 regardless of whether they have received actual notice of the proposed Settlement, have conclusively
4 compromised, settled, discharged, and released the General Released Claims (in the case of the
5 Plaintiffs), the Authorized Claimants' Released Claims (in the case of the Authorized Claimants), and
6 Settlement Class Members' Released Claims (in the case of the Settlement Class Members) against
7 Postmates and the Released Parties, and are bound by the provisions of this Settlement Agreement;

8 3.8.9 Affirms that, notwithstanding the submission of a timely request for exclusion,
9 Settlement Class Members will still be bound by the settlement and release of the PAGA Claims or
10 remedies under the Judgment pursuant to *Arias v. Superior Court* (2009) 46 Cal.4th 969, as requests
11 for exclusion do not apply to the PAGA Claims, and further affirms that the State's claims for civil
12 penalties pursuant to PAGA are also extinguished;

13 3.8.10 Declares this Agreement and the Final Approval order and Judgment to be
14 binding on, and have res judicata and preclusive effect in, all pending and future lawsuits or other
15 proceedings: (i) that encompass the Plaintiffs' Claims, and that are maintained by or on behalf of
16 Plaintiffs and/or their Legally Authorized Representatives, heirs, estates, trustees, executors,
17 administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or
18 anyone claiming through them or acting or purporting to act for them or on their behalf; and (ii) that
19 encompass the Settlement Class Members' Released Claims and that are maintained by or on behalf
20 of any Settlement Class Member who has not been excluded from the Settlement Class as provided in
21 the Opt-Out List approved by the Court and/or his or her Legally Authorized Representatives, heirs,
22 estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns,
23 and successors, and/or anyone claiming through them or acting or purporting to act for them or on
24 their behalf, regardless of whether the Settlement Class Member previously initiated or subsequently
25 initiates individual litigation, arbitration, or other proceedings encompassed by the Settlement Class
26 Members' Released Claims, and even if such Settlement Class Member never received actual notice
27 of the Action or this proposed Settlement;

1 3.8.11 Determines that the Agreement and the Settlement provided for herein, and
2 any proceedings undertaken pursuant thereto, are not, and should not in any event be offered,
3 received, or construed as evidence of, or a presumption, concession, or admission by, any Party of
4 liability or non-liability or of the certifiability or non-certifiability of a litigation class or collective, or
5 that PAGA representative claims may validly be pursued, or of any misrepresentation or omission in
6 any statement or written document approved or made by any Party; provided, however, that reference
7 may be made to this Agreement and the Settlement provided for herein in such proceedings as may
8 be necessary to effectuate the provisions of this Agreement, as further set forth in this Agreement;

9 3.8.12 Directs Plaintiffs' Counsel to seek dismissal of the *Lee, Albert, Winns*, and
10 *Vincent* Actions with prejudice within 14 days of Final Approval;

11 3.8.13 Orders that the preliminary approval of the Settlement, certification of the
12 Settlement Class, and Final Approval of the proposed Settlement, and all actions associated with
13 them, are undertaken on the condition that they shall be vacated and void ab initio if the Settlement
14 Agreement is terminated or disapproved in whole or in part by the Court, or any appellate court
15 and/or other court of review in which event the Agreement and the fact that it was entered into shall
16 not be offered, received, or construed as an admission or as evidence for any purpose, including but
17 not limited to an admission by any Party of liability or non-liability or of any misrepresentation or
18 omission in any statement or written document approved or made by any Party, or of the certifiability
19 of a litigation class or the appropriateness of maintaining a representative action, as further provided
20 in Section XI;

21 3.8.14 Authorizes the Parties, with approval from the Court, to agree to and adopt
22 such amendments, modifications, and expansions of this Agreement, including all Exhibits hereto, as
23 (i) shall be consistent in all material respects with the Final Approval order and (ii) do not limit the
24 rights of Settlement Class Members; and

25 3.8.15 Contains such other and further provisions consistent with the terms of this
26 Settlement Agreement to which the Parties expressly consent in writing.

27 3.9 At the Final Approval Hearing and as a part of the Final Approval of this Settlement,
28 Settlement Class Counsel will also request approval of the Plan of Allocation set forth in Section V.

1 Any modification to the Plan of Allocation by the Court shall not (i) affect the enforceability of the
2 Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement
3 Agreement, or (iii) impose any obligation on Postmates to increase the consideration paid in
4 connection with the Settlement.

5 3.10 At the Final Approval Hearing, Settlement Class Counsel may also request entry of an
6 Order approving the Settlement Class Counsel Award and the Service Awards to the Plaintiffs. Any
7 such Settlement Class Counsel Award or Service Award shall be paid exclusively from the Total
8 Settlement Payment. In no event shall any Released Party otherwise be obligated to pay for any
9 attorneys' fees and expenses or Service Awards. The disposition of Settlement Class Counsel's
10 application for a Settlement Class Counsel Award, and for Service Awards, is within the sound
11 discretion of the Court and is not a material term of this Settlement Agreement, and it is not a
12 condition of this Settlement Agreement that such application be granted. Any disapproval or
13 modification of such application by the Court shall not (i) affect the enforceability of the Settlement
14 Agreement, (ii) provide any of the Parties with the right to terminate the Settlement Agreement, or
15 (iii) increase the consideration any Released Party pays in connection with the Settlement.

16 3.11 In no event shall any Released Party be obligated to pay settlement administration
17 expenses beyond those provided for in this Agreement.

18 3.12 Within 10 days after entry of Judgment, Settlement Class Counsel will provide a copy
19 of the Judgment to the LWDA.

20 **IV. SETTLEMENT CONSIDERATION**

21 4.1 The Total Settlement Amount is \$32,000,000. This is an "all in" number that will
22 resolve all Released Claims, and which includes, without limitation, all monetary benefits and
23 payments to the Settlement Class and Plaintiffs, Service Awards, Settlement Class Counsel Award,
24 Settlement Administrator Expenses, and the PAGA Payment, and all claims for interest, fees, and
25 costs. Under no circumstances shall Postmates be required to pay anything more than the Total
26 Settlement Amount. In no event shall Postmates be liable for making any payments under this
27 Settlement, or for providing any relief to Settlement Class Members, before the deadlines set forth in
28 this Agreement.

1 4.2 The Plaintiffs and all Settlement Class Members who receive a payment of any kind
2 from the Total Settlement Amount (including, in the case of the Plaintiffs, Service Awards) expressly
3 acknowledge that such payments shall be considered non-wages for which an IRS Form 1099 will be
4 issued, if required. The Plaintiffs and all Settlement Class Members who receive a payment of any
5 kind from the Total Settlement Amount agree to timely pay in full all of the federal, state, and
6 municipal income taxes owed on such payments.

7 4.3 The terms of this Agreement relating to the Service Awards and Settlement Class
8 Counsel Award were not negotiated by the Parties before full agreement was reached as to all other
9 material terms of the proposed Settlement, including, but not limited to, any terms relating to the
10 relief to the Settlement Class. Postmates agrees to the amount of Service Awards (if any) granted by
11 the Superior Court. The Plaintiffs and Settlement Class Counsel agree not to seek Service Awards in
12 excess of the amounts described in Paragraph 2.32.

13 4.4 Settlement Class Counsel agrees not to seek an award of attorneys' fees, costs and
14 expenses from the Court in excess of one third (1/3) of the Total Settlement Amount of \$32,000,000.
15 Postmates agrees to the amount of attorneys' fees, costs and expenses (if any) granted by the Superior
16 Court.

17 4.5 The payment of the Settlement Class Counsel Award, the Service Awards, the
18 Settlement Administrator Expenses, the Individual Settlement Payments, and the PAGA Payment
19 shall be made by the Settlement Administrator from the Total Settlement Amount within thirty (30)
20 days after the Effective Date.

21 4.6 The Settlement Administrator shall pay the Settlement Class Counsel Award by check,
22 payable to "Lichten & Liss-Riordan, P.C." Settlement Class Counsel shall provide the Settlement
23 Administrator notice of receipt of the Settlement Class Counsel Award.

24 **V. FUNDING AND ALLOCATION OF THE SETTLEMENT**

25 5.1 Within fourteen (14) calendar days following the Effective Date, Postmates shall
26 provide the Total Settlement Amount (\$32,000,000) to the Settlement Administrator. The Settlement
27 Administrator shall thereafter distribute the funds in the manner and at the times set forth in this
28 Agreement.

1 5.2 To receive an Individual Settlement Payment from the Total Settlement Amount, a
2 Settlement Class Member or his or her Legally Authorized Representative must timely submit a
3 Claim Form that satisfies the requirements of paragraph 5.3, must not have submitted a request for
4 exclusion, and must be eligible for a payment under the Plan of Allocation.

5 5.3 A Claim Form is timely if it is postmarked by the Bar Date and mailed or submitted as
6 an attachment to an email to the Settlement Administrator at the address in the Settlement Class
7 Notice, or if it is submitted online to the Settlement Administrator, in accordance with the online
8 submission instructions to be provided by the Settlement Administrator, by the Bar Date. The Claim
9 Form must be signed (electronically, if submitted via online portal) under penalty of perjury. To be
10 valid, a Claim Form must be signed without any deletion or amendment to its language, regarding the
11 release of FLSA claims and without any deletion or amendment to any other portion.

12 5.4 Settlement Class Members who timely submit a Claim Form will receive their
13 proportionate share of the Total Settlement Amount. No Settlement Class Member who timely
14 submits a Claim Form will receive less than \$10.

15 5.5 Settlement Class Members are not eligible to receive any compensation other than the
16 Individual Settlement Payment.

17 5.6 The Settlement Administrator shall calculate and distribute the Individual Settlement
18 Payments for the Settlement Class Members within thirty (30) days following the Effective Date,
19 provided Postmates has provided the Total Settlement Amount to the Settlement Administrator in
20 accordance with Paragraph 5.1.

21 5.7 Individual Settlement Payments shall be tied to the following distribution formula:

22 Settlement class members will be awarded points proportional to the estimated number
23 of miles driven while using the Postmates application as a courier, with one point for
24 every estimated mile driven. Settlement class members who either opt out of
25 arbitration, initiate arbitration, or demonstrate in writing an interest in initiating an
26 arbitration demand against Postmates prior to January 1, 2021 will have their points
27 doubled for purposes of this distribution formula (to account for, from plaintiffs'
28 perspective, these drivers' greater likelihood of having their claims pursued, in light of
Postmates' arbitration clauses).

Postmates will produce Settlement Class Information needed for the allocation to be calculated. The
Total Settlement Amount is non-reversionary.

1 5.8 Following distribution of the Individual Settlement Payments to Settlement Class
2 Members, any Settlement Class Members who received checks for more than \$100 that remain
3 uncashed more than 60 days after distribution will receive a reminder to cash their check. All funds
4 not claimed prior to the Void Date (i.e. all funds from uncashed checks and any remaining funds in
5 the Dispute Resolution Fund) shall be redistributed to the Settlement Class Members who received
6 and cashed their Individual Settlement Payments. These unclaimed funds shall be redistributed
7 pursuant to the same formula described in Paragraph 5.7. These residual funds will only be
8 distributed to Settlement Class Members for whom this second payment would be at least \$50. The
9 value of any uncashed checks following this residual distribution will be donated on a cy pres basis to
10 Legal Aid at Work.

11 5.9 The Individual Settlement Payments received shall be reported by the Settlement
12 Administrator to the applicable governmental authorities on IRS Form 1099s (if required). The
13 portions allocated to Service Awards shall likewise be reported on IRS Form 1099s by the Settlement
14 Administrator. The Settlement Administrator shall be responsible for issuing copies of IRS Form
15 1099s for the Plaintiffs and Settlement Class Members.

16 **VI. NOTICE PROCEDURES**

17 6.1 No more than fourteen (14) calendar days after entry of the Preliminary Approval
18 Order, Postmates shall provide the Settlement Administrator with the Settlement Class Information
19 for purposes of sending the Settlement Class Notice to Settlement Class Members.

20 6.2 No more than twenty (20) calendar days after entry of the Preliminary Approval Order
21 (on the Notice Distribution Date), the Settlement Administrator shall send the Settlement Class
22 Notice to the Settlement Class Members, via electronic mail.

23 6.3 The Settlement Class Notice will inform Settlement Class Members of their right to
24 request exclusion from the Settlement, of their right to object to the Settlement, of their right to
25 dispute the information upon which their share of the Settlement will be calculated, and the claims to
26 be released.

27 6.4 The Settlement Class Notice shall include an explanation for how the Estimated Miles
28 will be used to calculate the Individual Settlement Payments. The Settlement Administrator's

1 determination of the amount of any Settlement Class Member's Estimated Miles shall be binding
2 upon the Settlement Class Member, and the Parties. There will be a presumption that Postmates'
3 records are correct, absent evidence produced by a Settlement Class Member to the contrary.

4 6.5 If any Settlement Class Notice sent via electronic mail to any Settlement Class
5 Member is undeliverable, the Settlement Administrator shall, within seven (7) days of an
6 undeliverable email, mail the Settlement Class Notice to each Settlement Class Member whose
7 Settlement Class Notice was undeliverable. Before mailing, the Settlement Administrator shall make
8 a good-faith attempt to obtain the most-current names and postal mail addresses for all Settlement
9 Class Members to receive such postal mail, including cross-checking the names and/or postal mail
10 addresses it received from Postmates, as well as any other sources, with appropriate databases (e.g.,
11 the National Change of Address Database) and performing further reasonable searches (e.g., through
12 Lexis/Nexis) for more-current names and/or postal mail addresses for Settlement Class Member. All
13 Settlement Class Members' names and postal mail addresses obtained through these sources shall be
14 protected as confidential and not used for purposes other than the notice and administration of this
15 Settlement. The Settlement Administrator shall exercise its best judgment to determine the current
16 mailing address for each Settlement Class Member. The address determined by the Settlement
17 Administrator as the current mailing address shall be presumed to be the best mailing address for
18 each Settlement Class Member. The Bar Date and Exclusion/Objection Deadlines shall be extended
19 as necessary in order to ensure that the Settlement Class Member receiving a mailed notice has sixty
20 (60) days to submit a claim form or to opt-out or object to the Settlement.

21 6.6 If any Settlement Class Notice to a Settlement Class Member is returned to the
22 Settlement Administrator with a forwarding address, the Settlement Administrator shall forward the
23 postal mailing to that address. For any remaining returned postal mailings, the Settlement
24 Administrator shall make a good-faith search of an appropriate database (as described in the
25 preceding paragraph), and postal mailings shall be forwarded to any new postal mail address obtained
26 through such a search. In the event that any Settlement Class Notice is returned as undeliverable a
27 second time, no further postal mailing shall be required. The Settlement Administrator shall maintain
28 a log detailing the instances Settlement Class Notices are returned as undeliverable.

1 6.7 At least two reminders will be sent to Settlement Class Members following the initial
2 Settlement Class Notice, and the parties will agree to any further reminders that may be reasonably
3 necessary to assure adequate opportunity for class members to participate in the settlement. These
4 reminders will be sent to Settlement Class Members who have not already submitted a claim form,
5 opt-out request, or objection. These reminders will be sent via email to those Settlement Class
6 Members whose emailed notices were not returned as undeliverable and via mail for those Settlement
7 Class Members who received their initial Settlement Class Notice in the mail. Settlement class
8 members who are expected to have their points doubled pursuant to Paragraph 5.7 will receive at
9 least one additional reminder (for a total of at least three reminders) advising them of their right to
10 opt-out and continue to pursue their claims in arbitration or to release their claims in order to
11 participate in the settlement.

12 6.8 The Parties agree that the procedures set forth in this Section constitute reasonable and
13 the best practicable notice under the circumstances and an appropriate and sufficient effort to locate
14 current addresses for Settlement Class Members such that no additional efforts to do so shall be
15 required.

16 6.9 The Settlement Administrator will provide Settlement Class Notice by, at a minimum,
17 (i) electronic mail notice without material variation from the form attached as the relevant portion of
18 Exhibit A; (ii) if necessary in accordance with Paragraph 6.7, first-class mail (where available) notice
19 without material variation from the relevant portion of Exhibit A; and (iii) a content-neutral
20 settlement website accessible to Settlement Class Members managed by the Settlement
21 Administrator, and approved by counsel for the Parties, which will contain further information about
22 the Settlement, including relevant pleadings. The Settlement Class Notice shall comply with
23 California Rule of Court 3.769 and due process.

24 6.10 Prior to the Final Approval Hearing, the Settlement Administrator shall prepare a
25 declaration of due diligence and proof of dissemination with regard to the mailing of the Settlement
26 Class Notice, and any attempts by the Settlement Administrator to locate Settlement Class Members,
27 its receipt of valid Claim Forms, Opt-outs, and Objections (and copies of same), and its inability to
28 deliver the Settlement Class Notice to Settlement Class Members due to invalid addresses (“Due

1 Diligence Declaration”), to Settlement Class Counsel and counsel for Postmates for presentation to
2 the Court. Settlement Class Counsel shall be responsible for filing the Due Diligence Declaration
3 with the Court.

4 6.11 If any individual whose name does not appear in the Settlement Class Information
5 believes that he or she is a Settlement Class Member, he or she shall have the opportunity to dispute
6 his or her exclusion from the Settlement Class. If an individual believes he or she is a Settlement
7 Class Member, he or she must notify the Settlement Administrator by mail, email, or telephone
8 within thirty (30) days after the distribution of the Settlement Class Notice. The Parties will meet and
9 confer regarding any such individuals in an attempt to reach an agreement as to whether any such
10 individual should be regarded as a Settlement Class Member. If the Parties so agree, such an
11 individual will have all of the same rights as any other Settlement Class Member under this
12 Agreement. In the event that the Parties agree that the individual is a Settlement Class Member, the
13 Individual Settlement Payment to such individual shall be disbursed from the Dispute Resolution
14 Fund, as long as sufficient money is left in the Dispute Resolution Fund. If an individual notifies the
15 Settlement Administrator that he or she is a Settlement Class Member more than thirty (30) days after
16 the distribution of the Settlement Class Notice, and the Parties agree that the individual is a
17 Settlement Class Member, the Parties shall endeavor to include the individual in the Settlement Class.
18 Under no circumstances will any action under this paragraph increase the Total Settlement Amount.

19 **VII. PROCEDURES FOR REQUESTS FOR EXCLUSION**

20 7.1 Settlement Class Members (with the exception of the Plaintiffs) may opt out of the
21 Settlement. Those who wish to exclude themselves (or “opt out”) from the Settlement Class must
22 submit timely, written requests for exclusion. To be effective, such a request must include the
23 Settlement Class Member’s name, address, and telephone number; a clear and unequivocal statement
24 that the Settlement Class Member wishes to be excluded from the Settlement Class; and the signature
25 of the Settlement Class Member or the Legally Authorized Representative of the Settlement Class
26 Member. The request must be mailed or emailed (from the Settlement Class Member’s account used
27 to sign up on the Postmates platform) to the Settlement Administrator at the address provided in the
28 Settlement Class Notice and must be postmarked or emailed no later than the Exclusion/Objection

1 Deadline. The date of the postmark or email shall be the exclusive means used to determine whether
2 a request for exclusion has been timely submitted. Requests for exclusion must be exercised
3 individually by the Settlement Class Member or the Settlement Class Member's Legally Authorized
4 Representative, not as or on behalf of a group, class, or subclass. All requests for exclusion must be
5 submitted by the requesting Settlement Class Member (or their Legally Authorized Representative),
6 except that the Settlement Class Member's counsel may submit an opt-out request on behalf of the
7 individual Settlement Class Member if:

8 7.1.1 The Settlement Class Member's counsel retains a copy of the Settlement Class
9 Member's signed retention agreement with the counsel who is submitting the opt-out request, along
10 with a copy of any other agreements between the Settlement Class Member and counsel who is
11 submitting the opt-out request or their co-counsel, and agrees that any such agreements shall be
12 provided to the Court in camera if the Court so requests;

13 7.1.2 The Settlement Class Member's counsel submits a declaration under penalty of
14 perjury that:

15 7.1.2.1 Avers that the Settlement Class Member signed a retention agreement
16 with the individual attorney signing the declaration and submitting the
17 opt-out request, and identifies approximately when this occurred;

18 7.1.2.2 Avers that the attorney signing the declaration (a) personally advised
19 the Settlement Class Member of the estimate the parties provided of
20 how much the individual Settlement Class Member would have
21 recovered under the Settlement (assuming a 50% claim rate); (b)
22 personally inquired whether the Settlement Class Member would prefer
23 to accept the settlement or opt out and maintain their right to pursue
24 individual claims; and (c) has complied with all ethical rules with
25 respect to the representation of the Settlement Class Member, including
26 with respect to the attorney's retention by the Settlement Class
27 Member, advice given to the Settlement Class Member, and avoiding
28

1 any conflict of interest with respect to advice given to the Settlement
2 Class Member.

3 7.1.2.3 Avers that the Settlement Class Member affirmatively approved the
4 opt-out request verbally or in writing, not by silence or inaction, and
5 that the Settlement Class Member directly communicated the opt-out
6 request verbally or in writing to the attorney signing the declaration;

7 7.1.2.4 Avers that, to the attorney's knowledge, the Settlement Class Member
8 knowingly, voluntarily, and independently chose to opt out after being
9 provided with the Court approved Notice and being advised about the
10 Settlement as described in paragraph 7.1.2.2;

11 7.1.2.5 Avers that the attorney signing the declaration consents to the Court's
12 jurisdiction for any reason relating to the Settlement and the opt-out
13 request; and

14 7.1.2.6 Contains the advising attorney's original signature.

15 7.2 The Settlement Administrator shall promptly log each request for exclusion that it
16 receives and provide copies of the log and all such requests for exclusion to Settlement Class Counsel
17 and counsel for Postmates upon request. The Settlement Administrator shall automatically notify
18 Settlement Class Counsel and counsel for Postmates if and when the number of timely-submitted
19 requests for exclusion reaches 250.

20 7.3 The Settlement Administrator shall prepare a list of all persons who timely and
21 properly requested exclusion from the Settlement Class (the Opt-Out List) and shall, before the Final
22 Approval Hearing, submit an affidavit to the Court attesting to the accuracy of the list.

23 7.4 All Settlement Class Members who are not included in the Opt-Out List approved by
24 the Court shall be bound by this Settlement Agreement, and all their claims shall be dismissed with
25 prejudice and released as provided for herein, even if they never received actual notice of the Action
26 or this proposed Settlement.

1 7.5 In the event that a Settlement Class Member submits a request for exclusion that the
2 parties do not believe was timely and/or properly submitted, the Court shall determine whether the
3 request for exclusion was timely and properly submitted.

4 7.6 The Plaintiffs agree not to request exclusion from the Settlement Class.

5 7.7 Settlement Class Members may request exclusion from the Settlement. Any such
6 Settlement Class Member may also object to the PAGA portion of the Settlement.

7 7.8 Notwithstanding the submission of a timely request for exclusion, Settlement Class
8 Members will still be bound by the settlement and release of the PAGA Claims or remedies under the
9 Judgment pursuant to *Arias v. Superior Court* (2009) 46 Cal.4th 969. Requests for exclusion do not
10 apply to the PAGA Claims, and will not be effective to preclude the release of the PAGA Claims.

11 7.9 Settlement Class Members may object to or opt out of the Settlement, but may not do
12 both. Any Settlement Class Member who submits a timely request for exclusion may not file an
13 objection to the Settlement, submit a Claim, or receive a Settlement Payment, and shall be deemed to
14 have waived any rights or benefits under the Settlement Agreement.

15 7.10 No later than ten (10) business days after the Exclusion/Objection Deadline, the
16 Settlement Administrator shall provide to Settlement Class Counsel and counsel for Postmates the
17 Opt-Out List together with copies of the exclusion requests. Notwithstanding any other provision of
18 this Settlement Agreement, if more than two hundred fifty (250) Settlement Class Members exercise
19 their right to opt out of the Settlement, Postmates at its sole and absolute discretion may rescind and
20 revoke the Settlement Agreement by sending written notice that it revokes the Settlement pursuant to
21 this Paragraph to Settlement Class Counsel within fourteen (14) business days following receipt of
22 the Opt-Out List.

23 7.11 Any Settlement Class Member who submits a timely and valid Claim Form, or does
24 not submit a timely and valid opt-out request, agrees to waive the Class Action Waiver in any
25 existing arbitration agreement between the Settlement Class Member and Postmates with respect to
26 the Released Claims.

1 **VIII. PROCEDURES FOR OBJECTIONS**

2 8.1 Any Settlement Class Member who wishes to object to the fairness, reasonableness, or
3 adequacy of this Agreement or the proposed Settlement must provide to the Settlement Administrator
4 a timely statement of the objection. The Settlement Administrator shall promptly forward any
5 objections to Settlement Class Counsel and counsel for Postmates.

6 8.2 All written objections must (a) clearly identify the case name and number, (b) be
7 submitted to the Settlement Administrator by mail or email, and (c) be emailed or postmarked no
8 later than the Exclusion/Objection Deadline. The date of the postmark on the return-mailing
9 envelope, or the date of the email, shall be the exclusive means used to determine whether the written
10 objection has been timely submitted. If an objection is submitted using more than one method (e.g. if
11 it is mailed and emailed), the earlier date shall be used to determine timeliness.

12 8.3 The objection must contain at least the following: (i) the objector’s full name, address,
13 telephone, and signature; (ii) a clear reference to the Action; (iii) a statement of the basis for each
14 objection argument; and (iv) a statement whether the objecting person or entity intends to appear at
15 the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement
16 identifying that counsel by name, bar number, address, and telephone number. All objections shall be
17 signed by the objecting Settlement Class Member (or their Legally Authorized Representative), even
18 if the Settlement Class Member is represented by counsel.

19 8.4 The right to object to the proposed Settlement must be exercised individually by a
20 Settlement Class Member. Attempted collective, group, class, or subclass objections shall be
21 ineffective and disregarded. Individual objections may be submitted by a Settlement Class Member’s
22 Legally Authorized Representative (who is not the Settlement Class Member’s counsel).

23 8.5 Settlement Class Members who object to the proposed Settlement shall remain
24 Settlement Class Members, and shall be deemed to have voluntarily waived their right to exclude
25 themselves from the Settlement Class or pursue an independent remedy against Postmates and the
26 Released Parties. To the extent any Settlement Class Member objects to the proposed Settlement
27 Agreement, and such objection is overruled in whole or in part, such Settlement Class Member will
28 be forever bound by the Final Approval order and Judgment.

1 8.6 It shall be Settlement Class Counsel’s sole responsibility to respond to any objections
2 made with respect to any application for the Settlement Class Counsel Award and Service Awards.

3 **IX. RELEASES**

4 9.1 The Released Claims against each and all of the Released Parties shall be released and
5 dismissed with prejudice and on the merits (without an award of costs to any party other than as
6 provided in this Agreement) upon entry of the Final Approval order and Judgment.

