

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

MELISSA ADAMS, SARA AKPOKE, AISHA
ARCANGEL, STEPHANIE COLLADO, NICHOLAS
LEATH, CYMBA MELVILLE, OTHNIEL POPE,
CHIARA RIVERA, CYNTHIA SINGH, and SHAY-LA
WINNS, on behalf themselves and all others similarly
situated,

Index No. 601040/2024

Plaintiffs,

- against -

CONSOLIDATED EDISON COMPANY OF NEW
YORK, INC.,

Defendant.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into by and between MELISSA ADAMS, SARA AKPOKE, AISHA ARCANGEL, STEPHANIE COLLADO, NICHOLAS LEATH, CYMBA MELVILLE, OTHNIEL POPE, CHIARA RIVERA, CYNTHIA SINGH, and SHAY-LA WINNS , and CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.”).

RECITALS AND BACKGROUND

WHEREAS, on January 28, 2022, Named Plaintiffs sent correspondence to Defendant regarding unpaid wage claims on behalf of themselves and the Putative Class seeking wages, overtime wages, liquidated damages, attorneys’ fees, and costs under the New York Labor Law and the Fair Labor Standards Act;

WHEREAS, the Parties thereafter engaged in settlement discussions including the production of documents and data and two mediations with highly-experienced wage and hour mediators;

WHEREAS, after nearly two years of negotiations and informal discovery, the Parties reached agreement to settle these claims;

WHEREAS, for settlement purposes only, the Parties have stipulated to the certified class action pursuant to CPLR §§ 901 and 902 and a collective action per 29 U.S.C. § 216(b) with

respect to all Class Members employed by Defendant in New York State at any time during the Relevant Period;

WHEREAS, Defendant denies and continues to deny all of the allegations made by Named Plaintiffs and denies and continues to deny that it is liable or owes damages to anyone with respect to the alleged facts or causes of action asserted in the Action or otherwise as set forth herein;

WHEREAS, the purpose of this Agreement is to settle fully and finally all NYLL Claims and FLSA Claims of the Named Plaintiffs and the Class Members, including all claims asserted in the Action, in order to avoid the burden, expense, and uncertainty of engaging in protracted litigation; and

WHEREAS, Class Counsel analyzed and evaluated the merits of the claims made against Defendant and the impact of this Agreement on the Named Plaintiffs and Class Members; and based upon their analysis and evaluation of a number of factors, and recognizing the substantial risks of litigation, including the possibility that, absent this Agreement, they might receive no recovery or a recovery that is less favorable than provided for in this Agreement and that would not occur for several years, Class Counsel is satisfied that the terms and conditions of this Agreement are fair, reasonable and adequate and that this Agreement is in the best interest of the Named Plaintiffs and Class Members.

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

1. DEFINITIONS

The defined terms set forth in this Agreement have the meanings ascribed to them below.

- 1.1 **“Action.”** The Action shall mean the above-referenced case, to be filed in the Supreme Court of the State of New York, County of Nassau, captioned *Adams, et al. v. Consolidated Edison Company of New York, Inc.*
- 1.2 **“Agreement.”** Agreement means this Settlement Agreement and Release.
- 1.3 **“Bar Date.”** The Bar Date shall mean the date by which any Class Member who wishes to qualify as a Claimant must file a Claim Form, which date shall be no later than sixty (60) days after the initial mailing of the Notice of Proposed Settlement (or 60 days after re-mailing if necessary).
- 1.4 **“Claim Form.”** The Claim Form shall mean the form, a copy of which is attached to the Notice of Proposed Settlement, that Class Members must sign and return to the Settlement Claims Administrator by the Bar Date for a Class Member to be eligible for a settlement distribution.

- 1.5 “Claimant.”** Claimant shall mean a Class Member, or the authorized legal representative of such Class Member, who timely submits a Claim Form and is entitled to receive a Settlement Check.
- 1.6 “Class” or “Class Member(s).”** Class or Class Member(s) shall be defined as: all non-exempt hourly individuals who were employed by Consolidated Edison Company of New York, Inc., in New York during the Relevant Period as Customer Service Representatives who regularly receive or respond to incoming calls; perform customer service and assist customers with questions about electric, gas and steam issues, outages and bills; and review and respond to emails; and who hold the titles Customer Service Rep Bil L1-2, Customer Service Rep Bil L3, Customer Service Rep Bil XL1-2, Customer Service Rep L1-2, Customer Service Rep L3, Customer Service Rep X L1-2, Provisional CSR BIL L3, Provisional CSR L1-2, or Provisional CSR L3.
- 1.7 “Class Counsel” or “Plaintiff’s Counsel.”** Class Counsel or Plaintiff’s Counsel shall mean Michael Palitz and Gregg Shavitz of Shavitz Law Group, P.A.
- 1.8 “Class Member List.”** The Class Member List shall mean a list of all Class Members, identified by: (i) name; (ii) last known address; (iii) weeks worked during the Relevant Period; and (iv) social security numbers, if available, contained in a confidential document that the Defendant shall provide to the Settlement Claims Administrator for purposes of this settlement.
- 1.9 “Court.”** The Court shall mean the Supreme Court of the State of New York, County of Nassau.
- 1.10 “Days.”** Days shall mean calendar days.
- 1.11 “Defendant.”** Defendant or “ConEd” shall mean Consolidated Edison Company of New York, Inc.
- 1.12 “Defense Counsel.”** Defense Counsel shall mean Seyfarth Shaw LLP.
- 1.13 “Fairness Hearing.”** The Fairness Hearing shall mean a hearing, scheduled by the Court in its discretion, to consider whether the settlement embodied by this Agreement should be approved.
- 1.14 “Final Effective Date.”** The Final Effective Date shall be thirty (30) days after the Court has entered a Final Order on NYSCEF approving this Agreement.
- 1.15 “Final Order” or “Approval Order.”** Final Order or Approval Order shall mean an order entered by the Court approving the terms and conditions of this Agreement, distribution of the settlement payments, approval of Class Counsel’s attorneys’ fees, costs and expenses, Settlement Claims Administrator’s fees and costs, Service Awards, and dismissal of this action with prejudice.