7 9.2 As of the Final Approval Date, the Plaintiffs and all Settlement Class Members who
8 have not been excluded from the Settlement Class as provided in the Opt-Out List, individually and
9 on behalf of their Legally Authorized Representatives, heirs, estates, trustees, executors,
10 administrators, representatives, agents, successors, and assigns, and anyone claiming through them or
11 acting or purporting to act on their behalf, agree to forever release, discharge, hold harmless, and
12 covenant not to sue each and all of the Released Parties from each and all of the Plaintiffs’ General
13 Released Claims (in the case of the Plaintiffs), the Authorized Claimants’ Released Claims (in the
14 case of the Authorized Claimants), and the Settlement Class Members’ Released Claims (in the case
15 of the Settlement Class Members), and by operation of the Judgment becoming Final shall have fully
16 and finally released, relinquished, and discharged all such claims against each and all of the Released
17 Parties; and they further agree that they shall not now or hereafter initiate, maintain, or assert any of
18 the General Released Claims (in the case of the Plaintiffs), the Authorized Claimants’ Released
19 Claims (in the case of the Authorized Claimants), or the Settlement Class Members’ Released Claims
20 (in the case of the Settlement Class Members), against the Released Parties in any other court action
21 or before any administrative body, tribunal, arbitration panel, or other adjudicating body. Without in
22 any way limiting the scope of the releases described in Paragraphs 2.16, 2.29, and 2.41, or in the
23 remainder of this Section, this release covers, without limitation, any and all claims for attorneys’
24 fees, costs, or disbursements incurred by Settlement Class Counsel, or by the Plaintiffs or Settlement
25 Class Members, or any of them, in connection with or related in any manner to the Action, the
26 Settlement of the Action, and/or the Released Claims, except to the extent otherwise specified in this
27 Agreement.

1 9.3 The Plaintiffs and the Settlement Class Members expressly acknowledge that they are
2 familiar with principles of law such as Section 1542 of the California Civil Code, which provides:

3 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
4 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
5 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
6 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
7 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
8 PARTY.

9 With respect to the Settlement Class Released Claims, as described in Paragraph 2.41, each
10 Settlement Class Member who has not been excluded from the Settlement Class as provided in the
11 Opt-Out List shall be deemed to have expressly, knowingly, and voluntarily waived and relinquished,
12 to the fullest extent permitted by law, the provisions, rights, and benefits he or she may otherwise
13 have had pursuant to Section 1542 of the California Civil Code and all similar federal, state, and local
14 laws, rights, rules, and legal principles of any other jurisdiction that may be applicable herein. In
15 connection with the release, the Settlement Class Members acknowledge that they are aware that they
16 may hereafter discover claims presently unknown and unsuspected or facts in addition to or different
17 from those which they now know or believe to be true with respect to matters released herein.
18 Nevertheless, the Settlement Class Members acknowledge that a portion of the consideration received
19 herein is for a release with respect to unknown damages and complaints, whether resulting from
20 known injuries and consequences or from unknown injuries or unknown consequences of known or
21 unknown injuries, and state that it is the intention of the Settlement Class Members in agreeing to this
22 release fully, finally, and forever to settle and release all matters and all claims that exist, hereafter
23 may exist, or might have existed (whether or not previously or currently asserted in any action),
24 constituting the Settlement Class Members' Released Claims.

25 9.4 With respect to those claims that could be asserted under the FLSA, an Authorized
26 Claimant's timely and valid submission of a signed Claim Form shall be deemed as that Authorized
27 Claimant's Consent to Join and release all such matters and claims. The timely and valid submission
28

1 of a signed Claim Form shall fully, finally and forever settle and release all such matters and claims
2 as of the Effective Date.

3 9.5 With respect to the General Released Claims, as described in Paragraph 2.16, each
4 Plaintiff shall be deemed to have expressly, knowingly, and voluntarily waived and relinquished, to
5 the fullest extent permitted by law, the provisions, rights, and benefits he or she may otherwise have
6 had pursuant to Section 1542 of the California Civil Code and all similar federal, state, and local
7 laws, rights, rules, and legal principles of any other jurisdiction that may be applicable herein. In
8 connection with the release, Plaintiffs acknowledge that they are aware that they may hereafter
9 discover claims presently unknown and unsuspected or facts in addition to or different from those
10 which they now know or believe to be true with respect to matters released herein. Nevertheless,
11 Plaintiffs acknowledge that a portion of the consideration received herein is for a release with respect
12 to unknown damages and complaints, whether resulting from known injuries and consequences or
13 from unknown injuries or unknown consequences of known or unknown injuries, and state that it is
14 the intention of Plaintiffs in agreeing to this release fully, finally, and forever to settle and release all
15 matters and all claims that exist, hereafter may exist, or might have existed (whether or not
16 previously or currently asserted in any action), constituting the General Released Claims.

17 9.6 Each Plaintiff further acknowledges, agrees, and understands that: (i) he or she has
18 read and understands the terms of this Agreement; (ii) he or she has been advised in writing to
19 consult with an attorney before executing this Agreement; (iii) he or she has obtained and considered
20 such legal counsel as he or she deems necessary; (iv) he or she has been given twenty-one (21) days
21 to consider whether or not to enter into this Agreement (although he or she may elect not to use the
22 full 21 day period at his or her option).

23 9.7 Subject to Court approval, the Plaintiffs and all Settlement Class Members who have
24 not been excluded from the Settlement Class as provided in the Opt-Out List shall be bound by this
25 Settlement Agreement, and all of the Released Claims shall be dismissed with prejudice and released,
26 even if they never received actual notice of the Action or this Settlement.

1 **X. ADMINISTRATION OF THE SETTLEMENT FUND**

2 10.1 The Settlement Administrator or its authorized agents in consultation with the Parties
3 and subject to the supervision, direction, and approval of the Court, shall calculate the allocation of
4 and oversee the distribution of the Total Settlement Amount.

5 10.2 The Total Settlement Amount shall be applied as follows:

6 10.2.1 To pay the costs and expenses incurred in connection with providing
7 Settlement Class Notice to potential Settlement Class Members, locating Settlement Class Members'
8 last-known postal mail addresses and processing any objections, requests for exclusion or challenges
9 to calculations of Estimated Miles;

10 10.2.2 After the Effective Date as provided in Paragraph 2.10, and subject to the
11 approval and further order(s) of the Court, to pay Plaintiffs Service Awards based on contributions
12 and time expended assisting in the litigation, up to the amounts described in Paragraph 2.29.

13 10.2.3 After the Effective Date as provided in Paragraph 2.10, and subject to the
14 approval and further order(s) of the Court, to pay the Settlement Class Counsel Award as ordered by
15 the Court;

16 10.2.4 After the Effective Date as provided in Paragraph 2.10, and subject to the
17 approval and further order(s) of the Court, to distribute 75% of the PAGA Payment to the LWDA;

18 10.2.5 After the Effective Date as provided in Paragraph 2.10, and subject to the
19 approval and further order(s) of the Court, to distribute the Individual Settlement Payments from the
20 Total Settlement Amount for the benefit of the Settlement Class pursuant to the Plan of Allocation, or
21 as otherwise ordered by the Court.

22 10.3 If any portion of the Total Settlement Amount is not successfully redistributed to
23 Settlement Class Members after the initial Void Date (i.e. checks are not cashed or checks are
24 returned as undeliverable after the second distribution), then after the Void Date for redistributed
25 checks, the Settlement Administrator shall void the check and shall direct such unclaimed funds to be
26 paid to Legal Aid at Work. Such unclaimed funds may also be used to resolve disputes regarding the
27 distribution of settlement funds.

1 10.4 Settlement Class Members who are not on the Opt-Out List approved by the Court
2 shall be subject to and bound by the provisions of the Settlement Agreement, the releases contained
3 herein, and the Judgment with respect to all Settlement Class Members' Released Claims, regardless
4 of whether they obtain any distribution from the Total Settlement Amount.

5 10.5 Payment from the Total Settlement Amount shall be deemed conclusive of compliance
6 with this Settlement Agreement as to all Settlement Class Members.

7 10.6 No Settlement Class Member shall have any claim against the Plaintiffs, Settlement
8 Class Counsel, or the Settlement Administrator based on distributions made substantially in
9 accordance with this Settlement Agreement and/or orders of the Court. No Settlement Class Member
10 shall have any claim against Postmates or its counsel relating to distributions made under this
11 Settlement.

12 **XI. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF**
13 **SETTLEMENT AGREEMENT**

14 11.1 If the Court does not approve the Settlement as set forth in this Settlement Agreement,
15 or if the Court enters the Judgment and appellate review is sought, and on such review, the entry of
16 Judgment is vacated, modified in any way, or reversed, or if the Final Approval order does not
17 otherwise become Final, then this Settlement Agreement shall be cancelled, terminated, and void ab
18 initio, unless all Parties, in their sole discretion within thirty (30) days from the date such ruling
19 becomes final, provide written notice to all other Parties hereto of their intent to proceed with the
20 Settlement under the terms of the Judgment as it may be modified by the Court or any appellate court.

21 11.2 Postmates shall have the right to withdraw from the Settlement if the number of
22 Settlement Class Members who attempt to exclude themselves from the Settlement Class equals or
23 exceeds 250. If Postmates chooses, pursuant to its sole and absolute discretion, to exercise this right,
24 it must do so within fourteen (14) days of receipt of the Opt-Out List as provided in Paragraphs 7.2
25 and 7.9, by providing written notice to Settlement Class Counsel.

26 11.3 In the event that: (i) the Settlement is not approved, is overturned, or is materially
27 modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this Settlement
28 Agreement is terminated, cancelled, or fails to become effective for any reason, then: (a) the Parties

1 stipulate and agree that the Settlement, this Agreement, the Settlement Class Information, the Opt-
2 Out List, and all documents exchanged and filed in connection with the Settlement shall be treated as
3 inadmissible mediation communications under Cal. Evid. Code § 1115 et seq.; (b) the Settlement
4 shall be without force and effect upon the rights of the Parties hereto, and none of its terms shall be
5 effective or enforceable, with the exception of this Paragraph, which shall remain effective and
6 enforceable; (c) the Parties shall be deemed to have reverted nunc pro tunc to their respective statuses
7 prior to execution of this Agreement, including with respect to any Court-imposed deadlines; (d) all
8 Orders entered in connection with the Settlement, including the certification of the Settlement and
9 certification of the FLSA claims, shall be vacated without prejudice to any Party's position on the
10 issues of class and collective action certification, the issue of amending the complaint, or any other
11 issue, in this Action or any other action, and the Parties shall be restored to their litigation positions
12 existing on the date of execution of this Agreement; and (e) the Parties shall proceed in all respects as
13 if the Settlement Agreement and related documentation and orders had not been executed, and
14 without prejudice in any way from the negotiation or fact of the Settlement or the terms of the
15 Settlement Agreement. The Settlement Agreement, the Settlement, all documents, orders, and
16 evidence relating to the Settlement, the fact of their existence, any of their terms, any press release or
17 other statement or report by the Parties or by others concerning the Settlement Agreement, the
18 Settlement, their existence, or their terms, and any negotiations, proceedings, acts performed, or
19 documents executed pursuant to or in furtherance of the Settlement Agreement or the Settlement shall
20 not be admissible in any proceeding, and shall not be offered, received, or construed as evidence of a
21 presumption, concession, or an admission of liability, of unenforceability of any arbitration
22 agreement, of the certifiability of a litigation class, or of any misrepresentation or omission in any
23 statement or written document approved or made, or otherwise used by any Person for any purpose
24 whatsoever, in any trial of this Action or any other action or proceedings. Plaintiffs, Settlement Class
25 Counsel, and the Settlement Administrator shall return to counsel for Postmates all copies of the
26 Settlement Class Information and Opt-Out Lists and shall not use or disclose the Settlement Class
27 Information or Opt-Out List for any purpose or in any proceeding.

28

1 11.4 Postmates does not agree or consent to certification of the class or FLSA claims for
2 any purpose other than to effectuate the Settlement of the Action. If this Settlement Agreement is
3 terminated pursuant to its terms, or the Effective Date for any reason does not occur, all Orders
4 certifying the Settlement Class and FLSA collective for purposes of effecting this Settlement
5 Agreement, and all preliminary and/or final findings regarding the Settlement Class, shall be void ab
6 initio and automatically vacated upon notice to the Court, the Action shall proceed as though the
7 Settlement Class had never been certified pursuant to this Settlement Agreement and such findings
8 had never been made, and the Action shall revert nunc pro tunc to the procedural status quo as of the
9 date and time immediately before the execution of the Settlement Agreement, in accordance with this
10 Settlement Agreement.

11 **XII. ADDITIONAL PROVISIONS**

12 12.1 In the event that one or more of the Parties to this Settlement Agreement institutes any
13 legal action, arbitration, or other proceeding against any other party to enforce the provisions of this
14 Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the
15 prevailing party shall be entitled to recover from the unsuccessful party reasonable attorneys' fees
16 and costs, including expert witness fees incurred in connection with any enforcement actions.

17 12.2 Unless otherwise specifically provided here, all notices, demands, or other
18 communications given hereunder shall be in writing and shall be deemed to have been duly given as
19 of the third business day after mailing by United States registered or certified mail, return receipt
20 requested, addressed as follows:

21 To Plaintiffs and the Settlement Class:

22 Shannon Liss-Riordan, Esq.
23 Lichten & Liss-Riordan, P.C.
24 729 Boylston Street
25 Suite 2000
26 Boston, MA 02116

27 To Defendants:

28 Theane Evangelis, Esq.
29 Gibson, Dunn & Crutcher LLP
30 333 South Grand Avenue
31 Los Angeles, CA 90071-3197

1 12.3 All of the Exhibits to this Settlement Agreement are an integral part of the Settlement
2 and are incorporated by reference as though fully set forth herein.

3 12.4 The Parties agree that the recitals are contractual in nature and form a material part of
4 this Settlement Agreement.

5 12.5 The Plaintiffs and Settlement Class Counsel acknowledge that an adequate factual
6 record has been established that supports the Settlement and hereby waive any right to conduct
7 further discovery to assess or confirm the Settlement. Notwithstanding the prior sentence, the Parties
8 agree to reasonably cooperate with respect to efforts to identify the last-known addresses of
9 Settlement Class Members.

10 12.6 Unless otherwise noted, all references to “days” in this Agreement shall be to calendar
11 days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal
12 holiday, such date or deadline shall be on the first business day thereafter.

13 12.7 This Agreement supersedes all prior negotiations and agreements and may be
14 amended or modified only by a written instrument signed by counsel for all Parties or the Parties’
15 successors-in-interest.

16 12.8 The Parties reserve the right, subject to the Court’s approval, to agree to any
17 reasonable extensions of time that might be necessary to carry out any of the provisions of this
18 Agreement. Such extensions must be in writing to be enforceable.

19 12.9 The Settlement Agreement, the Settlement, the fact of the Settlement’s existence, any
20 of the terms of the Settlement Agreement, any press release or other statement or report by the Parties
21 or by others concerning the Settlement Agreement or the Settlement, and any negotiations,
22 proceedings, acts performed, or documents executed pursuant to or in furtherance of the Settlement
23 Agreement or the Settlement: (i) may not be deemed to be, may not be used as, and do not constitute
24 an admission or evidence of the validity of any Released Claims or of any wrongdoing or liability of
25 Postmates; (ii) may not be deemed to be, may not be used as, and do not constitute an admission or
26 evidence of any fault, wrongdoing, or omission by Postmates in any trial, civil, criminal, arbitration,
27 or administrative proceeding of the Action or any other action or proceedings in any court,
28 administrative agency, arbitral forum or other tribunal; (iii) may not be used as evidence of any

1 waiver of, unenforceability of, or as a defense to any Postmates arbitration agreement; and (iv) may
2 not be used as evidence in any class certification proceeding.

3 12.10 The Released Parties shall have the right to file the Settlement Agreement, the Final
4 Approval order and Judgment, and any other documents or evidence relating to the Settlement in any
5 action that may be brought against them in order to support a defense or counterclaim based on
6 principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction,
7 or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

8 12.11 The Parties to the Settlement Agreement agree that the Total Settlement Amount and
9 the other terms of the Settlement were negotiated at arm's length and in good faith by the Parties,
10 resulted from an arm's-length mediation session facilitated by Tripper Ortman, and reflect a
11 settlement that was reached voluntarily based upon adequate information and sufficient discovery and
12 after consultation with experienced legal counsel.

13 12.12 The Plaintiffs and Settlement Class Counsel have concluded that the Settlement set
14 forth herein constitutes a fair, reasonable, and adequate resolution of the claims that the Plaintiffs
15 asserted against Postmates, including the claims on behalf of the Settlement Class, and that it
16 promotes the best interests of the Settlement Class.

17 12.13 To the extent permitted by law, all agreements made and orders entered during the
18 course of the Action relating to the confidentiality of information shall survive this Settlement
19 Agreement.

20 12.14 The Parties agree that Plaintiffs and Settlement Class Counsel are not required to
21 return any documents or data produced by Postmates until the final resolution of the Action. Within
22 sixty (60) days following the Effective Date, Settlement Class Counsel shall return to Postmates all
23 documents and data produced in the Action or in connection with the Parties' mediation, or confirm
24 in writing that all such documents have been destroyed.

25 12.15 The waiver by one Party of any breach of this Settlement Agreement by any other
26 Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement
27 Agreement.

1 12.16 This Settlement Agreement, including its Exhibits, constitutes the entire agreement
2 among the Parties, and no representations, warranties, or inducements have been made to any Party
3 concerning this Settlement Agreement or its Exhibits, other than the representations, warranties, and
4 covenants contained and memorialized in this Settlement Agreement and its Exhibits.

5 12.17 This Settlement Agreement may be executed in one or more counterparts. All
6 executed counterparts and each of them shall be deemed to be one and the same instrument provided
7 that counsel for the Parties to this Settlement Agreement shall exchange among themselves original
8 signed counterparts.

9 12.18 This Settlement Agreement may be signed with a facsimile signature and in
10 counterparts, each of which shall constitute a duplicate original.

11 12.19 The Parties hereto and their respective counsel agree that they will use their best
12 efforts to obtain all necessary approvals of the Court required by this Settlement Agreement.

13 12.20 This Settlement Agreement shall be binding upon and shall inure to the benefit of the
14 successors and assigns of the Parties hereto, including any and all Released Parties and any
15 corporation, partnership, or other entity into or with which any Party hereto may merge, consolidate,
16 or reorganize.

17 12.21 This Settlement Agreement has been negotiated among and drafted by Settlement
18 Class Counsel and Postmates' Counsel. Named Plaintiffs, Settlement Class Members, and Postmates
19 shall not be deemed to be the drafters of this Settlement Agreement or of any particular provision, nor
20 shall they argue that any particular provision should be construed against its drafter or otherwise
21 resort to the contra proferentem canon of construction. Accordingly, this Settlement Agreement
22 should not be construed in favor of or against one Party as the drafter, and the Parties agree that the
23 provisions of California Civil Code § 1654 and common law principles of construing ambiguities
24 against the drafter shall have no application. All Parties agree that counsel for the Parties drafted this
25 Settlement Agreement during extensive arm's-length negotiations. No parol or other evidence may
26 be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their
27 counsel, or the circumstances under which this Settlement Agreement was made or executed.

1 12.22 Except where this Settlement Agreement itself provides otherwise, all terms,
2 conditions, and Exhibits are material and necessary to this Settlement Agreement and have been
3 relied upon by the Parties in entering into this Settlement Agreement.

4 12.23 This Settlement Agreement shall be governed by California law. Any action or
5 dispute based on this Settlement Agreement, including any action to enforce any of the terms of this
6 Settlement Agreement, shall be commenced and maintained only in the Superior Court of California,
7 San Francisco County, which shall retain jurisdiction over all such actions and disputes.

8 12.24 All Parties to this Settlement Agreement shall be subject to the jurisdiction of the
9 Superior Court of California, San Francisco County for all purposes related to this Settlement
10 Agreement.

11 12.25 The Court shall retain continuing and exclusive jurisdiction over the Parties to this
12 Settlement Agreement for the purpose of the administration and enforcement of this Settlement
13 Agreement.

14 12.26 The headings used in this Settlement Agreement are for the convenience of the reader
15 only, and shall not affect the meaning or interpretation of this Settlement Agreement.

16 12.27 In construing this Settlement Agreement, the use of the singular includes the plural
17 (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

18 12.28 Each Party to this Settlement Agreement warrants that he, she, or it is acting upon his,
19 her, or its independent judgment and upon the advice of counsel, and not in reliance upon any
20 warranty or representation, express or implied, of any nature or of any kind by any other Party, other
21 than the warranties and representations expressly made in this Settlement Agreement.

22 12.29 Signatory counsel warrant that they are fully authorized to execute this Agreement on
23 behalf of their respective clients listed below. Each Counsel signing this Settlement Agreement on
24 behalf of his/her clients who are unable to sign the Agreement on the date that it is executed by other
25 Parties represents that such counsel is fully authorized to sign this Settlement Agreement on behalf of
26 his/her clients; provided, however, that all Parties who have not executed this Agreement on the date
27 that it is executed by the other Parties shall promptly thereafter execute this Agreement and in any
28 event no later than one (1) week after the Agreement has been executed by counsel.

1 IN WITNESS WHEREOF, the Parties hereto, by and through their respective attorneys, and
2 intending to be legally bound hereby, have duly executed this Settlement Agreement as of the date set
3 forth below.

4 Dated: December 14, 2020

By: *Shannon Liss-Riordan*
Shannon Liss-Riordan
LICHTEN & LISS-RIORDAN, P.C.

6 Attorneys for Plaintiffs JACOB RIMLER,
7 GIOVANNI JONES, DORA LEE,
8 KELLYN TIMMERMAN, and JOSHUA
ALBERT

9 Dated: December __, 2020

By: _____
Theane Evangelis
Michele L. Maryott
Dhananjay S. Manthripragada
GIBSON, DUNN & CRUTCHER LLP

12 Attorneys for Defendant POSTMATES, INC.

13 Dated: December __, 2020

By: _____
Robert Rieders
General Counsel
POSTMATES INC.

16 Dated: December 11, 2020

By: *Amir Mostafavi*
Amir Mostafavi

18 Attorney for Plaintiffs MELANIE WINNS,
19 RALPH HICKEY JR., STEVEN ALVARADO,
AND KRISTIE LOGAN

20 Dated: December __, 2020

By: _____
Matthew Bainer

21 Attorney for Plaintiff SHERICKA VINCENT

1 IN WITNESS WHEREOF, the Parties hereto, by and through their respective attorneys, and
2 intending to be legally bound hereby, have duly executed this Settlement Agreement as of the date set
3 forth below.

4 Dated: December ___, 2020

By: _____
Shannon Liss-Riordan
LICHTEN & LISS-RIORDAN, P.C.

6 Attorneys for Plaintiffs JACOB RIMLER,
7 GIOVANNI JONES, DORA LEE,
8 KELLYN TIMMERMAN, and JOSHUA
ALBERT



9 Dated: December 14, 2020

By: _____
Theane Evangelis
Michele L. Maryott
Dhananjay S. Manthripragada
GIBSON, DUNN & CRUTCHER LLP
12 Attorneys for Defendant POSTMATES, INC.

13 Dated: December ___, 2020

By: _____
Robert Rieders
General Counsel
POSTMATES INC.

16 Dated: December ___, 2020

By: _____
Amir Mostafavi

18 Attorney for Plaintiffs MELANIE WINNS,
19 RALPH HICKEY JR., STEVEN ALVARADO,
AND KRISTIE LOGAN

20 Dated: December ___, 2020

By: _____
Matthew Bainer

21 Attorney for Plaintiff SHERICKA VINCENT

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Dated: _____, 2020

By: _____
Jacob Rimler
NAMED PLAINTIFF
By: _____
Giovanni Jones
NAMED PLAINTIFF
By: _____
Dora Lee
NAMED PLAINTIFF
By: _____
Kellyn Timmerman
NAMED PLAINTIFF
By: _____
Joshua Albert
NAMED PLAINTIFF
By: _____
Melanie Ann Winns
NAMED PLAINTIFF
By: _____
Ralph John Hickey Jr.
NAMED PLAINTIFF
By: _____
Steven Alvarado
NAMED PLAINTIFF
By: _____
Kristie Logan
NAMED PLAINTIFF
By: _____
Shericka Vincent
NAMED PLAINTIFF

EXHIBIT B

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SHANNON LISS-RIORDAN (SBN 310719)
_ (sliss@llrlaw.com)
ANNE KRAMER (SBN 315131)
_ (akramer@llrlaw.com)
LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000

Boston, MA 02116
Telephone:- (617) 994-5800
Facsimile:- (617) 994-5801

*Attorneys for Plaintiffs Jacob Rimler,
_ Giovanni Jones, Dora Lee, Kellyn Timmerman,
and Joshua Albert, on behalf of themselves and others
similarly situated and in their capacities as Private
Attorney General Representatives*

GIBSON, DUNN & CRUTCHER LLP
_ THEANE EVANGELIS, - SBN 243570
_ tevangelis@gibsondunn.com
DHANANJAY S. MANTHRIPRAGADA,
SBN 254433
dmanthripragada@gibsondunn.com
SBN 254433
dmanthripragada@gibsondunn.com
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: 213.229.7000
Facsimile: 213.229.7520

MICHELE L. MARYOTT, SBN 191993

- mmaryott@gibsondunn.com
SHAUN A. MATHUR, SBN 311029
smathur@gibsondunn.com
3161 Michelson Drive

Irvine, CA 92612-4412
Telephone: 949.451.3800
Facsimile: 949.475.4668

*~~ATTORNEY~~Attorney for Defendant Postmates
Inc.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

~~Case No~~CASE NO. CGC-18-567868

JACOB RIMLER, GIOVANNI JONES,
DORA LEE, KELLYN TIMMERMAN, and
JOSHUA ALBERT, on behalf of themselves
and others similarly situated and in their
capacities as Private Attorney Attorneys
General Representatives,

____ Plaintiffs,

REVISEDSECOND AMENDED CLASS
**ACTION SETTLEMENT AGREEMENT
AND RELEASE**

REVISEDSECOND AMENDED CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE
Case No. CGC-18-567868

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_____ v.

POSTMATES INC.,

_____ Defendant.

_____ This Revised Second Amended Class Action Settlement Agreement and Release, including Exhibits A through C hereto (“Settlement Agreement” or “Agreement”), is made and entered into by,

between, and among Plaintiffs Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman, and Joshua Albert (“the *Rimler* Plaintiffs”), Plaintiffs Melanie Anne Winns, Ralph John Hickey, Jr., Steven Alvarado, and Kristie Logan (“the *Winns* Plaintiffs”), and Plaintiff Shericka Vincent (“Plaintiff Vincent”), on behalf of themselves and the Settlement Class, as defined below, on the one hand, and Defendant Postmates Inc.¹ (“Defendant” or “Postmates”) on the other hand.

Plaintiffs and Defendant (collectively, the “Parties”) enter into this Agreement to effect a full and final settlement and preclusive judgment resolving all claims brought or that could have been brought against Postmates in *Rimler v. Postmates, Inc.*, Case No. CGC-18-567868, in the Superior Court of California, San Francisco County, and the related appeal docketed at No. A156450 in the California Court of Appeal, First Appellate District, including as amended pursuant to this Agreement (taken together, the case shall be referred to as “the Action”), and all claims based on or reasonably related thereto. This Agreement is intended to fully and finally compromise, resolve, discharge, and settle the Released Claims, as defined and on the terms set forth below, and to the full extent reflected herein, subject to the approval of the Court.

¹ Postmates, Inc. is now Postmates, LLC f/k/a Postmates Inc., and its parent corporation is Uber Technologies, Inc.

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I. RECITALS

This Agreement is made in consideration of the following facts:

1.1 WHEREAS, on July 5, 2018, Plaintiff Jacob Rimler filed a California Private Attorneys General Act (“PAGA”), Labor Code § 2698, *et seq.*, representative action complaint in the Superior Court of California, San Francisco County (Case No. CGC-18-567868), asserting on behalf of himself and all couriers classified by Postmates as independent contractors in California various wage-related claims against Postmates arising from Postmates’ alleged misclassification of couriers as independent contractors. On July 11, 2018, Plaintiff Rimler filed a First Amended Complaint, which added Plaintiff Giovanni Jones (“the *Rimler* Action”);

1.2 WHEREAS, on August 17, 2018, Postmates filed a Petition for an Order Compelling Arbitration, which the *Rimler* Plaintiffs opposed. On January 2, 2019, the Court denied Postmates’ Petition, and Postmates filed a notice of appeal. ~~Before any briefing was conducted on the appeal, Postmates and the *Rimler* Plaintiffs agreed to mediate the *Rimler* Action and requested an extension of briefing deadlines in light of the mediation, which the Court granted~~ On December 9, 2020, the California Court of Appeal, First Appellate District, issued its decision affirming the trial court’s Order;

1.3 WHEREAS, on May 8, 2018, Plaintiff Dora Lee filed a class action complaint in the Superior Court of California, San Francisco County (Case No. CGC-18-566394), on behalf of herself and a proposed class consisting of all couriers in California classified by Postmates as independent contractors, asserting various wage-related claims against Postmates arising from Postmates’ alleged misclassification of couriers as independent contractors. On June 8, 2018, Postmates filed a Notice of Removal to the United States District Court for the Northern District of California, Case No. 3:18-cv-03421-JCS. On July 23, 2018, Postmates filed a Motion to Compel Arbitration. On October 15, 2018, the Court granted Plaintiff Lee’s Motion for Leave to Amend the Complaint to add Plaintiffs Kellyn Timmerman and Joshua Albert, and granted Postmates’ Motion to Compel Arbitration of Plaintiff Lee’s claims. On November 6, 2018, Postmates filed a Motion to Compel Arbitration for Plaintiff Timmerman. On December 17, 2018, the Court granted Postmates’ Motion to Compel

1 Arbitration and dismissed the case so that Plaintiffs Lee and Timmerman could pursue an appeal to
2 the United States Court of Appeals for the Ninth Circuit. On January 4, 2019, Plaintiffs Lee and
3 Timmerman filed a notice of appeal, which is pending as Ninth Cir. Case No. 19-15024 (together
4 with the case dismissed by the Northern District of California, the “*Lee Action*”). Subsequently,
5 Plaintiffs Lee and Timmerman moved the District Court to certify its orders for interlocutory review.
6 The Court granted the motion, and Plaintiffs Lee and Timmerman filed a petition in Ninth Cir. Case
7 No. 19-80055, seeking permission to appeal. On July 30, 2019, the Ninth Circuit denied the petition;

8 1.4 WHEREAS, on December 17, 2018, the District Court in *Lee* severed Plaintiff Joshua
9 Albert’s claims to proceed as a separate case, Northern District of California Case No. 3:18-cv-
10 07592-JCS. On January 4, 2019, Plaintiff Albert filed a Second Amended Complaint asserting a
11 PAGA claim based on various wage-related claims against Postmates arising from Postmates’ alleged
12 misclassification of couriers as independent contractors (the “*Albert Action*”). The parties were
13 engaged in written discovery until they requested and received a stay to participate in mediation;

14 1.5 WHEREAS, on November 2, 2017, Plaintiff Melanie Anne Winns filed a California
15 Private Attorneys General Act (“PAGA”), Labor Code § 2698, et seq., representative action
16 complaint (Case No. CGC-17-562282) in the Superior Court of California, San Francisco County,
17 asserting on behalf of herself and all couriers classified by Postmates as independent contractors in
18 California various wage-related violations arising from Postmates’ alleged misclassification of
19 couriers as independent contractors (the “*Winns Action*”). On December 22, 2017, Plaintiff Winns
20 filed a First Amended Complaint, which added Plaintiffs Ralph John Hickey Jr., Steven Alvarado,
21 and Kristie Logan. On January 23, 2018, Postmates filed a Petition to Compel Arbitration in *Winns*,
22 which the *Winns* Plaintiffs opposed. On September 24, 2018, the Court partially granted and partially
23 denied Postmates’ motion to compel arbitration, and Postmates filed a notice of appeal;

24 1.6 WHEREAS, on May 8, 2019, Plaintiff Vincent filed a PAGA representative action
25 complaint (Case No. RG19018205) in the Superior Court of California, Alameda County, asserting
26 on behalf of herself and all couriers classified by Postmates as independent contractors in California
27 various wage-related violations arising from Postmates’ alleged misclassification of couriers as

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independent contractors (the “*Vincent* Action”). On June 25, 2019, Postmates filed a Petition to Compel Arbitration in *Vincent*, which has not yet been ruled on;

1.7 WHEREAS, the *Rimler* Plaintiffs and Postmates attended an in-person mediation session in July 2019 with professional mediator Tripper Ortman of Ortman Mediation, who is experienced in mediating class action disputes. Before agreeing to the terms of the first proposed arm’s-length settlement, and in preparation for the mediation, the parties engaged in extensive informal discovery, exchanging information, documents and voluminous data, which enabled the parties and the mediator to thoroughly evaluate Plaintiffs’ claims and the claims of the putative Settlement Class Members, and the likely outcomes, risks, and expense of pursuing litigation;

1.8 WHEREAS, the *Rimler* Plaintiffs and Postmates filed a Motion for Preliminary Approval of Class Settlement and a Proposed Settlement on October 8, 2019;

1.9 WHEREAS, Plaintiffs filed a revised proposed settlement agreement and a stipulation to file a proposed Second Amended Complaint adding other named plaintiffs, including Plaintiffs Melanie Ann Winns, Ralph John Hickey Jr., Steven Alvarado, Kristie Logan, and Shericka Vincent, and additional claims against Postmates under California’s Unfair Competition Law, the California Labor Code, Wage Order 9, and the Fair Labor Standards Act (“FLSA”) on June 8, 2020;

1.10 WHEREAS, the Court denied Plaintiffs’ Motion for Preliminary Approval of Class Settlement on June 17, 2020 without prejudice and “encourage[d] the parties to continue settlement negotiations in hopes that they are able to present another agreement for preliminary approval that is otherwise consistent with [the Court’s] order”;

1.11 WHEREAS, the Court issued an order on June 17, 2020, coordinating the *Rimler*, *Winns*, and *Vincent* Actions with three other similar matters pending against Postmates: *Santana v. Postmates, Inc.*, Case No. BC720151 (Los Angeles Super. Ct.); *Brown v. Postmates, Inc.*, Case No. BC712974 (Los Angeles Super. Ct.); and *Altounian v. Postmates, Inc.*, Case No. CGC-20-584366 (San Francisco Super. Ct.);

1.12 WHEREAS, the *Rimler* Plaintiffs and Postmates attended a second mediation through Zoom conference with mediator Tripper Ortman in the Fall of 2020 to discuss a second proposed settlement, before agreeing to this second proposed arm’s-length Settlement Agreement;

1.13 WHEREAS, in preparation for the second mediation, Postmates and the *Rimler* Plaintiffs exchanged additional, updated voluminous data, which enabled the parties and the mediator to update their evaluation of Plaintiffs’ claims and the claims of the putative Settlement Class Members, and the likely outcomes, risks, and expense of pursuing litigation;

1.14 WHEREAS, the Parties submit this Settlement Agreement in good faith and after having considered the Court’s concerns with the prior proposed settlement;

~~1.7~~1.15 WHEREAS, Plaintiffs allege generally that Postmates improperly classified them and all putative Settlement Class Members as independent contractors rather than employees, and assert derivative claims related thereto;

1.16 WHEREAS, on November 3, 2020, California voters approved Proposition 22, which—after the election results are certified—will be added as section 7451 to the California Business and Professions Code and provides that “an app-based driver is an independent contractor and not an employee or agent with respect to the app-based driver’s relationship with a network company” if certain conditions are met;

~~1.8~~1.17 WHEREAS, Postmates denies the allegations in the Action; maintains that each courier’s claims must be individually arbitrated pursuant to any arbitration agreement to which that courier may be bound; denies that it has engaged in any wrongdoing; denies that any Settlement Class Member was ever an employee of Postmates; denies that Plaintiffs’ allegations state valid claims; denies that a litigation class could properly be certified under California Code of Civil Procedure section 382 in the Action; denies that a collective action could properly be certified under the FLSA in the Action; denies that Plaintiffs’ claims could properly be maintained as a collective, class, or representative action; and states that it is entering into this Settlement Agreement solely to eliminate the burden, expense, and delay of further litigation and arbitrations, and on the express conditions that: (a) if for any reason the Settlement is not finalized according to the terms of this

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Agreement, the Settlement and the documents generated as a result of the Settlement shall be void ab initio, and shall not be admissible or usable for any purpose in any of the cases included in the Action or any other civil or administrative proceeding or arbitration; and (b) this Settlement and the documents generated as a result of the Settlement are not admissible or usable in any other civil or administrative proceeding or arbitration, except to the extent necessary to enforce this Settlement and the orders, judgment and agreements arising from this Settlement;

~~1.9~~1.18 WHEREAS, a bona fide dispute exists as to whether any amount of wages or penalties are due from Postmates to any putative Settlement Class Member or to the California Labor and Workforce Development Agency (“LWDA”);

~~1.1. WHEREAS, in preparation for mediation, Postmates and the Rimler Plaintiffs engaged in extensive informal discovery, exchanging information, documents and voluminous data, which enabled the parties and the mediator to thoroughly evaluate Plaintiffs’ claims and the claims of the putative Settlement Class Members, and the likely outcomes, risks, and expense of pursuing litigation;~~

~~1.2. WHEREAS, the Rimler Plaintiffs and Postmates attended an in person mediation session with professional mediator Tripper Ortman of Ortman Mediation, who is experienced in mediating class action disputes, before agreeing to the terms of this arm’s length Settlement;~~

~~1.10~~1.19 WHEREAS, as a result of the mediation, Plaintiffs and Plaintiffs’ Counsel believe that the global Settlement provides a favorable recovery for the Settlement Class, based on the claims asserted, the evidence developed, and the damages that might be proven against Postmates in the Action. The Plaintiffs and Plaintiffs’ Counsel further recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against Postmates through trial and appeals. They also have considered the uncertain outcome and the risk of any litigation, especially in complex litigation such as the Action, as well as the difficulties and delays inherent in any such litigation. They are also mindful of the inherent challenges of proof and the strength of the defenses to the alleged claims, and therefore believe that it is desirable that the Released Claims be

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fully and finally compromised, settled, and resolved with prejudice as set forth herein, subject to the approval of the Court;

1.11.20 WHEREAS, Plaintiffs and Plaintiffs' Counsel, based on their own independent investigations and evaluations, have examined the benefits to be obtained under the terms of this Settlement Agreement, have considered the claims of the Plaintiffs, the claims of the average Settlement Class Member, the risks associated with the continued prosecution of the Action, and the likelihood of success on the merits of the Action, and believe that, after considering all the circumstances, including the uncertainties surrounding the risk of further litigation and the defenses that Postmates has asserted and could assert, the proposed Settlement set forth in this Agreement is fair, reasonable, adequate, in the best interests of the Plaintiffs and the Settlement Class, and confers substantial benefits upon the Settlement Class;

1.12.21 WHEREAS, Plaintiffs warrant and represent that they are effecting this Settlement and executing this Agreement after having received full legal advice as to their respective rights and have had the opportunity to obtain independent counsel to review this Agreement;

1.13.22 WHEREAS, the Parties further agree that the Agreement, the fact of this Settlement, any of the terms of this Agreement, and any documents filed in connection with the Settlement shall not constitute, or be offered, received, claimed, construed, or deemed as, an admission, finding, or evidence of: (i) any wrongdoing by any Released Parties; (ii) any violation of any statute, law, or regulation by Released Parties; (iii) any liability on the claims or allegations in the Action on the part of any Released Parties; (iv) any waiver of Postmates' right to arbitration or the enforceability of any Postmates arbitration agreement; or (v) the propriety of certifying a litigation class or collective action or pursuing representative relief under PAGA in the Action or any other proceeding; and shall not be used by any Person for any purpose whatsoever in any administrative or legal proceeding, including but not limited to arbitrations, other than a proceeding to enforce the terms of the Agreement. There has been no final determination by any court as to the merits of the claims asserted by Plaintiffs against Postmates, nor has there been any final determination as to

1 whether a class or collective action should be certified or whether representative claims may properly
2 be pursued, other than for settlement purposes only;

3 ~~1.14~~ 1.23 WHEREAS, for settlement purposes only, Postmates will stipulate to the
4 certification of class claims that are subject to the certification requirements of California Code of
5 Civil Procedure section 382, on the express ~~condition that~~ conditions that Postmates does not waive its
6 right to compel arbitration and if this Settlement Agreement is not preliminarily or finally approved,
7 this paragraph, the Settlement Agreement, and any class certified pursuant to the Settlement
8 Agreement are all void ab initio. Postmates disputes that certification is proper for the purposes of
9 litigating the class claims proposed in or flowing from the claims asserted in the *Rimler* lawsuit;

10 1.24 WHEREAS, for settlement purposes only, Postmates will stipulate to the conditional
11 certification of FLSA claims that are subject to the certification requirements of the Fair Labor
12 Standards Act, 29 U.S.C. § 201, et seq., on the express conditions that Postmates does not waive its
13 right to compel arbitration and if this Settlement Agreement is not preliminarily or finally approved,
14 this paragraph, the Settlement Agreement, and any collective action certified pursuant to the
15 Settlement Agreement are all void ab initio. Postmates disputes that conditional certification is
16 proper for the purposes of litigating the FLSA claims proposed in or flowing from the claims asserted
17 in the *Rimler* lawsuit;

18 ~~1.15~~ 1.25 WHEREAS, the Parties desire to compromise and settle all Released Claims,
19 including all issues and claims that have been, could have been, or should have been brought against
20 Postmates or related persons in the Action, and all claims brought on a putative class and
21 representative basis in the *Rimler* lawsuit; and

22 ~~1.16~~ 1.26 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO,
23 AND AGREED, by the Plaintiffs for themselves and on behalf of the Settlement Class and by
24 Postmates, that, subject to the approval of the Court, the Action shall be settled, compromised, and
25 dismissed, on the merits and with prejudice, and the Released Claims shall be finally and fully
26 compromised, settled, and dismissed as to the Released Parties, in the manner and upon the terms and
27 conditions hereafter set forth in this Settlement Agreement.

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II. DEFINITIONS

In addition to the terms defined elsewhere in this Settlement Agreement, capitalized terms used in this Settlement Agreement shall have the meanings set forth below:

2.1 “Authorized Claimant” means any Settlement Class Member who submits a valid and timely Claim that qualifies for a payment under the terms of this Settlement Agreement and who by validly and timely submitting the Claim using the Claim Form consents to join as a party plaintiff in the Fair Labor Standards Act (“FLSA”) claims in this Action.

2.2 “Authorized Claimants’ Released Claims” means all of the Settlement Class Members’ Released Claims as well as any and all claims, debts, liabilities, demands, obligations, guarantees, penalties, costs, expenses, attorneys’ fees, damages, liquidated damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, against the Released Parties or any of them based on putative violations of federal law based on or related to the claims asserted in or that could have been asserted in this Action under the FLSA. “Authorized Claimants’ Released Claims” include any unknown claims that an Authorized Claimant does not know or suspect to exist in his or her favor, which if known by him or her, might have affected this Settlement Agreement and release of the Released Parties.

2.3 “Bar Date” means the final time and date by which a Claim Form must be postmarked or submitted to the Settlement Administrator for a Settlement Class Member to be eligible to receive an Individual Settlement Payment. The Bar Date shall be sixty (60) days after the Notice Distribution Date and shall be specifically identified and set forth in the Preliminary Approval Order and the Settlement Class Notice.

2.4 “Claim” means the submission to be made by a Settlement Class Member using the Claim Form, which form shall serve as the Settlement Class Member’s means of requesting payment from the Total Settlement Amount and serve as that Settlement Class Member’s Consent to Join as a party plaintiff to the FLSA claims asserted in this Action pursuant to 29 U.S.C. § 216(b).

2.5 “Claim Form” means the document included in the Settlement Class Notice without material variation from the relevant portion of Exhibit A. The Claim Form, if signed by a Settlement

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Class Member and timely and validly submitted to the Settlement Administrator, shall serve as that Settlement Class Member's Consent to Join as a party plaintiff to the FLSA claims asserted in this Action pursuant to 29 U.S.C. § 216(b), and effect a full and complete release of all claims under the FLSA based on or reasonably related to the claims asserted in this Action. To be valid, a Claim Form must be signed without any deletion or amendment to its language regarding the release of the FLSA claims and without any deletion or amendment to any other portion. If the Court does not finally approve this Settlement Agreement, any Consent to Join and release of the FLSA claims filed on behalf of any Settlement Class Member shall be void ab initio.

2.6 "Consent to Join" means a Settlement Class Member's consent to join as a party plaintiff to the FLSA claims asserted in this Action pursuant to 29 U.S.C. § 216(b). A Settlement Class Member's signed Claim Form that is timely and validly submitted to the Settlement Administrator shall serve as that Settlement Class Member's Consent to Join.

2.7 "Courier" means any individual who has been approved to use or has used the Postmates platform as an independent contractor courier.

2.8 "Superior Court" means the Superior Court of California, San Francisco County.

2.9 "Dispute Resolution Fund" means the fund consisting of Two Hundred and Fifty Thousand dollars and no cents (\$250,000) set aside from the Total Settlement Amount to be used: (i) to resolve any bona fide disputes that may arise regarding the calculation and disbursement of Individual Settlement Payments according to the Plan of Allocation, as provided in Section III(8)(f); and (ii) to disburse Individual Settlement Payments to individuals mistakenly excluded from the Settlement Class, as provided in Section III(8)(f). The Dispute Resolution Fund shall be paid from the Total Settlement Amount.

2.10 "Effective Date" means seven (7) days after which both of the following events have occurred: (i) the Court's Final Approval order and Judgment has been entered, and (ii) the Court's Final Approval order and Judgment have become Final.

2.11 "Estimated Miles" means the estimated total number of miles from the location where a delivery offer is accepted to the location where orders are picked up and to the location where

1 orders are delivered, for each Settlement Class Member during the Settlement Period, as determined
2 by Postmates' records.

3 2.12 "Exclusion/Objection Deadline" means the final date by which a Settlement Class
4 Member may either (i) object to any aspect of the Settlement (pursuant to the Preliminary Approval
5 Order and Section VIII), or (ii) request to be excluded from the Settlement (pursuant to the
6 Preliminary Approval Order and Section VII). The Exclusion/Objection Deadline shall be sixty (60)
7 days after the Notice Distribution Date, and shall be specifically identified and set forth in the
8 Preliminary Approval Order and the Settlement Class Notice.

9 2.13 "Final" when referring to a judgment or order, means that (i) the judgment is a final,
10 appealable judgment; and (ii) either (a) no appeal has been taken from the judgment as of the date on
11 which all times to appeal therefrom have expired, or (b) an appeal or other review proceeding of the
12 judgment having been commenced, such appeal or other review is finally concluded and no longer is
13 subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions
14 for rehearing en banc, petitions for writ of certiorari, or otherwise, and such appeal or other review
15 has been finally resolved in such manner that affirms the judgment order in its entirety.

16 2.14 "Final Approval" means the Court's entry of an order that the Named Plaintiffs and
17 Postmates will seek from the Court, to be agreed upon by the Parties, and the entry of which shall
18 reflect the Court's Judgment finally approving the Settlement Agreement.

19 2.15 "Final Approval Hearing" means the hearing that is to take place after the entry of the
20 Preliminary Approval Order and after the Notice Distribution Date for purposes of: (i) entering Final
21 Approval; (ii) determining whether the Settlement Agreement shall be approved as fair, reasonable,
22 and adequate; (iii) ruling upon an application by Settlement Class Counsel for Attorneys' Fees; and
23 (iv) ruling on the application for a Settlement Class Counsel Award.

24 2.16 "General Released Claims" includes all of the Settlement Class Members' Released
25 Claims, with the addition of: (i) violations of Title VII of the Civil Rights Act of 1964; (ii) violations
26 of the Civil Rights Act of 1866; (iii) violations of the Americans with Disabilities Act; (iv) violations
27 of any and all potential claims against Postmates that could be brought under corresponding state or

1 local law; and (v) any claims for wages, penalties, breach of an express or implied contract, breach of
2 the covenant of good faith and fair dealing, breach of fiduciary duty, fraud, misrepresentation,
3 defamation, slander, retaliation, discrimination, harassment, wrongful termination, infliction of
4 emotional distress, loss of future earnings or profits or any other claims based upon any state or
5 federal public policy, or any other alleged wrongful conduct or injury, arising out of or in any way
6 connected with any acts or omissions occurring during the Settlement Period, based on the claims
7 that were alleged in the Action or that arise out of or relate to Plaintiffs' relationship with Postmates
8 or the services Plaintiffs provided using Postmates' platform, or that arise out of or relate to the facts
9 alleged in the action, in addition to all claims based on or arising under the federal and state law
10 sections included in the Settlement Class Members' Released Claims and any other equivalent
11 federal, state, or local law of any state or locality in which Plaintiffs reside and/or used Postmates'
12 platform as an independent contractor courier.

13 2.17 "Individual Settlement Payment" means the amount payable from the Total Settlement
14 Amount to each Settlement Class Member who does not timely and properly request exclusion from
15 the Settlement Class and submits a Claim Form. The Individual Settlement Payment shall be
16 calculated pursuant to Section V herein.

17 2.18 "Judgment" means the judgment to be entered in the Action on Final Approval of this
18 Settlement.

19 2.19 "Legally Authorized Representatives" means an administrator/administratrix, personal
20 representative, or executor/executrix of a deceased Settlement Class Member's estate; a guardian,
21 conservator, or next friend of an incapacitated Settlement Class Member; or any other legally
22 appointed Person responsible for handling the business affairs of a Settlement Class Member who is
23 not the Settlement Class Member's counsel.

24 2.20 "Notice Distribution Date" means the date of the initial distribution of the Settlement
25 Class Notice to Settlement Class Members as set forth in Section VI.

26 2.21 "Opt-Out List" means the Court-approved list of all persons who timely and properly
27 request exclusion from the Settlement Class as set forth in Section VII.

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2.22 "PAGA Claims" means Plaintiffs' representative claims seeking penalties pursuant to PAGA, as alleged in the Rimler Complaint and/or based on any other provision of the Labor Code, Wage Orders, or any other statute or regulation based upon independent contractor misclassification to the fullest extent permitted by law.

2.23 "PAGA Payment" means a total payment of \$5004,000,000 to settle all claims under the PAGA. From this amount, 75% will be paid to the LWDA for civil penalties pursuant to the PAGA and 25% will be distributed to Settlement Class Members.

2.24 "Plaintiffs" means Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman, Joshua Albert, Melanie Anne Winns, Ralph John Hickey, Jr., Steven Alvarado, Kristie Logan, and Shericka Vincent.

2.25 "Plaintiffs' Counsel" means Lichten & Liss-Riordan, P.C., the Mostafavi Law Group APC, and The Bainer Law Firm.

2.26 "Plan of Allocation" means the plan for allocating the Total Settlement Amount between and among Settlement Class Members as approved by the Court.

2.27 "Preliminary Approval Date" means the date that the Court enters the Preliminary Approval Order and thus: (i) preliminarily approves the Settlement Agreement, and the exhibits thereto, and (ii) enters an order providing for notice to the Settlement Class, an opportunity to opt out of the Settlement Class, an opportunity to submit timely objections to the Settlement, a procedure for submitting Claims, and setting a hearing on the fairness of the terms of the Settlement Agreement, including approval of the Settlement Class Counsel Award.

2.28 "Preliminary Approval Order" means the order that the Plaintiffs and Postmates will seek from the Court, without material variation from Exhibit B. Entry of the Preliminary Approval Order shall constitute preliminary approval of the Settlement Agreement.

2.29 "Released Claims" shall be construed as broadly as possible to effect complete finality over this litigation involving Postmates. "Released Claims" include (i) Settlement Class Members' Released Claims, (ii) General Released Claims, and (iii) Authorized Claimants' Released Claims. Notwithstanding any other provision of this Settlement Agreement, "Released Claims" do not include

1 claims for personal injuries. Moreover, the release of any claims under the FLSA contemplated by
2 this Settlement Agreement shall be effectuated only after a Settlement Class Member has timely and
3 validly submitted a Claim [Form](#) and thereby Consented to Join as a party to the FLSA claims asserted
4 in this action pursuant to 29 U.S.C. § 216(b).

5 2.30 “Released Parties” means (i) Postmates Inc. and its past, present, and future parents,
6 subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities,
7 whether foreign or domestic, that are owned or controlled by Postmates (but not including couriers
8 who use the Postmates platform); and (ii) the past, present, and future shareholders, officers,
9 directors, members, investors, agents, employees, agents, consultants, representatives, fiduciaries,
10 insurers, attorneys, legal representatives, predecessors, successors, and assigns of the entities listed in
11 (i).

12 2.31 “Second Amended Complaint” means the Second Amended Complaint, without
13 material variation from Exhibit C, that Settlement Class Counsel shall seek to file in Rimler, the lead
14 lawsuit, pursuant to Paragraph 3.6 and shall file concurrently with the submission of the motion for
15 preliminary approval of the Settlement so that the Second Amended Complaint may be filed
16 promptly upon entry of the Preliminary Approval Order. The Second Amended Complaint shall add
17 Dora Lee, Kellyn Timmerman, Joshua Albert, Melanie Anne Winns, Ralph John Hickey, Jr., Steven
18 Alvarado, Kristie Logan, and Shericka Vincent as named Plaintiffs.

19 2.32 “Service Awards” means the amount approved by the Court to be paid to each
20 Plaintiff in addition to their respective Individual Settlement Payments, in recognition of their efforts
21 in coming forward as named plaintiffs ~~and as consideration for a full, general, and comprehensive~~
22 ~~release of the General Released Claims.~~ The Service Award amount payable to Plaintiffs is not to
23 exceed Five Thousand Dollars (\$5,000) each.

24 2.33 “Settlement” means the settlement of this Action between and among Plaintiffs and
25 Postmates, as set forth in this Settlement Agreement, [and](#) including all attached Exhibits, which are
26 an integral part of this Settlement Agreement and are incorporated in their entirety by reference.

27 2.34 “Settlement Administrator” means Simpluris, the administrator selected by the parties.

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2.35 “Settlement Administrator Expenses” means the maximum amount to be paid to the Settlement Administrator from the Total Settlement Amount, which shall be \$450945,000. All Settlement Administrator Expenses are to be paid exclusively from the Total Settlement Amount.

2.36 “Settlement Class” means any and all individuals who entered into an agreement with Postmates to use the Postmates platform as an independent contractor to offer delivery services to customers, and used the Postmates platform as an independent contractor courier to accept or complete at least one delivery in California during the Settlement Period.

2.37 “Settlement Class Counsel” means Lichten & Liss-Riordan, P.C.

2.38 “Settlement Class Counsel Award” means (i) the attorneys’ fees for Settlement Class Counsel’s litigation and resolution of the Action, including the *Rimler, Lee, Albert, Winns*, and *Vincent* lawsuits, and any and all arbitrations and claims resolved by this Settlement, as awarded by the Court, and (ii) all expenses and costs incurred by Settlement Class Counsel in connection with litigation and resolution of *Rimler, Lee, Albert, Winns*, and *Vincent* lawsuits, and any and all arbitrations and claims resolved by this Settlement, as awarded by the Court, which, together, may not exceed thirty-three percent (33%) of \$11,50032,000,000 (the ~~parties’ original settlement amount, not the parties’ revised~~ Total Settlement Amount of \$11,968,594).

2.39 “Settlement Class Information” means information regarding Settlement Class Members that Postmates will in good faith compile from its records and provide to the Settlement Administrator, solely for purposes of the Settlement Administrator’s administration of the settlement, and for no other purpose. Settlement Class Information shall be provided to the Settlement Administrator and shall include, if possible, for each Settlement Class Member: full name, last known address, email address, and Estimated Miles. Because Settlement Class Members’ private information is included in the Settlement Class Information, the Settlement Administrator shall maintain the Settlement Class Information in confidence and shall use and disclose Settlement Class Information only for purposes of this Settlement and for no other purpose; access shall be limited to employees of the Settlement Administrator with a need to use the Settlement Class Information as part of the administration of the Settlement.

1 2.40 "Settlement Class Member" means any member of the Settlement Class.

2 2.41 "Settlement Class Members' Released Claims" means any and all present and past
3 claims, actions, demands, causes of action, suits, debts, guarantees, obligations, damages, penalties,
4 rights or liabilities, of any nature and description whatsoever, known or unknown, existing or
5 potential, recognized now or hereafter, contingent or accrued, expected or unexpected, pursuant to
6 any theory of recovery (including but not limited to those based in contract or tort, common law or
7 equity, federal, state, or local law, statute, ordinance, or regulation, and for claims for compensatory,
8 consequential, punitive or exemplary damages, statutory damages, penalties, interest, attorneys' fees,
9 costs, or disbursements) that are based on or reasonably related to the claims alleged in or that could
10 have been alleged in the Rimler Second Amended Complaint, and all misclassification claims, and
11 specifically including: claims pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, et
12 seq. (only for those Settlement Class Members who submit a valid and timely Claim Form);
13 California Labor Code sections 132a, 201-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6,
14 221-224, 225.5, 226, 226.3, 226.7, 226.8, 227, 227.3, 245-249, 351, 353, 432.5, 450, 510, 512, 551-
15 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2753, 2802, 2804; the
16 Private Attorneys General Act ("PAGA"), California Labor Code section 2698 et seq.; California
17 Code of Civil Procedure section 1021.5; California Code of Regulations, title 8, sections 11010 and
18 11040; Industrial Welfare Commission Wage Orders; California Business and Professions Code
19 sections 17200 et seq.; -and any other similar state, federal, local, or common law, statute, regulation,
20 or ordinance for unpaid wages, minimum wages, regular wages, tips, overtime wages (including but
21 not limited to calculation of the correct overtime or regular rate), working more than six days in
22 seven, expense reimbursement, wage statements, payroll recordkeeping, reporting time, improper
23 deduction of wages, failure to provide workers' compensation insurance, meal periods, rest breaks,
24 sick leave, final pay, penalties for timely payment of wages upon discharge, waiting time penalties,
25 PAGA penalties, unfair business practices, all claims arising out of or relating to the statutory causes
26 of action described herein, restitution, interest, costs and expenses, attorneys' fees, declaratory relief,

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injunctive relief, liquidated damages, exemplary or punitive damages, civil penalties, equitable remedies, and/or pre- or post-judgment interest at any time during the Settlement Period.

2.42 “Settlement Class Notice” means the notice of class, representative, and collective action settlement and enclosed Claim Form to be provided to Settlement Class Members, without material variation from the relevant portion of Exhibit A.

2.43 “Settlement Period” means June 3, 2017 through ~~October 17, 2019~~ January 1, 2021.

2.44 “Total Settlement Amount” means ~~Eleven Thirty-Two Million Nine Hundred Sixty Eight Thousand Five Hundred Ninety-Four~~ Eleven Thirty-Two Million Dollars and zero cents (~~\$11,968,594~~ \$11,968,594), which will resolve all Released Claims, and is the maximum amount that Postmates is obligated to pay under this Settlement Agreement under any circumstances to resolve and settle this Action, subject to Court approval. The Total Settlement Amount includes all costs and fees, including, but not limited to, the Settlement Class Counsel Award, Settlement Administrator Expenses, escrow costs and expenses, Service Awards, interest, all payments to the Settlement Class and Plaintiffs, and the PAGA Payment.

2.45 “Void Date” means the date by which any checks issued to Settlement Class Members shall become void, i.e., on the 181st day after mailing.

III. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR PRELIMINARY AND FINAL APPROVAL

3.1 Upon execution of this Settlement Agreement, the Plaintiffs shall submit to the Court a motion for preliminary approval of the Settlement. The motion for preliminary approval shall include a proposed plan for sending the Settlement Class Notice to Settlement Class Members within twenty (20) days after the Preliminary Approval Date (the “Notice Distribution Date”), and establishing a period of sixty (60) days from the Notice Distribution Date within which any Settlement Class Member may (i) request exclusion from the respective Settlement Class, (ii) object to the proposed Settlement, or (iii) object to Settlement Class Counsel’s request for the Settlement Class Counsel Award and for Service Awards to the Plaintiffs (the Exclusion/Objection Deadline). The motion for preliminary approval shall also request that any hearing on final approval of the

1 Settlement and any determination on the request for a Settlement Class Counsel Award and Service
2 Awards (the Final Approval Hearing) be set for after the Exclusion/Objection Deadline; that
3 Settlement Class Counsel shall file a petition for the Settlement Class Counsel Award and Service
4 Awards at least twenty-one (21) days before the Exclusion/Objection Deadline; that any opposition
5 briefs on such motions and petitions be filed fourteen (14) days before the Final Approval Hearing;
6 and that any reply briefs on such motions and petitions be filed seven (7) days before the Final
7 Approval Hearing.

8 3.2 The Parties stipulate, for settlement purposes only, to certification of the Settlement
9 Class under California Code of Civil Procedure § 382 and California Rules of Court, Rule 3.769,
10 excluding the Settlement Class’s PAGA Claims, [and to conditional certification of the Settlement](#)
11 [Class under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq.](#), on the express condition that if
12 the Settlement is not Preliminarily or Finally Approved, this paragraph, the Settlement Agreement,
13 and any class [or collective action](#) certified pursuant to the Settlement Agreement are all void ab initio.
14 The Parties also agree that this stipulation is in no way an admission that class [or collective](#)
15 certification is proper under the standard applied for litigation purposes, and that this stipulation shall
16 not be admissible, and may not be used by any person for any purpose whatsoever, in any legal or
17 administrative proceeding, including but not limited to arbitrations, other than a proceeding to
18 enforce the terms of the Agreement, as further set forth in this Agreement. Postmates expressly
19 reserves the right to oppose certification of any purported class [or collective](#) should the settlement fail
20 to become final and effective.

21 3.3 The Settlement is not intended to and may not be deemed to affect the enforceability
22 of any arbitration agreement between Postmates and any member of the Settlement Class, including
23 Plaintiffs.

24 3.4 Settlement Class Counsel and Plaintiffs agree to cooperate in good faith and to use
25 their best efforts to seek a stay in the [Rimler](#), [Lee](#), [Winns](#), and [Vincent](#) Actions and to keep the [Albert](#)
26 Action stayed pending Final Approval of the Settlement, and upon Final Approval of the Settlement,
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Settlement Class Counsel and Plaintiffs agree to dismiss the *Lee, Albert, Winns, and Vincent* Actions with prejudice.

3.5 The Parties stipulate to the form of, and agree to submit to the Court for its consideration this Settlement Agreement, and the following Exhibits to this Settlement Agreement: Settlement Class Notice (Exhibit A), [Proposed] Preliminary Approval Order (Exhibit B), and [Proposed] Second Amended Complaint (Exhibit C).

3.6 Solely for purposes of implementing this Agreement and effectuating the proposed Settlement, the Parties agree and stipulate that:

3.6.1 Plaintiffs' Counsel shall amend the letters sent on behalf of Plaintiffs to the LWDA to add any and all claims alleged in the *Rimler* Action, and any and all potential claims necessary to effectuate the Released Claims.

3.6.2 Plaintiffs shall seek the Court's permission to file the Second Amended Complaint, without material variation from Exhibit C, and Postmates shall consent to such amendment pursuant to Cal. Rule of Court 3.1324. The Second Amended Complaint shall be filed concurrently with the submission of the motion for preliminary approval of the Settlement Agreement so that the Second Amended Complaint may be filed or deemed filed promptly upon entry of the Preliminary Approval Order. Obtaining the Court's approval to file the Second Amended Complaint, the subsequent prompt entry of the Second Amended Complaint, and the dismissal of the *Lee, Albert, Winns, and Vincent* Actions are material conditions of this Settlement Agreement. The Parties agree that the filing of the Second Amended Complaint will streamline the settlement process. The Parties further agree and stipulate that the allegations in the Second Amended Complaint are deemed controverted by the answer previously filed by Postmates in response to the currently operative complaint, such that no further responsive pleading from Postmates is required. If for any reason the Settlement Agreement does not become Final or the Effective Date does not occur, the Second Amended Complaint shall not be operative and shall be deemed withdrawn; the parties agree to submit a stipulated motion to strike the Second Amended Complaint, and agree the Court shall strike the allegations of the Second Amended Complaint, so the operative complaint in the *Rimler* Action

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shall revert to the filed complaint that preceded the Second Amended Complaint; the *Lee, Albert, Winns, and Vincent* Actions shall proceed based on the operative complaints as currently filed; and the amended letters sent to the LWDA pursuant to paragraph 3.6.1 shall be void ab initio.

3.6.3 The Court may enter the Preliminary Approval Order, without material variation from Exhibit B, preliminarily approving the Settlement and this Agreement. Among other things, the Preliminary Approval Order shall grant leave to preliminarily certify the Settlement Class and an FLSA collective for settlement purposes only; approve the Plaintiffs as class representatives, appoint Settlement Class Counsel to represent the Settlement Class, and appoint the Settlement Administrator; approve the Settlement Class Notice, and the notice plan embodied in the Settlement Agreement, and approve them as consistent with California Code of Civil Procedure § 382 ~~and~~, California Rules of Court, Rule 3.769, 29 U.S.C. § 201, et seq. and due process; set out the requirements for disputing the information upon which Settlement Class Members' share of the Settlement will be calculated, objecting to the Settlement Agreement, excluding Settlement Class Members from the Settlement Class, all as provided in this Settlement Agreement; provide that certification of the Settlement Class and all actions associated with each certification are undertaken on the condition that each certification and other actions shall be automatically vacated and of no force or evidentiary effect if this Agreement is terminated, as provided in this Agreement, or if the Settlement does not become Final; and schedule the Final Approval Hearing.

3.7 Within 10 days of the Preliminary Approval Date, Settlement Class Counsel will notify the LWDA of the Preliminary Approval Order.

3.8 At the Final Approval Hearing, Plaintiffs shall request entry of a Final Approval order and Judgment, to be agreed upon by the Parties, the entry of which is a material condition of this Settlement and that, among other things:

3.8.1 Finally approves the Settlement as fair, reasonable, and adequate and directs its consummation pursuant to the terms of the Settlement Agreement;

3.8.2 Finds that Settlement Class Counsel and Plaintiffs adequately represented the Settlement Class for the purpose of entering into and implementing the Agreement;

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3.8.3 Re-confirms the appointment of the Settlement Administrator and finds that the Settlement Administrator has fulfilled its initial duties under the Settlement;

3.8.4 Finds that the Settlement Class Notice (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, and their right to exclude themselves from or object to the proposed settlement and to appear at the Final Approval Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of California Rule of Court 3.769, due process, and any other applicable rules or law;

3.8.5 Approves the Opt-Out List and determines that the Opt-Out List is a complete list of all Settlement Class Members who have timely requested exclusion from the Settlement Class and, accordingly, shall neither share in the Settlement nor be bound by the Final Approval order and Judgment;

3.8.6 Directs that the Final Approval order and Judgment of dismissal shall be final and entered forthwith;

3.8.7 Without affecting the finality of the Final Approval order and Judgment, retains continuing jurisdiction over the Plaintiffs, the Settlement Class and Postmates as to all matters concerning the administration, consummation, and enforcement of this Settlement Agreement;

3.8.8 Adjudges that, as of the Final Approval Date, the Plaintiffs and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List approved by the Court, and their Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have received actual notice of the proposed Settlement, have conclusively compromised, settled, discharged, and released the General Released Claims (in the case of the Plaintiffs), the Authorized Claimants' Released Claims (in the case of the Authorized Claimants), and

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Settlement Class Members' Released Claims (in the case of the Settlement Class Members) against Postmates and the Released Parties, and are bound by the provisions of this Settlement Agreement;

3.8.9 Affirms that, notwithstanding the submission of a timely request for exclusion, Settlement Class Members will still be bound by the settlement and release of the PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court* (2009) 46 Cal.4th 969, as requests for exclusion do not apply to the PAGA Claims, and further affirms that the State's claims for civil penalties pursuant to PAGA are also extinguished;

3.8.10 Declares this Agreement and the Final Approval order and Judgment to be binding on, and have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings: (i) that encompass the Plaintiffs' Claims, and that are maintained by or on behalf of Plaintiffs and/or their Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf; and (ii) that encompass the Settlement Class Members' Released Claims and that are maintained by or on behalf of any Settlement Class Member who has not been excluded from the Settlement Class as provided in the Opt-Out List approved by the Court and/or his or her Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether the Settlement Class Member previously initiated or subsequently initiates individual litigation, arbitration, or other proceedings encompassed by the Settlement Class Members' Released Claims, and even if such Settlement Class Member never received actual notice of the Action or this proposed Settlement;

3.8.11 Determines that the Agreement and the Settlement provided for herein, and any proceedings undertaken pursuant thereto, are not, and should not in any event be offered, received, or construed as evidence of, or a presumption, concession, or admission by, any Party of liability or non-liability or of the certifiability or non-certifiability of a litigation class or collective, or that PAGA representative claims may validly be pursued, or of any misrepresentation or omission in

1 any statement or written document approved or made by any Party; provided, however, that reference
2 may be made to this Agreement and the Settlement provided for herein in such proceedings as may
3 be necessary to effectuate the provisions of this Agreement, as further set forth in this Agreement;

4 3.8.12 Directs Plaintiffs' Counsel to seek dismissal of the *Lee, Albert, Winns*, and
5 *Vincent* Actions with prejudice within 14 days of Final Approval;

6 3.8.13 Orders that the preliminary approval of the Settlement, certification of the
7 Settlement Class, and Final Approval of the proposed Settlement, and all actions associated with
8 them, are undertaken on the condition that they shall be vacated and void ab initio if the Settlement
9 Agreement is terminated or disapproved in whole or in part by the Court, or any appellate court
10 and/or other court of review in which event the Agreement and the fact that it was entered into shall
11 not be offered, received, or construed as an admission or as evidence for any purpose, including but
12 not limited to an admission by any Party of liability or non-liability or of any misrepresentation or
13 omission in any statement or written document approved or made by any Party, or of the certifiability
14 of a litigation class or the appropriateness of maintaining a representative action, as further provided
15 in Section XI;

16 3.8.14 Authorizes the Parties, with approval from the Court, to agree to and adopt
17 such amendments, modifications, and expansions of this Agreement, including all Exhibits hereto, as
18 (i) shall be consistent in all material respects with the Final Approval order and (ii) do not limit the
19 rights of Settlement Class Members; and

20 3.8.15 Contains such other and further provisions consistent with the terms of this
21 Settlement Agreement to which the Parties expressly consent in writing.

22 3.9 At the Final Approval Hearing and as a part of the Final Approval of this Settlement,
23 Settlement Class Counsel will also request approval of the Plan of Allocation set forth in Section V.
24 Any modification to the Plan of Allocation by the Court shall not (i) affect the enforceability of the
25 Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement
26 Agreement, or (iii) impose any obligation on Postmates to increase the consideration paid in
27 connection with the Settlement.

1 3.10 At the Final Approval Hearing, Settlement Class Counsel may also request entry of an
2 Order approving the Settlement Class Counsel Award and the Service Awards to the Plaintiffs. Any
3 such Settlement Class Counsel Award or Service Award shall be paid exclusively from the Total
4 Settlement Payment. In no event shall any Released Party otherwise be obligated to pay for any
5 attorneys' fees and expenses or Service Awards. The disposition of Settlement Class Counsel's
6 application for a Settlement Class Counsel Award, and for Service Awards, is within the sound
7 discretion of the Court and is not a material term of this Settlement Agreement, and it is not a
8 condition of this Settlement Agreement that such application be granted. Any disapproval or
9 modification of such application by the Court shall not (i) affect the enforceability of the Settlement
10 Agreement, (ii) provide any of the Parties with the right to terminate the Settlement Agreement, or
11 (iii) increase the consideration any Released Party pays in connection with the Settlement.

12 3.11 In no event shall any Released Party be obligated to pay settlement administration
13 expenses beyond those provided for in this Agreement.

14 3.12 Within 10 days after entry of Judgment, Settlement Class Counsel will provide a copy
15 of the Judgment to the LWDA.

16 **IV. SETTLEMENT CONSIDERATION**

17 4.1 The Total Settlement Amount is ~~\$11,968,594~~32,000,000. This is an "all in" number
18 that will resolve all Released Claims, and which includes, without limitation, all monetary benefits
19 and payments to the Settlement Class and Plaintiffs, Service Awards, Settlement Class Counsel
20 Award, Settlement Administrator Expenses, and the PAGA Payment, and all claims for interest, fees,
21 and costs. Under no circumstances shall Postmates be required to pay anything more than the Total
22 Settlement Amount. In no event shall Postmates be liable for making any payments under this
23 Settlement, or for providing any relief to Settlement Class Members, before the deadlines set forth in
24 this Agreement.

25 4.2 The Plaintiffs and all Settlement Class Members who receive a payment of any kind
26 from the Total Settlement Amount (including, in the case of the Plaintiffs, Service Awards) expressly
27 acknowledge that such payments shall be considered non-wages for which an IRS Form 1099 will be

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issued, if required. The Plaintiffs and all Settlement Class Members who receive a payment of any kind from the Total Settlement Amount agree to timely pay in full all of the federal, state, and municipal income taxes owed on such payments.

4.3 The terms of this Agreement relating to the Service Awards and Settlement Class Counsel Award were not negotiated by the Parties before full agreement was reached as to all other material terms of the proposed Settlement, including, but not limited to, any terms relating to the relief to the Settlement Class. Postmates agrees to the amount of Service Awards (if any) granted by the Superior Court. The Plaintiffs and Settlement Class Counsel agree not to seek Service Awards in excess of the amounts described in Paragraph 2.32.

4.4 Settlement Class Counsel agrees not to seek an award of attorneys' fees, costs and expenses from the Court in excess of one third (1/3) of the ~~original total settlement amount of \$11,500,000, not the parties' revised~~ Total Settlement Amount of \$11,968,59432,000,000. Postmates agrees to the amount of attorneys' fees, costs and expenses (if any) granted by the Superior Court.

4.5 The payment of the Settlement Class Counsel Award, the Service Awards, the Settlement Administrator Expenses, the Individual Settlement Payments, and the PAGA Payment shall be made by the Settlement Administrator from the Total Settlement Amount within thirty (30) days after the Effective Date.

4.6 The Settlement Administrator shall pay the Settlement Class Counsel Award by check, payable to "Lichten & Liss-Riordan, P.C." Settlement Class Counsel shall provide the Settlement Administrator notice of receipt of the Settlement Class Counsel Award.

V. FUNDING AND ALLOCATION OF THE SETTLEMENT

5.1 Within fourteen (14) calendar days following the Effective Date, Postmates shall provide the Total Settlement Amount (\$11,968,59432,000,000) to the Settlement Administrator. The Settlement Administrator shall thereafter distribute the funds in the manner and at the times set forth in this Agreement.

5.2 To receive an Individual Settlement Payment from the Total Settlement Amount, a Settlement Class Member or his or her Legally Authorized Representative must timely submit a

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Claim Form that satisfies the requirements of paragraph 5.3, must not have submitted a request for exclusion, and must be eligible for a payment under the Plan of Allocation.

5.3 A Claim Form is timely if it is postmarked by the Bar Date and mailed or submitted as an attachment to an email to the Settlement Administrator at the address in the Settlement Class Notice, or if it is submitted online to the Settlement Administrator, in accordance with the online submission instructions to be provided by the Settlement Administrator, by the Bar Date. The Claim Form must be signed (electronically, if submitted via online portal) under penalty of perjury. To be valid, a Claim Form must be signed without any deletion or amendment to its language, regarding the release of FLSA claims and without any deletion or amendment to any other portion.

5.4 Settlement Class Members who timely submit a Claim Form will receive their proportionate share of the Total Settlement Amount. No Settlement Class Member who timely submits a Claim Form will receive less than \$10.

5.5 Settlement Class Members are not eligible to receive any compensation other than the Individual Settlement Payment.

5.6 The Settlement Administrator shall calculate and distribute the Individual Settlement Payments for the Settlement Class Members within thirty (30) days following the Effective Date, provided Postmates has provided the Total Settlement Amount to the Settlement Administrator in accordance with Paragraph 5.1.

5.7 Individual Settlement Payments shall be tied to the following distribution formula:

Settlement class members will be awarded points proportional to the estimated number of miles driven while using the Postmates application as a courier, with one point for every estimated mile driven. Settlement class members who either opt out of arbitration, initiate arbitration, or demonstrate in writing an interest in initiating an arbitration demand against Postmates prior to ~~October 17, 2019~~ January 1, 2021 will have their points doubled for purposes of this distribution formula (to account for, from plaintiffs' perspective, these drivers' greater likelihood of having their claims pursued, in light of Postmates' arbitration clauses).

Postmates will produce Settlement Class Information needed for the allocation to be calculated. The Total Settlement Amount is non-reversionary.

1 5.8 Following distribution of the Individual Settlement Payments to Settlement Class
2 Members, any Settlement Class Members who received checks for more than \$100 that remain
3 uncashed more than 60 days after distribution will receive a reminder to cash their check. All funds
4 not claimed prior to the Void Date (i.e. all funds from uncashed checks and any remaining funds in
5 the Dispute Resolution Fund) shall be redistributed to the Settlement Class Members who received
6 and cashed their Individual Settlement Payments ~~(as well as to Settlement Class Members who~~
7 ~~submitted late claims by that date, to the extent that settlement funds remain available to pay these~~
8 ~~late claimants).~~ These unclaimed funds shall be redistributed pursuant to the same formula described
9 in Paragraph 5.7. These residual funds will only be distributed to Settlement Class Members for
10 whom this second payment would be at least \$50. The value of any uncashed checks following this
11 residual distribution will be donated on a cy pres basis to Legal Aid at Work.

12 5.9 The Individual Settlement Payments received shall be reported by the Settlement
13 Administrator to the applicable governmental authorities on IRS Form 1099s (if required). The
14 portions allocated to Service Awards shall likewise be reported on IRS Form 1099s by the Settlement
15 Administrator. The Settlement Administrator shall be responsible for issuing copies of IRS Form
16 1099s for the Plaintiffs and Settlement Class Members.

17 **VI. NOTICE PROCEDURES**

18 6.1 No more than fourteen (14) calendar days after entry of the Preliminary Approval
19 Order, Postmates shall provide the Settlement Administrator with the Settlement Class Information
20 for purposes of sending the Settlement Class Notice to Settlement Class Members.

21 6.2 No more than twenty (20) calendar days after entry of the Preliminary Approval Order
22 (on the Notice Distribution Date), the Settlement Administrator shall send the Settlement Class
23 Notice to the Settlement Class Members, via electronic mail.

24 6.3 The Settlement Class Notice will inform Settlement Class Members of their right to
25 request exclusion from the Settlement, of their right to object to the Settlement, ~~and~~ of their right to
26 dispute the information upon which their share of the Settlement will be calculated, and the claims to
27 be released.

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6.4 The Settlement Class Notice shall include an explanation for how the Estimated Miles will be used to calculate the Individual Settlement Payments. The Settlement Administrator's determination of the amount of any Settlement Class Member's Estimated Miles shall be binding upon the Settlement Class Member, and the Parties. There will be a presumption that Postmates' records are correct, absent evidence produced by a Settlement Class Member to the contrary.

6.5 If any Settlement Class Notice sent via electronic mail to any Settlement Class Member is undeliverable, the Settlement Administrator shall, within seven (7) days of an undeliverable email, mail the Settlement Class Notice to each Settlement Class Member whose Settlement Class Notice was undeliverable. Before mailing, the Settlement Administrator shall make a good-faith attempt to obtain the most-current names and postal mail addresses for all Settlement Class Members to receive such postal mail, including cross-checking the names and/or postal mail addresses it received from Postmates, as well as any other sources, with appropriate databases (e.g., the National Change of Address Database) and performing further reasonable searches (e.g., through Lexis/Nexis) for more-current names and/or postal mail addresses for Settlement Class Member. All Settlement Class Members' names and postal mail addresses obtained through these sources shall be protected as confidential and not used for purposes other than the notice and administration of this Settlement. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Settlement Class Member. The address determined by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member. The Bar Date and Exclusion/Objection Deadlines shall be extended as necessary in order to ensure that the Settlement Class Member receiving a mailed notice has sixty (60) days to submit a claim form or to opt-out or object to the Settlement.

6.6 If any Settlement Class Notice to a Settlement Class Member is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator shall forward the postal mailing to that address. For any remaining returned postal mailings, the Settlement Administrator shall make a good-faith search of an appropriate database (as described in the preceding paragraph), and postal mailings shall be forwarded to any new postal mail address obtained

1 through such a search. In the event that any Settlement Class Notice is returned as undeliverable a
2 second time, no further postal mailing shall be required. The Settlement Administrator shall maintain
3 a log detailing the instances Settlement Class Notices are returned as undeliverable.

4 6.7 At least two reminders will be sent to Settlement Class Members following the initial
5 Settlement Class Notice, and the parties will agree to any further reminders that may be reasonably
6 necessary to assure adequate opportunity for class members to participate in the settlement. These
7 reminders will be sent to Settlement Class Members who have not already submitted a claim form,
8 opt-out request, or objection. These reminders will be sent via email to those Settlement Class
9 Members whose emailed notices were not returned as undeliverable and via mail for those Settlement
10 Class Members who received their initial Settlement Class Notice in the mail. Settlement class
11 members who are expected to have their points doubled pursuant to Paragraph 5.7 will receive at
12 least one additional reminder (for a total of at least three reminders) advising them of their right to
13 opt-out and continue to pursue their claims in arbitration or to release their claims in order to
14 participate in the settlement.

15 6.8 The Parties agree that the procedures set forth in this Section constitute reasonable and
16 the best practicable notice under the circumstances and an appropriate and sufficient effort to locate
17 current addresses for Settlement Class Members such that no additional efforts to do so shall be
18 required.

19 6.9 The Settlement Administrator will provide Settlement Class Notice by, at a minimum,
20 (i) electronic mail notice without material variation from the form attached as the relevant portion of
21 Exhibit A; (ii) if necessary in accordance with Paragraph 6.7, first-class mail (where available) notice
22 without material variation from the relevant portion of Exhibit A; and (iii) a content-neutral
23 settlement website accessible to Settlement Class Members managed by the Settlement
24 Administrator, and approved by counsel for the Parties, which will contain further information about
25 the Settlement, including relevant pleadings. The Settlement Class Notice shall comply with
26 California Rule of Court 3.769 and due process.

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6.10 Prior to the Final Approval Hearing, the Settlement Administrator shall prepare a declaration of due diligence and proof of dissemination with regard to the mailing of the Settlement Class Notice, and any attempts by the Settlement Administrator to locate Settlement Class Members, its receipt of valid Claim Forms, Opt-outs, and Objections (and copies of same), and its inability to deliver the Settlement Class Notice to Settlement Class Members due to invalid addresses (“Due Diligence Declaration”), to Settlement Class Counsel and counsel for Postmates for presentation to the Court. Settlement Class Counsel shall be responsible for filing the Due Diligence Declaration with the Court.

6.11 If any individual whose name does not appear in the Settlement Class Information believes that he or she is a Settlement Class Member, he or she shall have the opportunity to dispute his or her exclusion from the Settlement Class. If an individual believes he or she is a Settlement Class Member, he or she must notify the Settlement Administrator by mail, email, or telephone within thirty (30) days after the distribution of the Settlement Class Notice. The Parties will meet and confer regarding any such individuals in an attempt to reach an agreement as to whether any such individual should be regarded as a Settlement Class Member. If the Parties so agree, such an individual will have all of the same rights as any other Settlement Class Member under this Agreement. In the event that the Parties agree that the individual is a Settlement Class Member, the Individual Settlement Payment to such individual shall be disbursed from the Dispute Resolution Fund, as long as sufficient money is left in the Dispute Resolution Fund. If an individual notifies the Settlement Administrator that he or she is a Settlement Class Member more than thirty (30) days after the distribution of the Settlement Class Notice, and the Parties agree that the individual is a Settlement Class Member, the Parties shall endeavor to include the individual in the Settlement Class. Under no circumstances will any action under this paragraph increase the Total Settlement Amount.

VII. PROCEDURES FOR REQUESTS FOR EXCLUSION

7.1 Settlement Class Members (with the exception of the Plaintiffs) may opt out of the Settlement. Those who wish to exclude themselves (or “opt out”) from the Settlement Class must submit timely, written requests for exclusion. To be effective, such a request must include the

1 Settlement Class Member's name, address, and telephone number; a clear and unequivocal statement
2 that the Settlement Class Member wishes to be excluded from the Settlement Class; and the signature
3 of the Settlement Class Member or the Legally Authorized Representative of the Settlement Class
4 Member. The request must be mailed or emailed (from the Settlement Class Member's account used
5 to sign up on the Postmates platform) to the Settlement Administrator at the address provided in the
6 Settlement Class Notice and must be postmarked or emailed no later than the Exclusion/Objection
7 Deadline. The date of the postmark or email shall be the exclusive means used to determine whether
8 a request for exclusion has been timely submitted. Requests for exclusion must be exercised
9 individually by the Settlement Class Member or the Settlement Class Member's Legally Authorized
10 Representative, not as or on behalf of a group, class, or subclass. All requests for exclusion must be
11 submitted by the requesting Settlement Class Member (or their Legally Authorized Representative),
12 except that the Settlement Class Member's counsel may submit an opt-out request on behalf of the
13 individual Settlement Class Member if:

13.1 7.1.1 The Settlement Class Member's counsel retains a copy of the Settlement Class
14 Member's signed retention agreement with the counsel who is submitting the opt-out request, along
15 with a copy of any other agreements between the Settlement Class Member and counsel who is
16 submitting the opt-out request or their co-counsel, and agrees that any such agreements shall be
17 provided to the Court in camera if the Court so requests;

18 7.1.2 The Settlement Class Member's counsel submits a declaration under penalty of
19 perjury that:

20 7.1.2.1 Avers that the Settlement Class Member signed a retention agreement
21 with the individual attorney signing the declaration and submitting the
22 opt-out request, and identifies approximately when this occurred;

23 7.1.2.2 Avers that the attorney signing the declaration (a) personally advised
24 the Settlement Class Member of the estimate the parties provided of
25 how much the individual Settlement Class Member would have
26 recovered under the Settlement (assuming a 50% claim rate); (b)

1 personally inquired whether the Settlement Class Member would prefer
2 to accept the settlement or opt out and maintain their right to pursue
3 individual claims; and (c) has complied with all ethical rules with
4 respect to the representation of the Settlement Class Member, including
5 with respect to the attorney's retention by the Settlement Class
6 Member, advice given to the Settlement Class Member, and avoiding
7 any conflict of interest with respect to advice given to the Settlement
8 Class Member.

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10 7.1.2.3 Avers that the Settlement Class Member affirmatively approved the
11 opt-out request verbally or in writing, not by silence or inaction, and
12 that the Settlement Class Member directly communicated the opt-out
13 request verbally or in writing to the attorney signing the declaration;

14 7.1.2.4 Avers that, to the attorney's knowledge, the Settlement Class Member
15 knowingly, voluntarily, and independently chose to opt out after being
16 provided with the Court approved Notice and being advised about the
17 Settlement as described in paragraph 7.1.2.2;

18 7.1.2.5 Avers that the attorney signing the declaration consents to the Court's
19 jurisdiction for any reason relating to the Settlement and the opt-out
20 request; and

21 7.1.2.6 Contains the advising attorney's original signature.

22 7.2 The Settlement Administrator shall promptly log each request for exclusion that it
23 receives and provide copies of the log and all such requests for exclusion to Settlement Class Counsel
24 and counsel for Postmates upon request. The Settlement Administrator shall automatically notify
25 Settlement Class Counsel and counsel for Postmates if and when the number of timely-submitted
26 requests for exclusion reaches 250.

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7.3 The Settlement Administrator shall prepare a list of all persons who timely and properly requested exclusion from the Settlement Class (the Opt-Out List) and shall, before the Final Approval Hearing, submit an affidavit to the Court attesting to the accuracy of the list.

7.4 All Settlement Class Members who are not included in the Opt-Out List approved by the Court shall be bound by this Settlement Agreement, and all their claims shall be dismissed with prejudice and released as provided for herein, even if they never received actual notice of the Action or this proposed Settlement.

7.5 In the event that a Settlement Class Member submits a request for exclusion that the parties do not believe was timely and/or properly submitted, the Court shall determine whether the request for exclusion was timely and properly submitted.

7.6 The Plaintiffs agree not to request exclusion from the Settlement Class.

7.7 Settlement Class Members may request exclusion from the Settlement. Any such Settlement Class Member may also object to the PAGA portion of the Settlement.

7.8 Notwithstanding the submission of a timely request for exclusion, Settlement Class Members will still be bound by the settlement and release of the PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court* (2009) 46 Cal.4th 969. Requests for exclusion do not apply to the PAGA Claims, and will not be effective to preclude the release of the PAGA Claims.

7.9 Settlement Class Members may object to or opt out of the Settlement, but may not do both. Any Settlement Class Member who submits a timely request for exclusion may not file an objection to the Settlement, submit a Claim, or receive a Settlement Payment, and shall be deemed to have waived any rights or benefits under the Settlement Agreement.

7.10 No later than ten (10) business days after the Exclusion/Objection Deadline, the Settlement Administrator shall provide to Settlement Class Counsel and counsel for Postmates the Opt-Out List together with copies of the exclusion requests. Notwithstanding any other provision of this Settlement Agreement, if more than two hundred fifty (250) Settlement Class Members exercise their right to opt out of the Settlement, Postmates at its sole and absolute discretion may rescind and revoke the Settlement Agreement by sending written notice that it revokes the Settlement pursuant to

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this Paragraph to Settlement Class Counsel within fourteen (14) business days following receipt of the Opt-Out List.

7.11 Any Settlement Class Member who submits a timely and valid Claim Form, or does not submit a timely and valid opt-out request, agrees to waive the Class Action Waiver in any existing arbitration agreement between the Settlement Class Member and Postmates with respect to the Released Claims.

VIII. PROCEDURES FOR OBJECTIONS

8.1 Any Settlement Class Member who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement must provide to the Settlement Administrator a timely statement of the objection. The Settlement Administrator shall promptly forward any objections to Settlement Class Counsel and counsel for Postmates.

8.2 All written objections must (a) clearly identify the case name and number, (b) be submitted to the Settlement Administrator by mail or email, and (c) be emailed or postmarked no later than the Exclusion/Objection Deadline. The date of the postmark on the return-mailing envelope, or the date of the email, shall be the exclusive means used to determine whether the written objection has been timely submitted. If an objection is submitted using more than one method (e.g. if it is mailed and emailed), the earlier date shall be used to determine timeliness.

8.3 The objection must contain at least the following: (i) the objector's full name, address, telephone, and signature; (ii) a clear reference to the Action; (iii) a statement of the basis for each objection argument; and (iv) a statement whether the objecting person or entity intends to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. All objections shall be signed by the objecting Settlement Class Member (or their Legally Authorized Representative), even if the Settlement Class Member is represented by counsel.

8.4 The right to object to the proposed Settlement must be exercised individually by a Settlement Class Member. Attempted collective, group, class, or subclass objections shall be

1 ineffective and disregarded. Individual objections may be submitted by a Settlement Class Member's
2 Legally Authorized Representative (who is not the Settlement Class Member's counsel).

3 8.5 Settlement Class Members who object to the proposed Settlement shall remain
4 Settlement Class Members, and shall be deemed to have voluntarily waived their right to exclude
5 themselves from the Settlement Class or pursue an independent remedy against Postmates and the
6 Released Parties. To the extent any Settlement Class Member objects to the proposed Settlement
7 Agreement, and such objection is overruled in whole or in part, such Settlement Class Member will
8 be forever bound by the Final Approval order and Judgment.

9 8.6 It shall be Settlement Class Counsel's sole responsibility to respond to any objections
10 made with respect to any application for the Settlement Class Counsel Award and Service Awards.

11 **IX. RELEASES**

12 9.1 The Released Claims against each and all of the Released Parties shall be released and
13 dismissed with prejudice and on the merits (without an award of costs to any party other than as
14 provided in this Agreement) upon entry of the Final Approval order and Judgment.

15 9.2 As of the Final Approval Date, the Plaintiffs and all Settlement Class Members who
16 have not been excluded from the Settlement Class as provided in the Opt-Out List, individually and
17 on behalf of their Legally Authorized Representatives, heirs, estates, trustees, executors,
18 administrators, representatives, agents, successors, and assigns, and anyone claiming through them or
19 acting or purporting to act on their behalf, agree to forever release, discharge, hold harmless, and
20 covenant not to sue each and all of the Released Parties from each and all of the Plaintiffs' General
21 Released Claims (in the case of the Plaintiffs), the Authorized Claimants' Released Claims (in the
22 case of the Authorized Claimants), and the Settlement Class Members' Released Claims (in the case
23 of the Settlement Class Members), and by operation of the Judgment becoming Final shall have fully
24 and finally released, relinquished, and discharged all such claims against each and all of the Released
25 Parties; and they further agree that they shall not now or hereafter initiate, maintain, or assert any of
26 the General Released Claims (in the case of the Plaintiffs), the Authorized Claimants' Released
27 Claims (in the case of the Authorized Claimants), or the Settlement Class Members' Released Claims

1 (in the case of the Settlement Class Members), against the Released Parties in any other court action
2 or before any administrative body, tribunal, arbitration panel, or other adjudicating body. Without in
3 any way limiting the scope of the releases described in Paragraphs 2.16, 2.29, and 2.41, or in the
4 remainder of this Section, this release covers, without limitation, any and all claims for attorneys'
5 fees, costs, or disbursements incurred by Settlement Class Counsel, or by the Plaintiffs or Settlement
6 Class Members, or any of them, in connection with or related in any manner to the Action, the
7 Settlement of the Action, and/or the Released Claims, except to the extent otherwise specified in this
8 Agreement.

9 9.3 The Plaintiffs and the Settlement Class Members expressly acknowledge that they are
10 familiar with principles of law such as Section 1542 of the California Civil Code, which provides:

11 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS ~~WHICH THAT~~ THE
12 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
13 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,
14 ~~WHICH AND THAT~~, IF KNOWN BY HIM OR HER ~~MUST, WOULD~~ HAVE
15 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
16 OR RELEASED PARTY.

17 With respect to the Settlement Class Released Claims, as described in Paragraph 2.41, each
18 Settlement Class Member who has not been excluded from the Settlement Class as provided in the
19 Opt-Out List shall be deemed to have expressly, knowingly, and voluntarily waived and relinquished,
20 to the fullest extent permitted by law, the provisions, rights, and benefits he or she may otherwise
21 have had pursuant to Section 1542 of the California Civil Code and all similar federal, state, and local
22 laws, rights, rules, and legal principles of any other jurisdiction that may be applicable herein. In
23 connection with the release, the Settlement Class Members acknowledge that they are aware that they
24 may hereafter discover claims presently unknown and unsuspected or facts in addition to or different
25 from those which they now know or believe to be true with respect to matters released herein.
26 Nevertheless, the Settlement Class Members acknowledge that a portion of the consideration received
27 herein is for a release with respect to unknown damages and complaints, whether resulting from

1 known injuries and consequences or from unknown injuries or unknown consequences of known or
2 unknown injuries, and state that it is the intention of the Settlement Class Members in agreeing to this
3 release fully, finally, and forever to settle and release all matters and all claims that exist, hereafter
4 may exist, or might have existed (whether or not previously or currently asserted in any action),
5 constituting the Settlement Class Members' Released Claims.

6 9.4 With respect to those claims that could be asserted under the FLSA, an Authorized
7 Claimant's timely and valid submission of a signed Claim Form shall be deemed as that Authorized
8 Claimant's Consent to Join and release all such matters and claims. The timely and valid submission
9 of a signed Claim Form shall fully, finally and forever settle and release all such matters and claims
10 as of the Effective Date.

11 9.5 With respect to the General Released Claims, as described in Paragraph 2.16, each
12 Plaintiff shall be deemed to have expressly, knowingly, and voluntarily waived and relinquished, to
13 the fullest extent permitted by law, the provisions, rights, and benefits he or she may otherwise have
14 had pursuant to Section 1542 of the California Civil Code and all similar federal, state, and local
15 laws, rights, rules, and legal principles of any other jurisdiction that may be applicable herein. In
16 connection with the release, Plaintiffs acknowledge that they are aware that they may hereafter
17 discover claims presently unknown and unsuspected or facts in addition to or different from those
18 which they now know or believe to be true with respect to matters released herein. Nevertheless,
19 Plaintiffs acknowledge that a portion of the consideration received herein is for a release with respect
20 to unknown damages and complaints, whether resulting from known injuries and consequences or
21 from unknown injuries or unknown consequences of known or unknown injuries, and state that it is
22 the intention of Plaintiffs in agreeing to this release fully, finally, and forever to settle and release all
23 matters and all claims that exist, hereafter may exist, or might have existed (whether or not
24 previously or currently asserted in any action), constituting the General Released Claims.

25 9.6 Each Plaintiff further acknowledges, agrees, and understands that: (i) he or she has
26 read and understands the terms of this Agreement; (ii) he or she has been advised in writing to
27 consult with an attorney before executing this Agreement; (iii) he or she has obtained and considered

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such legal counsel as he or she deems necessary; (iv) he or she has been given twenty-one (21) days to consider whether or not to enter into this Agreement (although he or she may elect not to use the full 21 day period at his or her option).

9.7 Subject to Court approval, the Plaintiffs and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List shall be bound by this Settlement Agreement, and all of the Released Claims shall be dismissed with prejudice and released, even if they never received actual notice of the Action or this Settlement.

X. ADMINISTRATION OF THE SETTLEMENT FUND

10.1 The Settlement Administrator or its authorized agents in consultation with the Parties and subject to the supervision, direction, and approval of the Court, shall calculate the allocation of and oversee the distribution of the Total Settlement Amount.

10.2 The Total Settlement Amount shall be applied as follows:

10.2.1 To pay the costs and expenses incurred in connection with providing Settlement Class Notice to potential Settlement Class Members, locating Settlement Class Members' last-known postal mail addresses and processing any objections, requests for exclusion or challenges to calculations of Estimated Miles;

10.2.2 After the Effective Date as provided in Paragraph 2.10, and subject to the approval and further order(s) of the Court, to pay Plaintiffs Service Awards based on contributions and time expended assisting in the litigation, up to the amounts described in Paragraph 2.29.

10.2.3 After the Effective Date as provided in Paragraph 2.10, and subject to the approval and further order(s) of the Court, to pay the Settlement Class Counsel Award as ordered by the Court;

10.2.4 After the Effective Date as provided in Paragraph 2.10, and subject to the approval and further order(s) of the Court, to distribute 75% of the PAGA Payment to the LWDA;

10.2.5 After the Effective Date as provided in Paragraph 2.10, and subject to the approval and further order(s) of the Court, to distribute the Individual Settlement Payments from the

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Total Settlement Amount for the benefit of the Settlement Class pursuant to the Plan of Allocation, or as otherwise ordered by the Court.

10.3 If any portion of the Total Settlement Amount is not successfully redistributed to Settlement Class Members after the initial Void Date (i.e. checks are not cashed or checks are returned as undeliverable after the second distribution), then after the Void Date for redistributed checks, the Settlement Administrator shall void the check and shall direct such unclaimed funds to be paid to Legal Aid at Work. Such unclaimed funds may also be used to resolve disputes regarding the distribution of settlement funds.

10.4 Settlement Class Members who are not on the Opt-Out List approved by the Court shall be subject to and bound by the provisions of the Settlement Agreement, the releases contained herein, and the Judgment with respect to all Settlement Class Members' Released Claims, regardless of whether they obtain any distribution from the Total Settlement Amount.

10.5 Payment from the Total Settlement Amount shall be deemed conclusive of compliance with this Settlement Agreement as to all Settlement Class Members.

10.6 No Settlement Class Member shall have any claim against the Plaintiffs, Settlement Class Counsel, or the Settlement Administrator based on distributions made substantially in accordance with this Settlement Agreement and/or orders of the Court. No Settlement Class Member shall have any claim against Postmates or its counsel relating to distributions made under this Settlement.

XI. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF SETTLEMENT AGREEMENT

11.1 If the Court does not approve the Settlement as set forth in this Settlement Agreement, or if the Court enters the Judgment and appellate review is sought, and on such review, the entry of Judgment is vacated, modified in any way, or reversed, or if the Final Approval order does not otherwise become Final, then this Settlement Agreement shall be cancelled, terminated, and void ab initio, unless all Parties, in their sole discretion within thirty (30) days from the date such ruling

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becomes final, provide written notice to all other Parties hereto of their intent to proceed with the Settlement under the terms of the Judgment as it may be modified by the Court or any appellate court.

11.2 Postmates shall have the right to withdraw from the Settlement if the number of Settlement Class Members who attempt to exclude themselves from the Settlement Class equals or exceeds 250. If Postmates chooses, pursuant to its sole and absolute discretion, to exercise this right, it must do so within fourteen (14) days of receipt of the Opt-Out List as provided in Paragraphs 7.2 and 7.9, by providing written notice to Settlement Class Counsel.

11.3 In the event that: (i) the Settlement is not approved, is overturned, or is materially modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this Settlement Agreement is terminated, cancelled, or fails to become effective for any reason, then: (a) the Parties stipulate and agree that the Settlement, this Agreement, the Settlement Class Information, the Opt-Out List, and all documents exchanged and filed in connection with the Settlement shall be treated as inadmissible mediation communications under Cal. Evid. Code § 1115 et seq.; (b) the Settlement shall be without force and effect upon the rights of the Parties hereto, and none of its terms shall be effective or enforceable, with the exception of this Paragraph, which shall remain effective and enforceable; (c) the Parties shall be deemed to have reverted nunc pro tunc to their respective statuses prior to execution of this Agreement, including with respect to any Court-imposed deadlines; (d) all Orders entered in connection with the Settlement, including the certification of the Settlement Class and certification of the FLSA claims, shall be vacated without prejudice to any Party's position on the issue/issues of class and collective action certification, the issue of amending the complaint, or any other issue, in this Action or any other action, and the Parties shall be restored to their litigation positions existing on the date of execution of this Agreement; and (e) the Parties shall proceed in all respects as if the Settlement Agreement and related documentation and orders had not been executed, and without prejudice in any way from the negotiation or fact of the Settlement or the terms of the Settlement Agreement. The Settlement Agreement, the Settlement, all documents, orders, and evidence relating to the Settlement, the fact of their existence, any of their terms, any press release or other statement or report by the Parties or by others concerning the Settlement Agreement, the

1 Settlement, their existence, or their terms, and any negotiations, proceedings, acts performed, or
2 documents executed pursuant to or in furtherance of the Settlement Agreement or the Settlement shall
3 not be admissible in any proceeding, and shall not be offered, received, or construed as evidence of a
4 presumption, concession, or an admission of liability, of unenforceability of any arbitration
5 agreement, of the certifiability of a litigation class, or of any misrepresentation or omission in any
6 statement or written document approved or made, or otherwise used by any Person for any purpose
7 whatsoever, in any trial of this Action or any other action or proceedings. Plaintiffs, Settlement Class
8 Counsel, and the Settlement Administrator shall return to counsel for Postmates all copies of the
9 Settlement Class Information and Opt-Out Lists and shall not use or disclose the Settlement Class
10 Information or Opt-Out List for any purpose or in any proceeding.

11 11.4 Postmates does not agree or consent to certification of the ~~Settlement Class~~ class or
12 FLSA claims for any purpose other than to effectuate the Settlement of the Action. If this Settlement
13 Agreement is terminated pursuant to its terms, or the Effective Date for any reason does not occur, all
14 Orders certifying the Settlement Class and FLSA collective for purposes of effecting this Settlement
15 Agreement, and all preliminary and/or final findings regarding the Settlement Class, shall be void ab
16 initio and automatically vacated upon notice to the Court, the Action shall proceed as though the
17 Settlement Class had never been certified pursuant to this Settlement Agreement and such findings
18 had never been made, and the Action shall revert nunc pro tunc to the procedural status quo as of the
19 date and time immediately before the execution of the Settlement Agreement, in accordance with this
20 Settlement Agreement.

21 **XII. ADDITIONAL PROVISIONS**

22 12.1 In the event that one or more of the Parties to this Settlement Agreement institutes any
23 legal action, arbitration, or other proceeding against any other party to enforce the provisions of this
24 Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the
25 prevailing party shall be entitled to recover from the unsuccessful party reasonable attorneys' fees
26 and costs, including expert witness fees incurred in connection with any enforcement actions.

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12.2 Unless otherwise specifically provided here, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiffs and the Settlement Class:

Shannon Liss-Riordan, Esq.
Lichten & Liss-Riordan, P.C.
729 Boylston Street
Suite 2000
Boston, MA 02116

To Defendants:

Theane Evangelis, Esq.
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197

12.3 All of the Exhibits to this Settlement Agreement are an integral part of the Settlement and are incorporated by reference as though fully set forth herein.

12.4 The Parties agree that the recitals are contractual in nature and form a material part of this Settlement Agreement.

12.5 The Plaintiffs and Settlement Class Counsel acknowledge that an adequate factual record has been established that supports the Settlement and hereby waive any right to conduct further discovery to assess or confirm the Settlement. Notwithstanding the prior sentence, the Parties agree to reasonably cooperate with respect to efforts to identify the last-known addresses of Settlement Class Members.

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

12.7 This Agreement supersedes all prior negotiations and agreements and may be amended or modified only by a written instrument signed by counsel for all Parties or the Parties’ successors-in-interest.

12.8 The Parties reserve the right, subject to the Court’s approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement. Such extensions must be in writing to be enforceable.

12.9 The Settlement Agreement, the Settlement, the fact of the Settlement’s existence, any of the terms of the Settlement Agreement, any press release or other statement or report by the Parties or by others concerning the Settlement Agreement or the Settlement, and any negotiations, proceedings, acts performed, or documents executed pursuant to or in furtherance of the Settlement Agreement or the Settlement: (i) may not be deemed to be, may not be used as, and do not constitute an admission or evidence of the validity of any Released Claims or of any wrongdoing or liability of Postmates; (ii) may not be deemed to be, may not be used as, and do not constitute an admission or evidence of any fault, wrongdoing, or omission by Postmates in any trial, civil, criminal, arbitration, or administrative proceeding of the Action or any other action or proceedings in any court, administrative agency, arbitral forum or other tribunal; (iii) may not be used as evidence of any waiver of, unenforceability of, or as a defense to any Postmates arbitration agreement; and (iv) may not be used as evidence in any class certification proceeding.

12.10 The Released Parties shall have the right to file the Settlement Agreement, the Final Approval order and Judgment, and any other documents or evidence relating to the Settlement in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

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12.11 The Parties to the Settlement Agreement agree that the Total Settlement Amount and the other terms of the Settlement were negotiated at arm’s length and in good faith by the Parties, resulted from an arm’s-length mediation session facilitated by Tripper Ortman, and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

12.12 The Plaintiffs and Settlement Class Counsel have concluded that the Settlement set forth herein constitutes a fair, reasonable, and adequate resolution of the claims that the Plaintiffs asserted against Postmates, including the claims on behalf of the Settlement Class, and that it promotes the best interests of the Settlement Class.

12.13 To the extent permitted by law, all agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Settlement Agreement.

12.14 The Parties agree that Plaintiffs and Settlement Class Counsel are not required to return any documents or data produced by Postmates until the final resolution of the Action. Within sixty (60) days following the Effective Date, Settlement Class Counsel shall return to Postmates all documents and data produced in the Action or in connection with the Parties’ mediation, or confirm in writing that all such documents have been destroyed.

12.15 The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

12.16 This Settlement Agreement, including its Exhibits, constitutes the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits, other than the representations, warranties, and covenants contained and memorialized in this Settlement Agreement and its Exhibits.

12.17 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 provided

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that counsel for the Parties to this Settlement Agreement shall exchange among themselves original signed counterparts.

12.18 This Settlement Agreement may be signed with a facsimile signature and in counterparts, each of which shall constitute a duplicate original.

12.19 The Parties hereto and their respective counsel agree that they will use their best efforts to obtain all necessary approvals of the Court required by this Settlement Agreement.

12.20 This Settlement Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto, including any and all Released Parties and any corporation, partnership, or other entity into or with which any Party hereto may merge, consolidate, or reorganize.

12.21 This Settlement Agreement has been negotiated among and drafted by Settlement Class Counsel and Postmates' Counsel. Named Plaintiffs, Settlement Class Members, and Postmates shall not be deemed to be the drafters of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter or otherwise resort to the contra proferentem canon of construction. Accordingly, this Settlement Agreement should not be construed in favor of or against one Party as the drafter, and the Parties agree that the provisions of California Civil Code § 1654 and common law principles of construing ambiguities against the drafter shall have no application. All Parties agree that counsel for the Parties drafted this Settlement Agreement during extensive arm's-length negotiations. No parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement Agreement was made or executed.

12.22 Except where this Settlement Agreement itself provides otherwise, all terms, conditions, and Exhibits are material and necessary to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

12.23 This Settlement Agreement shall be governed by California law. Any action or dispute based on this Settlement Agreement, including any action to enforce any of the terms of this

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Settlement Agreement, shall be commenced and maintained only in the Superior Court of California, San Francisco County, which shall retain jurisdiction over all such actions and disputes.

12.24 All Parties to this Settlement Agreement shall be subject to the jurisdiction of the Superior Court of California, San Francisco County for all purposes related to this Settlement Agreement.

12.25 The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement Agreement for the purpose of the administration and enforcement of this Settlement Agreement.

12.26 The headings used in this Settlement Agreement are for the convenience of the reader only, and shall not affect the meaning or interpretation of this Settlement Agreement.

12.27 In construing this Settlement Agreement, the use of the singular includes the plural (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

12.28 Each Party to this Settlement Agreement warrants that he, she, or it is acting upon his, her, or its independent judgment and upon the advice of counsel, and not in reliance upon any warranty or representation, express or implied, of any nature or of any kind by any other Party, other than the warranties and representations expressly made in this Settlement Agreement.

12.29 Signatory counsel warrant that they are fully authorized to execute this Agreement on behalf of their respective clients listed below. Each Counsel signing this Settlement Agreement on behalf of his/her clients who are unable to sign the Agreement on the date that it is executed by other Parties represents that such counsel is fully authorized to sign this Settlement Agreement on behalf of his/her clients; provided, however, that all Parties who have not executed this Agreement on the date that it is executed by the other Parties shall promptly thereafter execute this Agreement and in any event no later than one (1) week after the Agreement has been executed by counsel.

____ IN WITNESS WHEREOF, the Parties hereto, by and through their respective attorneys, and intending to be legally bound hereby, have duly executed this Settlement Agreement as of the date set forth below.

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Dated: June __, 2020 By: _____

Shannon Liss Riordan

LICHTEN & LISS RIORDAN, P.C.

Attorneys for Plaintiffs JACOB RIMLER,
GIOVANNI JONES, DORA LEE, KELLYN
TIMMERMAN, and JOSHUA ALBERT

Dated: June __, 2020 By: _____

Theane Evangelis

Michele L. Maryott

Dhananjay S. Manthripragada

GIBSON, DUNN & CRUTCHER LLP

Attorneys for Defendant
POSTMATES, INC.

Dated: June __, 2020 By: _____

Robert Rieders

General Counsel

POSTMATES INC.

Dated: June __, 2020 By: _____

Amir Mostafavi

Attorney for Plaintiffs MELANIE WINNS,

RALPH HICKEY JR., STEVEN

ALVARADO, AND KRISTIE LOGAN

Dated: June __, 2020 By: _____

Matthew Bainer

Attorney for Plaintiff SHERICKA

VINCENT

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Dated: _____, 2020 By: _____
Robert Rieders
General Counsel
POSTMATES INC.

Dated: _____, 2020 By: _____
Jacob Rimler
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Giovanni Jones
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Dora Lee
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Kellyn Timmerman
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Joshua Albert
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Melanie Ann Winns
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Ralph John Hickey Jr.
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Steven Alvarado
NAMED PLAINTIFF

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Dated: _____, 2020 By: _____
Kristie Logan
NAMED PLAINTIFF

Dated: _____, 2020 By: _____
Shericka Vincent
NAMED PLAINTIFF

Dated: December __, 2020 By: _____
Shannon Liss-Riordan
LICHTEN & LISS-RIORDAN, P.C.
Attorneys for Plaintiffs JACOB RIMLER,
GIOVANNI JONES, DORA LEE,
KELLYN TIMMERMAN, and JOSHUA
ALBERT

Dated: December __, 2020 By: _____
Theane Evangelis
Michele L. Marvott
Dhananjay S. Manthripragada
GIBSON, DUNN & CRUTCHER LLP
Attorneys for Defendant POSTMATES, INC.

Dated: December __, 2020 By: _____
Robert Rieders
General Counsel
POSTMATES INC.

Dated: December __, 2020 By: _____
Amir Mostafavi
Attorney for Plaintiffs MELANIE WINNS,
RALPH HICKEY JR., STEVEN ALVARADO,
AND KRISTIE LOGAN

Dated: December __, 2020 By: _____
Matthew Bainer
Attorney for Plaintiff SHERICKA VINCENT

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Dated: _____, 2020

By: _____
Jacob Rimler
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Giovanni Jones
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Dora Lee
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Kellyn Timmerman
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Joshua Albert
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Melanie Ann Winns
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Ralph John Hickey Jr.
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Steven Alvarado
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Kristie Logan
NAMED PLAINTIFF

Dated: _____, 2020

By: _____
Shericka Vincent
NAMED PLAINTIFF

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EXHIBIT C

Please read notice below and CLICK HERE if you want to claim your share of the settlement.

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND HEARING DATE FOR COURT APPROVAL**

**(*Rimler, et al. v. Postmates, Inc.*, San Francisco Superior Court
Case No. CGC-18-567868)**

A proposed class action settlement has been reached in a lawsuit involving certain current and former couriers who have used the Postmates mobile application in California alleging that couriers should be classified as employees, and that Postmates has violated provisions of California labor law by classifying drivers as independent contractors. Postmates denies these allegations. Under the settlement, if it is approved by the Court, Postmates will pay \$32,000,000.00 to settle the lawsuit and obtain a release of the claims discussed below in Section 4. The named plaintiffs and their lawyers have requested attorneys' fees/expenses, settlement administration fees, and service awards to the named plaintiffs. If the Court approves the fees, expenses, and service awards requested by the named plaintiffs and their lawyers, and after the deduction of an award to the California Labor and Workforce Development Agency, approximately \$17,795,000 will be distributed to Settlement Class Members. The Court in charge of the lawsuit still has to decide whether to approve the settlement. If it does, then individuals who used the Postmates mobile application as couriers between June 3, 2017, and January 1, 2021, will be eligible for payment as part of the settlement. Postmates' records show you are or were a courier at some point between June 3, 2017, and January 1, 2021, and may be entitled to receive a payment [[LINK TO CLAIM PORTAL](#)] from the settlement.

YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE READ THIS NOTICE CAREFULLY. YOU ARE NOT BEING SUED. THIS IS NOT A SOLICITATION FROM A LAWYER.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
OPTION 1: PARTICIPATE IN THE SETTLEMENT	
Submit a Claim and Receive a Payment	<p>If you are a member of the Settlement Class, you must submit a claim [LINK TO CLAIM PORTAL] to receive a payment. Instructions on submitting a claim are set forth in section 6 below [LINK TO SECTION 6].</p> <p>After the Court approves the settlement, the payment will be mailed to you at the address you include in your claim form. If your address changes, please notify the Claims Administrator as explained below.</p> <p>You cannot make a claim if you exclude yourself from the Settlement Class. As detailed below in Section 4, being a member of the Settlement Class means that you may make a claim to receive a payment. It also means that you will release specified claims or causes of action that you may have against Postmates. This means that you will give up your right to be part of another lawsuit or other legal proceeding, including individual arbitration, against Postmates relating to the claims being resolved in this settlement.</p> <p>Additionally, by submitting a claim, you will also release Fair Labor Standards Act (“FLSA”) claims that you may have against Postmates. See the explanation below in Section 4.</p>
Object to the Settlement	<p>If you want to object to the settlement, you must mail or email the Claims Administrator a statement explaining why you do not like the settlement. You cannot object to ask the Court for a higher payment for yourself personally, although you can object to the payment terms (or any other terms) that apply generally to the settlement class.</p> <p>Directions are provided below in Section 8.</p>
Dispute the Information in Postmates’ Records	<p>As explained below in Section 3, your share of the settlement has been calculated based on information in Postmates’ records about the estimated miles you have driven using the Postmates app between June 3, 2017 and January 1, 2021. If you do not believe that the information in Section 3 is correct, you may dispute it.</p> <p>Directions are provided below in Section 3.</p>
Do Nothing	<p>If you do nothing, you will remain a member of the Settlement Class, but you will not receive a payment.</p> <p>As detailed below in Section 4, being a member of the Settlement Class means that you will release specified claims that you may have against Postmates.</p>
OPTION 2: EXCLUDE YOURSELF FROM THE SETTLEMENT	
Exclude Yourself From the Settlement	<p>If you do not want to receive payment from the settlement, and do not want to be a member of the Settlement Class, you must exclude yourself by sending a letter or email to the Claims Administrator no later than [DATE].</p> <p>If you request exclusion from the Settlement Class, you will receive no money from the settlement (even if you submit a claim), but you will retain your right to sue Postmates for the claims asserted in this lawsuit in a different lawsuit or in</p>

individual arbitration. See Section 4 below for more information.
Instructions to exclude yourself are set forth below.

1. Why did I get this Notice?

The plaintiffs and the defendant in the *Rimler, et al. v. Postmates, Inc., San Francisco Superior Court Case No. CGC-18-567868* case have reached a settlement.

You received this Notice because you have been identified as a Settlement Class member.

The Settlement Class is defined as the following:

Any and all individuals who entered into an agreement with Postmates to use the Postmates platform as an independent contractor to offer delivery services to customers, and used the Postmates platform as an independent contractor courier to accept or complete at least one delivery in California between June 3, 2017, and January 1, 2021.

This Notice explains the lawsuit, the settlement of that lawsuit, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the settlement.

2. What is the class action lawsuit about?

On July 5, 2018, Plaintiff Jacob Rimler filed a complaint in the San Francisco County Superior Court, bringing claims on behalf of individuals who used the Postmates app as couriers and the state of California. Giovanni Jones, Dora Lee, Kellyn Timmerman, Joshua Albert, Melanie Anne Winns, Ralph John Hickey, Jr., Steven Alvarado, Kristie Logan, and Shericka Vincent were later added as named plaintiffs, and the case was amended to add class action claims on behalf of couriers who are part of the Settlement Class. This case is entitled *Rimler, et al. v. Postmates Inc.*, Case Number CGC-18-567868. Ms. Lee and Ms. Timmerman had previously filed a putative class action bringing similar claims against Postmates, *Lee et al. v. Postmates*, N.D. Cal. Case No. 18-cv-3421. Mr. Albert had also filed a case bringing similar claims against Postmates, *Albert v. Postmates*, N.D. Cal. Case No. 18-cv-7592. Melanie Anne Winns, Ralph John Hickey, Jr., Steven Alvarado, and Kristie Logan had also filed a case bringing similar claims against Postmates, *Winns v. Postmates Inc.*, Case No. CGC-17-562282 in the Superior Court of California, San Francisco County. Shericka Vincent had also previously filed a representative action bringing similar claims against Postmates, *Vincent v. Postmates Inc.*, Case No. RG19018205, in the Superior Court of California, Alameda County. These other cases are all currently on hold in light of this settlement, and they will be dismissed if the settlement is approved. On June 17, 2020, the Court issued an order coordinating the *Rimler*, *Winns*, and *Vincent* Actions with three other similar matters pending against Postmates: *Santana v. Postmates, Inc.*, Case No. BC720151 (Los Angeles Super. Ct.); *Brown v. Postmates, Inc.*, Case No. BC712974 (Los Angeles Super. Ct.); and *Altounian v. Postmates, Inc.*, Case No. CGC-20-584366 (San Francisco Super. Ct.).

These lawsuits claim that Postmates violated California law, including by misclassifying couriers as independent contractors, failing to reimburse couriers' allegedly necessary business expenses, and failing to pay minimum wages and overtime.

Postmates denies that it violated the law in any way, denies couriers were, or are, employees, and further denies that the lawsuit is appropriate for class treatment for any purpose other than this settlement. Nothing in this Notice, the settlement, or any actions to carry out the terms of the settlement means that Postmates admits any fault, guilt, negligence, wrongdoing, or liability whatsoever.

The Court did not decide in favor of the Plaintiffs or the Defendant in the lawsuit. Instead, the parties in the lawsuit agreed to a settlement that they believe is a fair, reasonable, and adequate compromise. The parties reached this agreement after lengthy negotiations and independent consideration of the risks of litigation and benefits of settlement through a formal conference with an experienced mediator. The Plaintiffs and their lawyers have considered the substantial benefits from the Settlement that will be given to the Settlement Class Members and balanced those benefits with the risk that a trial could end in a verdict in Postmates' favor. They also considered the value of the immediate benefit to Settlement Class Members versus the cost and delay of litigation through trial and appeals. Counsel for the Plaintiffs believe that the amount Postmates has agreed to pay is fair, adequate, and reasonable in light of the risks and time required to continue litigating this case.

The Court overseeing the case has reviewed the settlement. The Court preliminarily approved the named plaintiffs to serve as representatives for the Settlement Class defined in section 1, above. The Court also preliminarily approved the law firm Lichten & Liss-Riordan, P.C. to serve as class counsel.

3. What are the terms of the settlement?

The full settlement agreement is available at [http://www.\[website\].com](http://www.[website].com). Subject to the Court's approval, a summary of the terms of the settlement include:

Settlement Amount If the settlement is approved by the Court, Postmates will pay \$32,000,000 to the Settlement Class to settle the lawsuit and obtain a release of the claims discussed below in Section 4.

The settlement amount includes:

- Payments to settlement class members totaling approximately \$17,795,000 (including a \$250,000 Dispute Resolution Fund).
- Attorneys' fees and costs not to exceed \$8,960,000 for class counsel
- Administration expenses estimated at \$945,000
- \$4,000,000 for PAGA penalties, of which 75% (\$3,000,000) will be paid to the State of California and 25% (\$1,000,000) will be paid to the settlement class members
- Awards not to exceed \$5,000 each to plaintiffs Rimler, Jones, Timmerman, Lee, Albert, Winns, Hickey, Jr., Alvarado, Logan, and Vincent.

Calculation of Settlement Class Member Awards To calculate each settlement class member's share of the settlement, the claims administrator will review Postmates' records from June 3, 2017, through January 1, 2021. Settlement class members will be awarded points proportional to the estimated number of miles driven while using the Postmates application as a courier.

Settlement class members will receive one (1) point for every estimated mile driven, which will be doubled to two (2) points for every estimated mile for settlement class members who have opted out of arbitration, initiated arbitration, or demonstrated in writing an interest in initiating an arbitration demand against Postmates by January 1, 2021. Your points will be doubled if you (a) provided Postmates with a valid request to opt out of its arbitration provision; (b) filed a demand for arbitration with the American Arbitration Association against Postmates challenging your classification (whether represented by counsel or acting on your own); or (c) retained an attorney to represent you in filing a demand for arbitration against Postmates challenging your classification, even if the demand has not been filed.

According to Postmates' records, you have driven an estimated [redacted] miles and you [are/are not] receiving double points. Therefore, your points total is: [number of points]

These points do not have a value fixed at a particular dollar amount; that amount will vary depending upon many factors, including how many settlement class members submit a claim and are receiving payments under this Agreement and the amount ultimately awarded in attorneys' fees and incentive payments to the named plaintiffs. Assuming a 50% claim rate for the settlement, your estimated settlement payment would be approximately \$ [redacted].

The determination of each class member's estimated miles driven shall be based on the relevant records that Postmates is able to identify. If you do not agree with your estimated miles or with Postmates' records regarding whether your points should be doubled, you can inform the Settlement Administrator by mail or email. To contest your number of miles, you must provide documentation showing that you drove more miles between pick-up and delivery than estimated in this Notice. To contest whether you should receive double points, you must show that you submitted a valid request to opt out of arbitration, that you retained a lawyer to initiate an arbitration demand against Postmates before January 1, 2021, or that you yourself initiated an arbitration demand against Postmates before January 1, 2021.

The Net Settlement Amount will be distributed to settlement class members who make a claim in proportion to their number of points (but no class member who submits a claim will receive less than \$10). The Net Settlement Amount will be calculated by subtracting from the Settlement Amount the amounts approved by the Court for attorney's fees for class counsel, class counsel's litigation costs, settlement administration expenses, the incentive awards to the named plaintiffs, and the PAGA-related amount to be paid to State of California.

Settlement Class Members who do not exclude themselves from the Settlement as provided for below will be entitled to receive a payment pursuant to the Settlement **either by a) submitting a timely claim and not opting out of the class or b) objecting to the settlement.**

If you do not submit a timely claim for payment, you will not receive a payment, but you will remain part of the Settlement Class, and you will release all claims you may have related to the allegations in the case, as described in Section 4 below.

If you exclude yourself from the settlement, you will not receive a payment, but you will retain the ability to sue Postmates for the claims asserted in this lawsuit in a different lawsuit or in individual arbitration. See Section 4 below for more information.

Tax Matters Nothing in this settlement or this Notice is intended to constitute tax advice. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the settlement.

Conditions of Settlement The payment of settlement class member awards is conditioned upon the Court entering an order at or following a final approval hearing on the settlement, and the settlement becoming final.

4. What do I release by participating in this settlement?

If the Court grants final approval of the Settlement, the Court will enter judgment, and the Settlement will bind all Class Members who have not opted out, and the judgment will bar all Class Members from bringing any claims released in the Settlement. The release is described below:

Any and all present and past claims, actions, demands, causes of action, suits, debts, guarantees, obligations, damages, penalties, rights or liabilities, of any nature and description whatsoever, known or unknown, existing or potential, recognized now or hereafter, contingent or accrued, expected or unexpected, pursuant to any theory of recovery (including but not limited to those based in contract or tort, common law or equity, federal, state, or local law, statute, ordinance, or regulation, and for claims for compensatory, consequential, punitive or exemplary damages, statutory damages, penalties, interest, attorneys' fees, costs, or disbursements) that are based on or reasonably related to the claims alleged in or that could have been alleged in the *Rimler* Second Amended Complaint, and all misclassification claims, and specifically including: claims pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.* (only for those Settlement Class Members who submit a valid and timely Claim Form); California Labor Code sections 132a, 201-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6, 221-224, 225.5, 226, 226.3, 226.7, 226.8, 227, 227.3, 245-249, 351, 353, 432.5, 450, 510, 512, 551-552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2753, 2802, 2804; the Private Attorneys General Act ("PAGA"), California Labor Code section 2698 *et seq.*; California Code of Civil Procedure section 1021.5; California Code of Regulations, title 8, sections 11010 and 11040; Industrial Welfare Commission Wage Orders; California Business and Professions Code sections 17200 *et seq.*; and any other similar state, federal, local, or common law, statute, regulation, or ordinance for unpaid wages, minimum wages, regular wages, tips, overtime wages (including but not limited to calculation of the correct overtime or regular rate), working more than six days in seven, expense reimbursement, wage statements, payroll recordkeeping, reporting time, improper deduction of wages, failure to provide workers' compensation insurance, meal periods, rest breaks, sick leave, final pay, penalties for timely payment of wages upon discharge, waiting time penalties, PAGA penalties, unfair business practices, all claims arising out of or relating to the statutory causes of action described herein, restitution, interest, costs and expenses, attorneys' fees, declaratory relief, injunctive relief, liquidated damages, exemplary or punitive damages, civil penalties, equitable remedies, and/or pre- or post-judgment interest at any time between June 3, 2017 and January 1, 2021.

The Settlement Class Members' Released Claims as defined above include a release of claims for any type of relief that can be released as a matter of law, including without limitation any claims for compensatory, consequential, punitive or exemplary damages, statutory damages, liquidated damages, punitive damages, restitution, disgorgement, injunctive relief, declaratory relief, equitable relief, an accounting, penalties (including waiting time penalties pursuant to Labor Code section 203, wage statement penalties pursuant to Labor Code section 226, and civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code sections 558 and 2698, et seq.) ("PAGA"), interest, attorneys' fees, costs or disbursements.

The Settlement Class Members' Released Claims also include, but are not limited to, any and all claims for attorneys' fees, costs or disbursements incurred by class counsel or any other counsel representing the Named Plaintiffs or Settlement Class Members, or by the Named Plaintiffs or Settlement Class Members or any of them, in connection with or related in any manner to the Litigation, the Settlement of the Action, the administration of such Settlement and/or the Released Claims, except to the extent otherwise specified in this Agreement.

All Class Members who do not timely and formally opt out of the settlement by requesting exclusion as described below shall be bound by this release, except that all Class Members (even those who do opt out) shall be bound by this release for PAGA claims. Any Settlement Class Member who submits a timely and valid Claim Form, or does not submit a timely and valid opt-out request, agrees to waive the Class Action Waiver in any existing arbitration agreement between the Settlement Class Member and Postmates with respect to the Released Claims.

For Fair Labor Standards Act ("FLSA") claims, only Settlement Class Members who submit a claim shall be bound by the release of the FLSA claims. The Named Plaintiffs have agreed in advance to release their FLSA claims, in addition to other claims. With respect to all Settlement Class Members (other than Named Plaintiffs), Settlement Class Members do not release other claims that are not within the definition of Settlement Class Members' Released Claims, including claims for retaliation, wrongful termination, unemployment, disability, worker's compensation, claims outside of the Settlement Class Period, and claims that cannot be released as a matter of law.

If you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit or legal proceeding in any forum (including arbitration) against Postmates and the Releasees about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this litigation will apply to you and legally bind you.

If you wish to obtain additional information about this settlement or your rights to object to, or exclude yourself from, this lawsuit, you may also contact the class counsel at [www.\[website\].com](http://www.[website].com) or any other lawyer.

5. How much will my payment be?

The exact amount that each Settlement Class Member will receive cannot be calculated until (1) the Court approves the Settlement; (2) amounts are deducted from the Net Settlement Fund for

the costs of providing notice to the Settlement Class, administering the settlement, paying lawyers' fees and expenses, and making service payments approved by the Court; and (3) the Settlement Administrator determines the number of Settlement Class members who excluded themselves, submitted valid claims, and after payments are made, successfully received their payment. An estimate for your individual payment is listed in Section 3 above.

Approximately 30 days after the settlement becomes final, initial settlement shares will be distributed.

6. How can I get a payment?

To receive a payment under this settlement, **you must submit a claim by [REDACTED]**.

Your Claimant ID is [#####] and your Control Number is [#####].

Claims can be submitted online by navigating to the web page at [link to claim form] and following the instructions, or by filling out the enclosed claim form and submitting it to the Claims Administrator, at the following address, by mail or e-mail:

[Claims Administrator's Claim Form Mailing Address]

[Claims Administrator's Claim Form Email Address]

If you do not submit a claim by [REDACTED], you will not receive payment under the settlement.

IMPORTANT:

You must notify the Claims Administrator of any change of address to ensure receipt of your settlement payment. You can notify the Claims Administrator of an address change by sending a letter or email to the above mailing and email addresses with your new address.

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. The claims administrator shall direct any unclaimed funds to Legal Aid at Work. If your check is lost or misplaced, you should contact the claims administrator immediately to request a replacement.

If you opt out of the settlement and also submit a claim for payment, you will not receive payment under the settlement, and will be treated as an opt-out as described in section 7 below.

The Court will hold a hearing on [REDACTED], 2021, to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within approximately 30 days after the Court approves the Settlement. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

7. What if I don't want to be a part of this settlement?

If you do not wish to participate in this settlement, you must exclude yourself from the settlement or “opt out.” If you opt out, you will receive no money from the settlement, and you will not be bound by its terms (except that you will still be releasing your claims under the Private Attorneys General Act). To opt out, you must submit a written request to the Claims Administrator via postal mail or in an email.

The address to send opt-out requests to the Claims Administrator is:

[Mailing address for opt-out requests.]

[Email address for opt-out requests.]

Your request for exclusion must contain: (1) a clear statement that you wish to be excluded from the settlement in the Rimler v. Postmates class action; (2) your name (and former names, if any), address, and telephone number; and (3) your signature (or the signature of your legally-authorized representative, who is not your lawyer). If you are submitting a request for exclusion by email, your request must be made from your email address, and your typed name at the end of the email shall constitute your “signature”. Your request for exclusion must be postmarked or emailed no later than [REDACTED], [REDACTED]. Written requests for exclusion that are postmarked or emailed after this date, or that are unsigned by an individual class member, will be rejected, and those class members will remain bound by the settlement and the releases described above.

8. How do I tell the Court that I don't like the settlement?

Any settlement class member who has not opted out and believes that the settlement should not be finally approved by the court for any reason may object to the proposed settlement by submitting a written request to the Claims Administrator via postal mail or in an email.

The address to send objections to the Claims Administrator is:

[Mailing address for objections.]

[Email address for objections.]

A settlement class member may object to any aspect of the proposed settlement, including to the attorneys' fees and service awards. All objections must be in writing and contain at least the following: (1) the case name and number, which is *Rimler v. Postmates, Inc.*, in the Superior Court of the State of California, in and for the County of San Francisco, Case No. CGC-18-567868; (2) your name, current address, and telephone number (3) a description of why you believe the settlement is unfair; (4) a statement whether you intend to appear at the final approval hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. You can submit an objection even if you also submitted a Claim Form.

The objections must be sent to the Claims Administrator on or before [REDACTED], 2021.

To object to the settlement, you must not opt out of the settlement (except you can still object to the PAGA component of the settlement if you opt out), and if the court approves the settlement, you will be bound by the terms of the settlement in the same way as settlement class members who do not object. Any class member who does not object as required by this notice shall have waived any objection to the settlement, whether by appeal or otherwise.

9. When and where will the Court decide whether to approve the settlement?

The court will hold a final approval hearing at [redacted] on [redacted], 2021, at the San Francisco County Superior Court in Department [redacted], located at 400 McAllister Street, San Francisco, California 94102. At this hearing the court will consider whether the settlement is fair, reasonable, and adequate. The court will also consider Class Counsel's application for attorneys' fees and Plaintiffs' service awards. The purpose of this hearing is for the court to determine whether to grant final approval to the settlement. If the settlement is not approved, or if there are objections to the settlement and the settlement is appealed, the litigation may continue and take some time (possibly years) to resolve. If there are objections, the court will consider them. This hearing may be rescheduled by the court without further notice to you, so you should check the settlement administration website at [www.\[website\].com](http://www.[website].com) to determine whether the hearing has been rescheduled. You are not required to attend the final approval hearing, although any settlement class member is welcome to attend the hearing at their own expense.

10. How do I get more information about the settlement?

You may call the Claims Administrator at _____ or write to [Claims Administrator Mailing Address and Email Address]. You can also contact *Rimler* class counsel at [insert number] or check the settlement administration website at [www.\[website\].com](http://www.[website].com). You can view the full docket of the case for free on the Court's website at <https://sfsuperiorcourt.org/online-services>. From there, select "Case Query" and search for Case Number CGC-18-567868. You will see the "Register of Actions" page, where you can view all the motions and court orders that have been filed in this case. This notice summarizes the proposed settlement. More details are in the settlement agreement. You may receive a copy of the settlement agreement document, or get more details about the lawsuit, by writing to Lichten & Liss-Riordan, P.C., 729 Boylston Street, Suite 2000, Boston MA 02116.

The address for Class counsel is as follows:

Shannon Liss-Riordan
Anne Kramer
Lichten & Liss-Riordan, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116
www.llrlaw.com
Tel: 617-994-5800
Fax: 617-994-5801
Email: claims@llrlaw.com

You can also visit the settlement administration website at [www.\[website\].com](http://www.[website].com) to view the following documents:

- The First Amended Complaint;
- The Proposed Second Amended Complaint;
- The Settlement Agreement;
- Plaintiffs' Motion for Preliminary Approval and supporting Declarations;

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

EXHIBIT D

Please read notice below and [CLICK HERE](#) if you want to claim your share of the settlement.

Style Definition: Normal

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND HEARING DATE FOR COURT APPROVAL**

**(*Rimler, et al. v. Postmates, Inc.*, San Francisco Superior Court
Case No. CGC-18-567868)**

A proposed class action settlement has been reached in a lawsuit involving certain current and former couriers who have used the Postmates mobile application in California alleging that couriers should be classified as employees, and that Postmates has violated provisions of California labor law by classifying drivers as independent contractors. Postmates denies these allegations. Under the settlement, if it is approved by the Court, Postmates will pay ~~\$11,968,594~~[\\$32,000,000.00](#) to settle the lawsuit and obtain a release of the claims discussed below in Section 4. The named plaintiffs and their lawyers have requested attorneys' fees/expenses, settlement administration fees, and service awards to the named plaintiffs. If the Court approves the fees, expenses, and service awards requested by the named plaintiffs and their lawyers, and after the deduction of an award to the California Labor and Workforce Development Agency, approximately ~~\$7,250~~[\\$17,795,000](#) will be distributed to Settlement Class Members. The Court in charge of the lawsuit still has to decide whether to approve the settlement. If it does, then individuals who used the Postmates mobile application as couriers between June 3, 2017, and ~~October 17, 2019~~[January 1, 2021](#), will be eligible for payment as part of the settlement. Postmates' records show you are or were a courier at some point between June 3, 2017, and ~~October 17, 2019~~[January 1, 2021](#), and may be entitled to **receive a payment** [\[LINK TO CLAIM PORTAL\]](#) from the settlement.

YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE READ THIS NOTICE CAREFULLY. YOU ARE NOT BEING SUED. THIS IS NOT A SOLICITATION FROM A LAWYER.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
OPTION 1: PARTICIPATE IN THE SETTLEMENT	
Submit a Claim and Receive a Payment	<p>If you are a member of the Settlement Class, you must submit a claim [LINK TO CLAIM PORTAL] to receive a payment. Instructions on submitting a claim are set forth in section 6 below [LINK TO SECTION 6].</p> <p>After the Court approves the settlement, the payment will be mailed to you at the address you include in your claim form. If your address changes, please notify the Claims Administrator as explained below.</p> <p>You cannot make a claim if you exclude yourself from the Settlement Class. As detailed below in Section 4, being a member of the Settlement Class means that you may make a claim to receive a payment. It also means that you will release specified claims or causes of action that you may have against Postmates. This means that you will give up your right to be part of another lawsuit or other legal proceeding, including individual arbitration, against Postmates relating to the claims being resolved in this settlement.</p> <p>Additionally, by submitting a claim, you will also release Fair Labor Standards Act (“FLSA”) claims that you may have against Postmates. See the explanation below in Section 4.</p>
Object to the Settlement	<p>If you want to object to the settlement, you must mail or email the Claims Administrator a statement explaining why you do not like the settlement. You cannot object to ask the Court for a higher payment for yourself personally, although you can object to the payment terms (or any other terms) that apply generally to the settlement class.</p> <p>Directions are provided below in Section 8.</p>
Dispute the Information in Postmates’ Records	<p>As explained below in Section 3, your share of the settlement has been calculated based on information in Postmates’ records about the estimated miles you have driven using the Postmates app between June 3, 2017 and October 17, 2019 <u>January 1, 2021</u>. If you do not believe that the information in Section 3 is correct, you may dispute it.</p> <p>Directions are provided below in Section 3.</p>
Do Nothing	<p>If you do nothing, you will remain a member of the Settlement Class, but you will not receive a payment.</p> <p>As detailed below in Section 4, being a member of the Settlement Class means that you will release specified claims that you may have against Postmates.</p>
OPTION 2: EXCLUDE YOURSELF FROM THE SETTLEMENT	
Exclude Yourself From the Settlement	<p>If you do not want to receive payment from the settlement, and do not want to be a member of the Settlement Class, you must exclude yourself by sending a letter or email to the Claims Administrator no later than [DATE].</p> <p>If you request exclusion from the Settlement Class, you will receive no money from the settlement (even if you submit a</p>

claim), but you will retain your right to sue Postmates for the claims asserted in this lawsuit in a different lawsuit or in individual arbitration. See Section 4 below for more information. Instructions to exclude yourself are set forth below.

1. Why did I get this Notice?

The plaintiffs and the defendant in the *Rimler, et al. v. Postmates, Inc., San Francisco Superior Court Case No. CGC-18-567868* case have reached a settlement.

You received this Notice because you have been identified as a Settlement Class member.

The Settlement Class is defined as the following:

Any and all individuals who entered into an agreement with Postmates to use the Postmates platform as an independent contractor to offer delivery services to customers, and used the Postmates platform as an independent contractor courier to accept or complete at least one delivery in California between June 3, 2017, and ~~October 17, 2019~~[January 1, 2021](#).

This Notice explains the lawsuit, the settlement of that lawsuit, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the settlement.

2. What is the class action lawsuit about?

On July 5, 2018, Plaintiff Jacob Rimler filed a complaint in the San Francisco County Superior Court, bringing claims on behalf of individuals who used the Postmates app as couriers and the state of California. Giovanni Jones, Dora Lee, Kellyn Timmerman, Joshua Albert, Melanie Anne Winns, Ralph John Hickey, Jr., Steven Alvarado, Kristie Logan, and Shericka Vincent were later added as named plaintiffs, and the case was amended to add class action claims on behalf of couriers who are part of the Settlement Class. This case is entitled *Rimler, et al. v. Postmates Inc.*, Case Number CGC-18-567868. Ms. Lee and Ms. Timmerman had previously filed a putative class action bringing similar claims against Postmates, *Lee et al. v. Postmates*, N.D. Cal. Case No. 18-cv-3421. Mr. Albert had also filed a case bringing similar claims against Postmates, *Albert v. Postmates*, N.D. Cal. Case No. 18-cv-7592. Melanie Anne Winns, Ralph John Hickey, Jr., Steven Alvarado, and Kristie Logan had also filed a case bringing similar claims against Postmates, *Winns v. Postmates Inc.*, Case No. CGC-17-562282 in the Superior Court of California, San Francisco County. Shericka Vincent had also previously filed a representative action bringing similar claims against Postmates, *Vincent v. Postmates Inc.*, Case No. RG19018205, in the Superior Court of California, Alameda County. -These other cases are all currently on hold in light of this settlement, and they will be dismissed if the settlement is approved. [On June 17, 2020, the Court issued an order coordinating the Rimler, Winns, and Vincent Actions with three other similar matters pending against Postmates: *Santana v. Postmates, Inc.*, Case No. BC720151 \(Los Angeles Super. Ct.\); *Brown v. Postmates, Inc.*, Case No. BC712974 \(Los Angeles Super. Ct.\); and *Altounian v. Postmates, Inc.*, Case No. CGC-20-584366 \(San Francisco Super. Ct.\)](#).

These lawsuits claim that Postmates violated California law, including by misclassifying couriers as independent contractors, failing to reimburse couriers' allegedly necessary business expenses, and failing to pay minimum wages and overtime.

Postmates denies that it violated the law in any way, denies couriers were, or are, employees, and further denies that the lawsuit is appropriate for class treatment for any purpose other than this settlement. Nothing in this Notice, the settlement, or any actions to carry out the terms of the settlement means that Postmates admits any fault, guilt, negligence, wrongdoing, or liability whatsoever.

The Court did not decide in favor of the Plaintiffs or the Defendant in the lawsuit. Instead, the parties in the lawsuit agreed to a settlement that they believe is a fair, reasonable, and adequate compromise. The parties reached this agreement after lengthy negotiations and independent consideration of the risks of litigation and benefits of settlement through a formal conference with an experienced mediator. The Plaintiffs and their lawyers have considered the substantial benefits from the Settlement that will be given to the Settlement Class Members and balanced those benefits with the risk that a trial could end in a verdict in Postmates' favor. They also considered the value of the immediate benefit to Settlement Class Members versus the cost and delay of litigation through trial and appeals. Counsel for the Plaintiffs believe that the amount Postmates has agreed to pay is fair, adequate, and reasonable in light of the risks and time required to continue litigating this case.

The Court overseeing the case has reviewed the settlement. The Court preliminarily approved the named plaintiffs to serve as representatives for the Settlement Class defined in section 1, above. The Court also preliminarily approved the law firm Lichten & Liss-Riordan, P.C. to serve as class counsel.

3. What are the terms of the settlement?

The full settlement agreement is available at [http://www.\[website\].com](http://www.[website].com). Subject to the Court's approval, a summary of the terms of the settlement include:

Settlement Amount If the settlement is approved by the Court, Postmates will pay ~~\$11,500~~\$7,250~~32,000~~17,795,000 to the Settlement Class to settle the lawsuit and obtain a release of the claims discussed below in Section 4.

The settlement amount includes:

- Payments to settlement class members totaling approximately ~~\$7,250~~\$7,250~~17,795,000~~17,795,000 (including a \$250,000 Dispute Resolution Fund).
- Attorneys' fees and costs not to exceed ~~\$3,833,333~~\$3,833,338,960,000 for class counsel
- Administration expenses ~~estimated~~estimated at ~~\$450~~\$450~~945,000~~945,000
- ~~\$500~~\$500~~4,000,000~~4,000,000 for PAGA penalties, of which 75% (~~\$375~~\$375~~3,000,000~~3,000,000) will be paid to the State of California and 25% (~~\$125~~\$125~~1,000,000~~1,000,000) will be paid to the settlement class members
- Awards not to exceed \$5,000 each to plaintiffs Rimler, Jones, Timmerman, Lee, Albert, Winns, Hickey, Jr., Alvarado, Logan, and Vincent.

Calculation of Settlement Class Member Awards To calculate each settlement class member's share of the settlement, the claims administrator will review Postmates' records from June 3, 2017, through ~~October 17, 2019~~January 1, 2021. Settlement class members will be awarded points proportional to the estimated number of miles driven while using the Postmates application as a courier. Settlement class members will receive one (1) point for every estimated mile driven, which will be doubled to two (2) points for every estimated mile for settlement class members who have opted out of arbitration, initiated arbitration, or demonstrated in writing an interest in initiating an arbitration demand against Postmates by ~~October 17, 2019~~January 1, 2021. Your points will be doubled if you (a) provided Postmates with a valid request to opt out of its arbitration provision; (b) filed a demand for arbitration with the American Arbitration Association against Postmates challenging your classification (whether represented by counsel or acting on your own); or (c) retained an attorney to represent you in filing a demand for arbitration against Postmates challenging your classification, even if the demand has not been filed.

According to Postmates' records, you have driven an estimated [redacted] miles and you [are/are not] receiving double points. Therefore, your points total is: [number of points]

These points do not have a value fixed at a particular dollar amount; that amount will vary depending upon many factors, including how many settlement class members submit a claim and are receiving payments under this Agreement and the amount ultimately awarded in attorneys' fees and incentive payments to the named plaintiffs. Assuming a 50% claim rate for the settlement, your estimated settlement payment would be approximately \$ [redacted].

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The determination of each class member's estimated miles driven shall be based on the relevant records that Postmates is able to identify. If you do not agree with your estimated miles or with Postmates' records regarding whether your points should be doubled, you can inform the Settlement Administrator by mail or email. To contest your number of miles, you must provide documentation showing that you drove more miles between pick-up and delivery than estimated in this Notice. To contest whether you should receive double points, you must show that you submitted a valid request to opt out of arbitration, that you retained a lawyer to initiate an arbitration demand against Postmates before ~~October 17, 2019~~January 1, 2021, or that you yourself initiated an arbitration demand against Postmates before ~~October 17, 2019~~January 1, 2021.

The Net Settlement Amount will be distributed to settlement class members who make a claim in proportion to their number of points (but no class member who submits a claim will receive less than \$10). The Net Settlement Amount will be calculated by subtracting from the Settlement Amount the amounts approved by the Court for attorney's fees for class counsel, class counsel's litigation costs, settlement administration expenses, the incentive awards to the named plaintiffs, and the PAGA-related amount to be paid to State of California.

Settlement Class Members who do not exclude themselves from the Settlement as provided for below will be entitled to receive a payment pursuant to the Settlement **either by a) submitting a timely claim and not opting out of the class or b) objecting to the settlement.**

If you do not submit a timely claim for payment, you will not receive a payment, but you

will remain part of the Settlement Class, and you will release all claims you may have related to the allegations in the case, as described in Section 4 below.

If you exclude yourself from the settlement, you will not receive a payment, but you will retain the ability to sue Postmates for the claims asserted in this lawsuit in a different lawsuit or in individual arbitration. See Section 4 below for more information.

Tax Matters Nothing in this settlement or this Notice is intended to constitute tax advice. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the settlement.

Conditions of Settlement The payment of settlement class member awards is conditioned upon the Court entering an order at or following a final approval hearing on the settlement, and the settlement becoming final.

4. What do I release by participating in this settlement?

If the Court grants final approval of the Settlement, the Court will enter judgment, and the Settlement will bind all Class Members who have not opted out, and the judgment will bar all Class Members from bringing any claims released in the Settlement. The release is described below:

Any and all present and past claims, actions, demands, causes of action, suits, debts, guarantees, obligations, damages, penalties, rights or liabilities, of any nature and description whatsoever, known or unknown, existing or potential, recognized now or hereafter, contingent or accrued, expected or unexpected, pursuant to any theory of recovery (including but not limited to those based in contract or tort, common law or equity, federal, state, or local law, statute, ordinance, or regulation, and for claims for compensatory, consequential, punitive or exemplary damages, statutory damages, penalties, interest, attorneys' fees, costs, or disbursements) that are based on or reasonably related to the claims alleged in or that could have been alleged in the *Rimler* Second Amended Complaint, and all misclassification claims, and specifically including: claims pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.* (only for those Settlement Class Members who submit a valid and timely Claim Form); California Labor Code sections 132a, 201-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6, 221-224, 225.5, 226, 226.3, 226.7, 226.8, 227, 227.3, 245-249, 351, 353, 432.5, 450, 510, 512, 551-552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2753, 2802, 2804; the Private Attorneys General Act ("PAGA"), California Labor Code section 2698 *et seq.*; California Code of Civil Procedure section 1021.5; California Code of Regulations, title 8, sections 11010 and 11040; Industrial Welfare Commission Wage Orders; California Business and Professions Code sections 17200 *et seq.*; and any other similar state, federal, local, or common law, statute, regulation, or ordinance for unpaid wages, minimum wages, regular wages, tips, overtime wages (including but not limited to calculation of the correct overtime or regular rate), working more than six days in seven, expense reimbursement, wage statements, payroll recordkeeping, reporting time, improper deduction of wages, failure to provide workers' compensation insurance, meal periods, rest breaks, sick leave, final pay, penalties for

timely payment of wages upon discharge, waiting time penalties, PAGA penalties, unfair business practices, all claims arising out of or relating to the statutory causes of action described herein, restitution, interest, costs and expenses, attorneys' fees, declaratory relief, injunctive relief, liquidated damages, exemplary or punitive damages, civil penalties, equitable remedies, and/or pre- or post-judgment interest at any time between June 3, 2017 and ~~October 17, 2019~~ January 1, 2021.

The Settlement Class Members' Released Claims as defined above include a release of claims for any type of relief that can be released as a matter of law, including without limitation any claims for compensatory, consequential, punitive or exemplary damages, statutory damages, liquidated damages, punitive damages, restitution, disgorgement, injunctive relief, declaratory relief, equitable relief, an accounting, penalties (including waiting time penalties pursuant to Labor Code section 203, wage statement penalties pursuant to Labor Code section 226, and civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code sections 558 and 2698, et seq.) ("PAGA"), interest, attorneys' fees, costs or disbursements.

The Settlement Class Members' Released Claims also include, but are not limited to, any and all claims for attorneys' fees, costs or disbursements incurred by class counsel or any other counsel representing the Named Plaintiffs or Settlement Class Members, or by the Named Plaintiffs or Settlement Class Members or any of them, in connection with or related in any manner to the Litigation, the Settlement of the Action, the administration of such Settlement and/or the Released Claims, except to the extent otherwise specified in this Agreement.

All Class Members who do not timely and formally opt out of the settlement by requesting exclusion as described below shall be bound by this release, except that all Class Members (even those who do opt out) shall be bound by this release for PAGA claims. Any Settlement Class Member who submits a timely and valid Claim Form, or does not submit a timely and valid opt-out request, agrees to waive the Class Action Waiver in any existing arbitration agreement between the Settlement Class Member and Postmates with respect to the Released Claims.

For Fair Labor Standards Act ("FLSA") claims, only Settlement Class Members who submit a claim shall be bound by the release of the FLSA claims. The Named Plaintiffs have agreed in advance to release their FLSA claims, in addition to other claims. With respect to all Settlement Class Members (other than Named Plaintiffs), Settlement Class Members do not release other claims that are not within the definition of Settlement Class Members' Released Claims, including claims for retaliation, wrongful termination, unemployment, disability, worker's compensation, claims outside of the Settlement Class Period, and claims that cannot be released as a matter of law.

If you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit or legal proceeding in any forum (including arbitration) against Postmates and the Releasees about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this litigation will apply to you and legally bind you.

If you wish to obtain additional information about this settlement or your rights to object to, or exclude yourself from, this lawsuit, you may also contact the class counsel at [www.\[website\].com](http://www.[website].com) or any other lawyer.

5. How much will my payment be?

The exact amount that each Settlement Class Member will receive cannot be calculated until (1) the Court approves the Settlement; (2) amounts are deducted from the Net Settlement Fund for the costs of providing notice to the Settlement Class, administering the settlement, paying lawyers' fees and expenses, and making service payments approved by the Court; and (3) the Settlement Administrator determines the number of Settlement Class members who excluded themselves, submitted valid claims, and after payments are made, successfully received their payment. An estimate for your individual payment is listed in Section 3 above.

Approximately 30 days after the settlement becomes final, initial settlement shares will be distributed.

6. How can I get a payment?

To receive a payment under this settlement, **you must submit a claim by [REDACTED]**.

Your Claimant ID is [#####] and your Control Number is [#####].

Claims can be submitted online by navigating to the web page at [link to claim form] and following the instructions, or by filling out the enclosed claim form and submitting it to the Claims Administrator, at the following address, by mail or e-mail:

[Claims Administrator's Claim Form Mailing Address]

[Claims Administrator's Claim Form Email Address]

If you do not submit a claim by [REDACTED], you will not receive payment under the settlement.

IMPORTANT:

You must notify the Claims Administrator of any change of address to ensure receipt of your settlement payment. You can notify the Claims Administrator of an address change by sending a letter or email to the above mailing and email addresses with your new address.

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. The claims administrator shall direct any unclaimed funds to Legal Aid at Work. If your check is lost or misplaced, you should contact the claims administrator immediately to request a replacement.

If you opt out of the settlement and also submit a claim for payment, you will not receive payment under the settlement, and will be treated as an opt-out as described in section 7 below.

The Court will hold a hearing on [REDACTED], [20202021](#), to decide whether to approve the

Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within approximately 30 days after the Court approves the Settlement. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

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7. What if I don't want to be a part of this settlement?

If you do not wish to participate in this settlement, you must exclude yourself from the settlement or "opt out." If you opt out, you will receive no money from the settlement, and you will not be bound by its terms (except that you will still be releasing your claims under the Private Attorneys General Act). To opt out, you must submit a written request to the Claims Administrator via postal mail or in an email.

The address to send opt-out requests to the Claims Administrator is:

[Mailing address for opt-out requests.]

[Email address for opt-out requests.]

Your request for exclusion must contain: (1) a clear statement that you wish to be excluded from the settlement in the Rimler v. Postmates class action; (2) your name (and former names, if any), address, and telephone number; and (3) your signature (or the signature of your legally-authorized representative, ~~who is not your lawyer~~). If you are submitting a request for exclusion by email, your request must be made from your email address used to sign up on the Postmates platform, and your typed name at the end of the email shall constitute your "signature". Your request for exclusion must be postmarked or emailed no later than [REDACTED], [REDACTED]. Written requests for exclusion that are postmarked or emailed after this date, or that are unsigned by an individual class member, will be rejected, and those class members will remain bound by the settlement and the releases described above.

8. How do I tell the Court that I don't like the settlement?

Any settlement class member who has not opted out and believes that the settlement should not be finally approved by the court for any reason may object to the proposed settlement by submitting a written request to the Claims Administrator via postal mail or in an email.

The address to send objections to the Claims Administrator is:

[Mailing address for objections.]

[Email address for objections.]

A settlement class member may object to any aspect of the proposed settlement, including to the attorneys' fees and service awards. All objections must be in writing and contain at least the following: (1) the case name and number, which is *Rimler v. Postmates, Inc.*, in the Superior Court of the State of California, in and for the County of San Francisco, Case No. CGC-18-567868; (2) your name, current address, and telephone number (3) a description of why you

believe the settlement is unfair; (4) a statement whether you intend to appear at the final approval hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. You can submit an objection even if you also submitted a Claim Form.

The objections must be sent to the Claims Administrator on or before [REDACTED], [20202021](#).

To object to the settlement, you must not opt out of the settlement (except you can still object to the PAGA component of the settlement if you opt out), and if the court approves the settlement, you will be bound by the terms of the settlement in the same way as settlement class members who do not object. Any class member who does not object as required by this notice shall have waived any objection to the settlement, whether by appeal or otherwise.

9. When and where will the Court decide whether to approve the settlement?

The court will hold a final approval hearing at [REDACTED] on [REDACTED], [20202021](#), at the San Francisco County Superior Court in Department [304](#), [REDACTED], located at 400 McAllister Street, San Francisco, California 94102. At this hearing the court will consider whether the settlement is fair, reasonable, and adequate. The court will also consider Class Counsel's application for attorneys' fees and Plaintiffs' service awards. The purpose of this hearing is for the court to determine whether to grant final approval to the settlement. If the settlement is not approved, or if there are objections to the settlement and the settlement is appealed, the litigation may continue and take some time (possibly years) to resolve. If there are objections, the court will consider them. This hearing may be rescheduled by the court without further notice to you, so you should check the settlement administration website at [www.\[website\].com](#) to determine whether the hearing has been rescheduled. You are not required to attend the final approval hearing, although any settlement class member is welcome to attend the hearing at their own expense.

10. How do I get more information about the settlement?

You may call the Claims Administrator at _____ or write to [Claims Administrator Mailing Address and Email Address]. You can also contact *Rimler* class counsel at [insert number] or check the settlement administration website at [www.\[website\].com](#).

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You can view the full docket of the case for free on the Court's website at <https://sfsuperiorcourt.org/online-services>. From there, select "Case Query" and search for Case Number CGC-18-567868. You will see the "Register of Actions" page, where you can view all the motions and court orders that have been filed in this case. This notice summarizes the proposed settlement. More details are in the settlement agreement. You may receive a copy of the settlement agreement document, or get more details about the lawsuit, by writing to Lichten & Liss-Riordan, P.C., 729 Boylston Street, Suite 2000, Boston MA 02116.

The address for Class counsel is as follows:

Shannon Liss-Riordan
Anne Kramer

Lichten & Liss-Riordan, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116
www.llrlaw.com
Tel: 617-994-5800
Fax: 617-994-5801
Email: claims@llrlaw.com

You can also visit the settlement administration website at [www.\[website\].com](http://www.[website].com) to view the following documents:

- The First Amended Complaint;
- The Proposed Second Amended Complaint;
- The Settlement Agreement;
- Plaintiffs' Motion for Preliminary Approval and supporting Declarations;
- ~~Plaintiffs' Reply Brief in Support of Preliminary Approval and supporting Declarations;~~
- ~~Defendant Postmates' Statement in Support of Preliminary Approval;~~
- ~~Plaintiffs' Supplemental Brief in Support of Preliminary Approval and Declarations;~~
- ~~Plaintiffs' Supplemental Reply Brief in Support of Preliminary Approval and Declarations;~~
- ~~The Court's Order Preliminarily Approving the Settlement~~
- ~~The Court's First Order on Plaintiffs' Motion for Preliminary Approval dated November 26, 2019;~~
- ~~The Court's Tentative Ruling re Continued Motion for Preliminary Approval dated April 24, 2020;~~
- ~~The Court's Order After Hearing re Plaintiffs' Continued Motion for Preliminary Approval.~~

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

Claimant ID: [#####]
Control Number: [#####]

CLAIM FORM

Rimler et al. v. Postmates Inc.,
San Francisco Superior Court Case No. CGC-18-567868

To claim your share of the settlement proceeds from the *Rimler v. Postmates, Inc.* class action settlement, you must complete and return this form no later than

_____.

Claims Administrator
ADDRESS
CITY, STATE, ZIP
Tel: (617) XXX-XXXX
email@email.com

Name: _____

Address: _____

Home Phone: _____ Cell Phone: _____

Email address (optional): _____

TO RECEIVE YOUR SETTLEMENT PAYMENT, YOU MUST SIGN AND DATE BELOW.

BY SIGNING BELOW, you are agreeing to the terms of the settlement, consenting to join the Settlement Class in *Rimler v. Postmates, Inc.*, and agreeing to release all federal Fair Labor Standards Act (“FLSA”) wage and hour claims against Postmates that are covered by the Settlement, in addition to the other claims against Postmates that you are releasing as a Settlement Class Member.

(Signature)

(Date)

EXHIBIT E

1 SHANNON LISS-RIORDAN (SBN 310719)
(sliss@llrlaw.com)
2 ANNE KRAMER (SBN 315131)
(akramer@llrlaw.com)
3 LICHTEN & LISS-RIORDAN, P.C.
4 729 Boylston Street, Suite 2000
Boston, MA 02116
5 Telephone: (617) 994-5800
6 Facsimile: (617) 994-5801

MOSTAFAVI LAW GROUP, APC
AMIR MOSTAFAVI, SBN 282372
amir@mostafavilaw.com
528 Palisades Dr., Suite 220
Pacific Palisades, CA 90272
Telephone: 310.473.1111
Facsimile: 310.473.2222

7 THE BAINER LAW FIRM
MATTHEW R. BAINER, SBN 220972
8 1901 Harrison Street, Suite 1100
Oakland, CA 94612
9 Telephone: 510.922.1802
10 Facsimile: 510.844.7701

11 *Attorneys for Plaintiffs*

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SAN FRANCISCO**
15

16
17 JACOB RIMLER, GIOVANNI JONES,
DORA LEE, KELLYN TIMMERMAN,
18 JOSHUA ALBERT, MELANIE ANN
WINNS, RALPH JOHN HICKEY JR.,
19 STEVEN ALVARADO, KRISTIE LOGAN,
and SHERICKA VINCENT, on behalf of
20 themselves and others similarly situated and in
their capacities as Private Attorney General
21 Representatives,

22 Plaintiffs,

23 v.

24 POSTMATES INC.,

25 Defendant.
26
27
28

Case No. CGC-18-567868

**SECOND AMENDED CLASS ACTION
AND PAGA COMPLAINT**

1. Unlawful/Unfair Business Practices, (Cal. Bus. & Prof. Code § 17200)
2. Failure to Reimburse for Business Expenses (Cal. Lab. Code § 2802)
3. Unpaid Wages (Cal. Lab. Code §§ 201-204)
4. Minimum Wage (Cal. Lab. Code §§ 1194, 1197)
5. Overtime (Cal. Lab. Code §§ 510, 1194)
6. Meal & Rest Breaks (Cal. Lab. Code § 226.7)
7. Wage Statements (Cal. Lab. Code § 226)

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- 8. Failure to Provide Sick Leave (Cal. Lab. Code §§245-249)
- 9. Failure to Pay Reporting Time (Wage Order 9)
- 10. Failure to Post Pay Days (Cal. Lab. Code §207)
- 11. Untrue/Misleading Advertising (Cal. Bus. & Prof. Code §17500)
- 12. FLSA Minimum Wage (29 U.S.C. § 201 et seq.)
- 13. FLSA Overtime (29 U.S.C. § 201 et seq.)
- 14. Private Attorneys General Act, Cal. Lab. Code §§ 2698, *et seq.*)

1 **I. INTRODUCTION**

2 1. This case is brought on behalf of the state of California and other similarly
3 situated aggrieved individuals who have worked for Postmates Inc. (“Postmates”) as couriers in
4 California. Postmates provides on-demand delivery to customers at their homes and businesses
5 through its mobile phone application and website. Postmates is based in San Francisco,
6 California, but it does business across the United States and extensively throughout California.
7

8 2. As described further below, Plaintiffs Jacob Rimler, Giovanni Jones, Dora Lee,
9 Kellyn Timmerman, Joshua Albert, Melanie Ann Winns, Ralph John Hickey Jr., Steven
10 Alvarado, Kristie Logan, and Shericka Vincent bring this action on their own behalf, and on
11 behalf of other similarly situated Postmates couriers, for violation of the California Unfair
12 Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“UCL”) and § 17500, based upon
13 Postmates’ willful misclassification of its couriers, in violation of Cal. Labor Code § 226.8.
14 Because of couriers’ misclassification as independent contractors, Postmates has deprived
15 couriers many protections and benefits of employment under state and local law, including by
16 unlawfully required couriers to pay business expenses (including expenses to own or lease a
17 vehicle and maintain and fuel it, as well as phone/data expenses) in violation of Cal. Lab. Code §
18 2802. Postmates has also failed to pay required minimum wage for all hours worked in violation
19 of Cal. Lab. Code §§ 1194, 1197, and has failed to pay appropriate overtime premiums for hours
20 worked in excess of eight per day or forty per week in violation of Cal. Lab. Code §§ 1194, 1198,
21 510 and 554. Additionally, Postmates has breached its contractual obligation to compensate
22 couriers for the time they spend waiting for delivery goods to be ready, which also constitutes a
23 failure to pay earned wages in violation of Cal. Lab. Code § 204. Plaintiffs bring their claims
24 pursuant to the Private Attorneys General Act (“PAGA”), Cal. Lab. Code § 2699, *et seq.*, on
25 behalf of the state of California and all other similarly situated aggrieved employees who have
26 been misclassified by Postmates in California since June 3, 2017.
27

28 **II. PARTIES**

1 3. Plaintiff Jacob Rimler is an adult resident of Pasadena, California, where he has
2 worked as a courier for Postmates.

3 4. Plaintiff Giovanni Jones is an adult resident of San Francisco, California, where
4 he has worked as a courier for Postmates.

5 5. Plaintiff Dora Lee is an adult resident of Huntington Beach, California, where she
6 has worked as a courier for Postmates.

7 6. Plaintiff Kellyn Timmerman is an adult resident of San Diego, California, where
8 she has worked as a courier for Postmates.

9 7. Plaintiff Joshua Albert is an adult resident of Sacramento, California, where he
10 has worked as a courier for Postmates.

11 8. Melanie Ann Winns has worked as a courier for Postmates in California.

12 9. Ralph John Hickey Jr. has worked as a courier for Postmates in California.

13 10. Steven Alvarado has worked as a courier for Postmates in California.

14 11. Kristie Logan has worked as a courier for Postmates in California.

15 12. Shericka Vincent has worked as courier for Postmates in California.

16 13. Defendant Postmates, Inc. (“Postmates”) is a Delaware corporation,
17 headquartered in San Francisco, California.

18
19 **III. JURISDICTION**

20 14. This Court has jurisdiction over Plaintiffs’ PAGA claim pursuant to California
21 Code of Civil Procedure § 410.10.

22 15. The monetary relief which Plaintiffs seek is in excess of the jurisdictional
23 minimum required by this Court and will be established according to proof at trial.

24 16. Venue is proper in this Court pursuant to Code of Civ. P. §§ 395 and 395.5
25 because Postmates has its principal place of business in San Francisco County. Furthermore,
26 Defendant engages in business activities in and throughout the State of California, including San
27 Francisco County.

28 **IV. STATEMENT OF FACTS**

1 17. Postmates is a San Francisco-based delivery service, which engages couriers
2 across the state of California to deliver food and other merchandise to its customers at their
3 homes and businesses.

4 18. Postmates offers customers the ability to order food and other items via a mobile
5 phone application or via its website, which Postmates couriers then deliver to customers.
6

7 19. Postmates holds itself out to the public as a delivery service. Its website
8 homepage advertises that it offers customers “Anything, anywhere, anytime.” Postmates’
9 website also promotes its “Postmates Unlimited” service where customers can subscribe and
10 receive unlimited free deliveries, touting “Pay once, free delivery all year.” Its website also
11 boasts that “Postmates is transforming the way goods move around cities by enabling anyone to
12 have anything delivered on-demand.”

13 20. Plaintiffs Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman, Joshua
14 Albert, Melanie Ann Winns, Ralph John Hickey Jr., Steven Alvarado, Kristie Logan, and
15 Shericka Vincent have driven for Postmates at various times, including over the last year, and
16 some continue to drive for Postmates.

17 21. Postmates classifies its couriers like Plaintiffs as “independent contractors,” but
18 under California law, they should be classified as employees.

19 22. Postmates couriers perform services within Postmates’s usual course of business
20 as a delivery service. The couriers’ services are fully integrated into Postmates’ business.
21 Without couriers to perform deliveries, Postmates would not exist.

22 23. Postmates couriers are not typically engaged in their own delivery business. When
23 delivering items for Postmates customers, they wear the “hat” of Postmates.

24 24. In addition, Postmates maintains the right of control over the couriers’
25 performance of their jobs and exercises detailed control over them.

26 25. Postmates unilaterally sets the pay scheme and rate of pay for couriers’ services
27 and changes the rate of pay in its sole discretion.
28

1 26. Postmates communicates directly with customers and follows up with couriers if
2 the customer complains that something was not delivered or that the delivery otherwise failed to
3 meet their expectations. Based on any customer feedback, Postmates may suspend or terminate
4 couriers.

5 27. Postmates does not reimburse couriers for any expenses they may incur while
6 working for Postmates, including, but not limited to the cost of maintaining their vehicles, gas,
7 insurance, and phone and data expenses for running the Postmates Application. Couriers incurred
8 these costs as a necessary expenditure to obtain employment with Postmates, which California
9 law requires employers to reimburse.

10 28. Postmates pays couriers a fee per delivery plus a certain amount of “boost pay.”
11 Postmates has failed to ensure that its couriers receive the applicable state minimum wage for all
12 hours worked, and couriers frequently do not average minimum wage for all hours worked,
13 particularly given that customers’ tips cannot count toward Postmates’ minimum wage
14 obligations.

15 29. On April 30, 2018, the California Supreme Court issued its decision in Dynamex
16 Operations W., Inc. v. Superior Court (2018) 4 Cal. 5th 903, 416 P.3d 1, which makes clear that
17 Postmates couriers should be classified as employees rather than as independent contractors
18 under California law for purposes of wage-and-hour statutes like the ones at issue here. Under
19 the “ABC” test adopted in Dynamex, in order to justify classifying the couriers as independent
20 contractors, Postmates would have to prove that its couriers perform services outside its usual
21 course of business, which it cannot do. Notwithstanding this decision, Postmates has willfully
22 continued to misclassify its couriers as independent contractors.

23
24 **V. CLASS ALLEGATIONS**

25 30. Plaintiffs bring this case as a class action pursuant to California Code of Civil
26 Procedure § 382 on behalf of all individuals who used the Postmates platform as couriers in
27 California since June 3, 2017.
28

1 31. Plaintiffs and other class members have uniformly been deprived reimbursement
2 of their necessary business expenditures

3 32. The members of the class are so numerous that joinder of all class members is
4 impracticable.

5 33. Common questions of law and fact regarding Postmates' conduct in classifying
6 couriers as independent contractors, failing to reimburse them for business expenditures, and
7 failing to ensure they are paid at least minimum wage and overtime for all weeks, exist as to all
8 members of the class and predominate over any questions affecting solely any individual
9 members of the class. Among the questions of law and fact common to the class are:
10

- 11 a. Whether the work performed by class members—providing delivery services to
12 customers—is within Postmates's usual course of business;
- 13 b. Whether class members are typically engaged in their own businesses or whether
14 they wear the "hat" of Postmates when performing delivery services;
- 15 c. Whether class members have been required to follow uniform procedures and
16 policies regarding their work for Postmates;
- 17 d. Whether these class members have been required to bear the expenses of their
18 employment, such as expenses for maintaining their vehicles and expenses for gas,
19 insurance, phone and data plan.

20 34. Named plaintiffs Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman,
21 Joshua Albert, Melanie Ann Winns, Ralph John Hickey Jr., Steven Alvarado, Kristie Logan, and
22 Shericka Vincent are class members who suffered damages as a result of Postmates' conduct and
23 actions alleged herein.

24 35. The named plaintiffs' claims are typical of the claims of the class, and the named
25 plaintiffs have the same interests as the other members of the class.

26 36. The named plaintiffs will fairly and adequately represent and protect the interests
27 of the class. The named plaintiffs have retained able counsel experienced in class action
28

1 litigation. The interests of the named plaintiffs are coincident with, and not antagonistic to, the
2 interests of the other class members.

3 37. The questions of law and fact common to the members of the class predominate
4 over any questions affecting only individual members, including legal and factual issues relating
5 to liability and damages.

6 38. A class action is superior to other available methods for the fair and efficient
7 adjudication of this controversy because joinder of all class members is impractical. Moreover,
8 since the damages suffered by individual members of the class may be relatively small, the
9 expense and burden of individual litigation makes it practically impossible for the members of
10 the class individually to redress the wrongs done to them. The class is readily definable as
11 Postmates knows which couriers have signed up to use the Postmates platform as couriers since
12 June 3, 2017. Further, prosecution of this action as a class action will eliminate the possibility of
13 repetitive litigation. There will be no difficulty in the management of this action as a class action.
14

15 **VI. PAGA REPRESENTATIVE ACTION ALLEGATIONS**

16 39. Plaintiffs allege that Postmates violated the Labor Code by willfully
17 misclassifying its couriers in violation of Cal. Labor Code § 226.8. Plaintiffs also allege that
18 Postmates has violated PAGA by failing to reimburse courier employees for all reasonably
19 necessary expenditures incurred by couriers in discharging their duties, including fuel, insurance,
20 and maintenance costs in violation of Cal. Lab. Code § 2802. Plaintiffs also allege that Postmates
21 has violated Cal. Lab. Code §§ 1197 and 1194 by failing to ensure that its couriers receive the
22 applicable state minimum wage for all hours worked and by impermissibly counting customers'
23 tips toward their minimum wage obligations. Additionally, Postmates has violated Cal. Lab.
24 Code §§ 1194, 1198, 510, and 554 by failing to pay the appropriate overtime premium for all
25 overtime hours worked beyond forty per week or eight hours per day. Plaintiffs further allege
26 that Postmates violated Cal. Lab. Code § 204 by failing to pay its couriers for the entirety of their
27 waiting time.
28

1 members of the class are entitled to one hour of pay at their regular rate of pay for each day on
2 which they were not provided with a 10-minute duty-free rest period and one hour of pay at their
3 regular rate of pay for each day on which they were not provided with a 30-minute duty-free
4 meal period, plus interest. Plaintiffs are also entitled to civil penalties for days in which they
5 worked more than six days in seven pursuant to Cal. Lab. Code § 558, as well as interest upon
6 unpaid wages or compensation, reasonable attorney’s fees, and costs of suit pursuant to Cal.
7 Labor Code §§ 218.5 and 218.6.
8

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12 **COUNT VII**

13 **Failure to Keep Accurate Records and Provide Itemized Wage Statements (Cal. Labor
Code §§ 226, 353, 1174, and 1174.5)**

14 59. Labor Code § 353 requires that every employer in California maintain “accurate
15 records of all gratuities received by him, whether received directly from the employee or
16 indirectly by means of deductions from the wages of the employee or otherwise. Such records
17 shall be open to inspection at all reasonable hours by the department.” Similarly, Labor Code §
18 1174(d) requires that every employer in California maintain “payroll records showing the hours
19 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
20 applicable piece rate paid to, employees employed” in California. In addition, Cal. Lab. Code §
21 1174(d) requires that these records “be kept in accordance with rules established for this purpose
22 by the [Industrial Welfare] commission.” Rules established by the commission, Wage Order 9, §
23 7, require that every employer in California “keep accurate information with respect to each
24 employee,” including without limitation, “time records showing when the employee begins and
25 ends each work period,” as well as “[m]eal periods, split shift intervals and total daily hours
26 worked.”
27
28

1 failed to implement policies and procedures that would allow Plaintiffs to accrue and use paid
2 sick days when permitted.

3 64. Accordingly, pursuant to Labor Code §§ 248.5 and 558, Plaintiffs and class
4 members are entitled to the payment of sick days unlawfully withheld from them multiplied by
5 three; or two hundred fifty dollars (\$250), whichever amount is greater. Likewise, pursuant to
6 Labor Code §§ 248.5 and 558, Plaintiffs and class members are entitled to additional penalties,
7 not to exceed an aggregate penalty of four thousand dollars (\$4,000), as liquidated damages in
8 the amount of fifty dollars (\$50) to each Plaintiff or class member.
9

10
11 **COUNT IX**

12 **Failure to Pay Reporting Time (Wage Order 9)**

13 65. Wage Order 9, § 5, requires that for each workday that a California employee is
14 required to report for work and does report, but is either not put to work or is furnished less than
15 half of that employee's usual or scheduled day's work, each such employee must be paid an
16 amount equal to half of his or her usual or scheduled day's pay, or in any event must be paid an
17 amount equal to 2 hours at the employee's regular rate of pay.

18 66. Plaintiffs and members of the putative class, have periodically been required to
19 report for work but have either not been put to work, or have been furnished with less than half
20 of his or her usual or scheduled day's work. Accordingly, Plaintiffs and members of the putative
21 class or an identifiable subset thereof are entitled to and seek payment from Postmates of
22 compensation pursuant to Wage Order 9, § 5, plus interest.

23 **COUNT X**

24 **Failure to Post Pay Days and to Pay in Cash-Negotiable Instruments**
25 **(Cal. Labor Code §§ 207, 212, 213)**

26 67. Cal. Labor Code § 207 requires an employer to post in a conspicuous place a
27 notice specifying the regular pay days and time and place of payment. Cal. Labor Code §§ 212
28 and 213 require payment in negotiable, cash-equivalent instruments.

1 overtime premium for all overtime hours worked beyond forty per week or eight hours per day in
2 violation of Cal. Lab. Code §§ 1194, 1198, 510, and 554; (5) failure to provide proper itemized
3 wage statements that include hours worked and hourly wages and are accessible outside the
4 Postmates Application in violation of Cal. Lab. Code § 226(a); (6) failure to pay all overtime
5 premium wages twice each calendar month in violation of Cal. Lab. Code §§ 204 & 210; (7)
6 failure to pay all overtime wages due upon termination (or within 72 hours of termination for
7 voluntary terminations) in violation of Cal. Lab. Code §§ 201, 202, and 203; (8) failure to
8 provide statutorily required meal and rest breaks in violation of Cal. Lab. Code §§ 226.7, 512, &
9 1198; and (9) failure to keep proper pay records “showing the hours worked daily by and the
10 wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to,
11 employees employed” in California as well as the amount of gratuities received by Plaintiffs in
12 violation of Cal. Labor Code § 1174(d) and § 353.

14 76. Cal. Lab. Code § 2699(f) provides for civil penalties for violation of all Labor
15 Code provisions for which no civil penalty is specifically provided. There is no specified civil
16 penalty for violations of Cal. Lab. Code § 2802. With respect to minimum wage violations
17 under Cal. Lab. Code §§ 1197 and 1194, § 1197.1 imposes a civil penalty in addition to any
18 other penalty provided by law of one hundred (\$100) for each underpaid employee for each pay
19 period for which the employee is underpaid in addition to an amount sufficient to recover
20 underpaid wages and liquidated damages, and, for each subsequent violation of Labor §§1197
21 and 1194, two hundred and fifty dollars (\$250) for each underpaid employee for each pay period
22 for which the employee is underpaid in addition to an amount sufficient to recover underpaid
23 wages and liquidated damages. With respect to overtime violations under Labor Code §§ 510
24 and 558, the statute imposes a civil penalty in addition to any other penalty provided by law of
25 fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for
26 which the employee was underpaid in addition to an amount sufficient to recover unpaid wages,
27 and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each
28 pay period for which the employee was underpaid in addition to an amount sufficient to recover

1 underpaid wages. With respect to violations of Labor Code § 226.8, Labor Code § 226.8(b)
2 imposes a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen
3 thousand dollars (\$15,000) for each violation. With respect to meal and rest break violations
4 under Labor Code §§ 226.7, 512, Labor Code § 558 imposes a civil penalty in addition to any
5 other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid
6 employee for each pay period for which the employee was underpaid in addition to an amount
7 sufficient to recover unpaid wages, and one hundred dollars (\$100) for subsequent violations for
8 each underpaid employee for each pay period for which the employee was underpaid in addition
9 to an amount sufficient to recover underpaid wages. With respect to violations of Labor Code §
10 226(a), Labor Code § 226.3 imposes a civil penalty in addition to any other penalty provided by
11 law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one
12 thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §
13 226(a). With respect to violations of Labor Code §§ 201, 202, 203 & 204, Labor Code § 210
14 imposes a civil penalty in addition to any other penalty provided by law of one hundred dollars
15 (\$100) per aggrieved employee for the first violation, and two hundred (\$200) dollars per
16 aggrieved employee plus twenty-five percent of the amount unlawfully withheld. With respect
17 to violations of Labor Code § 1174(d), Labor Code § 1174.5 imposes a civil penalty of \$500 per
18 aggrieved employee for each willful failure to maintain records.

19
20 77. Plaintiffs complied with the notice requirement of Cal. Lab. Code §2699.3 and
21 served a written notice to the LWDA through its website's online filing portal, and on Defendant
22 Postmates via Certified Mail, return receipt requested, on June 26, 2017, October 6, 2017, May 1,
23 2018, May 7, 2018, December 4, 2018, January 30, 2019, and September 24, 2019. It has been
24 65 days or more since the LWDA was notified of the Labor Code violations asserted in this
25 Complaint, and the LWDA has not provided any notice that it will or will not investigate the
26 alleged violations.

27 WHEREFORE, Plaintiffs request that this Court enter the following relief:
28

- 1 a. Declare and find that the Defendant violated Wage Order 9, the UCL, Cal. Lab. Code
2 §§ 201-204, 207, 226.8, 226.7, 245-249, 2802, 1194, 1197, 1198, 510, 554, and the
3 Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*;
- 4 b. Certify this case as a class action under Count I through XIV and appoint Plaintiffs
5 Jacob Rimler, Giovanni Jones, Dora Lee, Kellyn Timmerman, Joshua Albert, Melanie
6 Ann Winns, Ralph John Hickey Jr., Steven Alvarado, Kristie Logan, and Shericka
7 Vincent and their counsel to represent a class of Postmates couriers who have made
8 deliveries in the state of California since June 3, 2017;
- 9 c. Certify this case as a collective action pursuant to 29 U.S.C. § 216(b);
- 10 d. Award compensatory damages, including all expenses and wages owed, in an amount
11 according to proof;
- 12 e. Enter Judgment in Plaintiffs' favor on their PAGA claim pursuant to Cal. Lab. Code
13 §2699(c);
- 14 f. Award penalties in an amount according to proof;
- 15 g. Award pre- and post-judgment interest;
- 16 h. Award reasonable attorneys' fees, costs, and expenses;
- 17 i. Public injunctive relief in the form of an order requiring Defendant to comply with
18 the California Labor Code; and
- 19 j. Any other relief to which the Plaintiffs may be entitled.
- 20
- 21

22 Respectfully submitted,

23 JACOB RIMLER, GIOVANNI JONES, DORA
24 LEE, KELLYN TIMMERMAN, JOSHUA
25 ALBERT, MELANIE ANN WINNS, RALPH
26 JOHN HICKEY JR., STEVEN ALVARADO,
KRISTIE LOGAN, and SHERICKA VINCENT,

27 By their attorneys,

28 *Shannon Liss-Riordan*

Shannon Liss-Riordan, SBN 310719

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Anne Kramer, SBN 315131
LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116
(617) 994-5800
Email: sliss@llrlaw.com

*Attorneys for Plaintiffs Rimler, Jones, Lee,
Timmerman, and Albert*

Amir Mostafavi

Amir Mostafavi, SBN 282372
MOSTAFAVI LAW GROUP, APC
amir@mostafavilaw.com
528 Palisades Dr., Suite 220
Pacific Palisades, CA 90272
Telephone: 310.473.1111
Facsimile: 310.473.2222

*Attorney for Plaintiffs Winns, Hickey Jr., Alvarado,
and Logan*

MATTHEW R. BAINER, SBN 220972
THE BAINER LAW FIRM
1901 Harrison Street, Suite 1100
Oakland, CA 94612
Telephone: 510.922.1802
Facsimile: 510.844.7701

Attorney for Plaintiff Vincent

Dated: June 8, 2020


1 Anne Kramer, SBN 315131
2 LICHTEN & LISS-RIORDAN, P.C.
3 729 Boylston Street, Suite 2000
4 Boston, MA 02116
5 (617) 994-5800
6 Email: sliss@llrlaw.com

*Attorneys for Plaintiffs Rimler, Jones, Lee,
Timmerman, and Albert*

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Amir Mostafavi, SBN 282372
MOSTAFAVI LAW GROUP, APC
amir@mostafavilaw.com
528 Palisades Dr., Suite 220
Pacific Palisades, CA 90272
Telephone: 310.473.1111
Facsimile: 310.473.2222

*Attorney for Plaintiffs Winns, Hickey Jr., Alvarado,
and Logan*



MATTHEW R. BAINER, SBN 220972
THE BAINER LAW FIRM
1901 Harrison Street, Suite 1100
Oakland, CA 94612
Telephone: 510.922.1802
Facsimile: 510.844.7701

Attorney for Plaintiff Vincent

Dated: June 8, 2020