- 1.16 “FLSA Claims.”** FLSA Claims shall mean all wage and hour claims that were or could have been asserted pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, and all related federal wage and hour statutes and regulations, by or on behalf of the Class during the Relevant Period.
- 1.17 “Individual Net Amount.”** The Individual Net Amount represents a Claimant’s allocation as calculated pursuant to this Agreement.
- 1.18 “Named Plaintiffs.”** Named Plaintiffs means Melissa Adams, Sara Akpoke, Aisha Arcangel, Stephanie Collado, Nicholas Leath, Cymba Melville, Othniel Pope, Chiara Rivera, Cynthia Singh, and Shay-La Winns.
- 1.19 “Net Settlement Amount.”** Net Settlement Amount means the total of the maximum amounts to be paid to all Class Members, after payment of Class Counsel’s attorneys’ fees, costs and expenses and Service Awards.
- 1.20 “Notice(s).”** Notice(s) shall mean the Court–approved Notice of Proposed Settlement, including notice of an opportunity to file a Claim, opt-out and/or object to the proposed settlement.
- 1.21 “NYLL Claims.”** NYLL Claims means all wage and hour claims arising under the New York Labor Law (whether individually or on a class-wide basis), and all related New York statutes, regulations and codes, during the Relevant Period.
- 1.22 “Objector.”** An Objector shall mean any Class Member who properly files an objection to this Agreement as set forth in this Agreement.
- 1.23 “Opt-Out Statement.”** An Opt-Out Statement is a written signed statement by a Class Member who has decided to “opt-out” and not be included in this Agreement. Any Class Member who submits an Opt-Out Statement shall retain any FLSA Claims and/or NYLL Claims, subject to any and all defenses available to Defendant.
- 1.24 “Party” or “Parties.”** Party means the Named Plaintiffs or ConEd, separately, and Parties means the Named Plaintiffs and ConEd, collectively.
- 1.25 “Qualified Settlement Fund” or “QSF.”** Qualified Settlement Fund or QSF mean the account established by the Settlement Claims Administrator for purposes of making any payments provided for in this Agreement. The QSF will be controlled by the Settlement Claims Administrator subject to the terms of this Agreement and the Approval Order.
- 1.26 “Released Claimant Claims.”** Released Claimant Claims means FLSA Claims and NYLL Claims.
- 1.27 “Released Class Claims.”** Released Class Claims means NYLL Claims.
- 1.28 “Releasees.”** Releasees means Defendant, along with its past, present, and future parents, subsidiaries, shareholders, insurers, officers, managers, owners, directors, employees,

agents, attorneys, successors and assigns, in their individual or representative capacities, and any related or affiliated companies or entities.

- 1.29 “Relevant Period.”** Relevant Period means April 13, 2016 through September 18, 2023.
- 1.30 “Service Awards.”** Service Awards means payments, subject to Court approval, of up to Seven Thousand Dollars and Zero Cents (\$7,000.00) to the Named Plaintiffs from the QSF, exclusive of their Individual Net Amount, in return for services rendered to the Class Members and in exchange for the execution of a general release of claims, including but not limited to, FLSA Claims and NYLL Claims.
- 1.31 “Settlement Checks.”** The Settlement Checks shall mean the checks issued to Named Plaintiffs and Claimants in accordance with this Agreement.
- 1.32 “Settlement Claims Administrator.”** Settlement Claims Administrator means RG/2 Claims Administration LLC.
- 1.33 “Settlement Fund.”** The Settlement Fund refers to the gross sum of Seven Hundred Fifty-Nine Thousand Dollars and Zero Cents (\$759,000.00).

2. PROCEDURAL ISSUES

2.1 Binding Agreement. This Agreement is a binding agreement and contains all material agreed-upon terms.

2.2 Settlement Class. For purposes of settlement only, the Parties agree to class certification pursuant to Article 9 of the CPLR to include all Class Members.

2.3 Settlement Claims Administration

- (A) Within fourteen (14) days after the signing of this Settlement Agreement and Release, ConEd shall engage the Settlement Claims Administrator.
- (B) The Settlement Claims Administrator shall be responsible for: (i) preparing, printing and disseminating to Class Members the Notice and Claim Forms, including resending any Notice and Claim Form returned with a new forwarding address and sending reminder notices; (ii) copying counsel for all Parties on material correspondence; (iii) preparing, monitoring and maintaining a telephone number and website dedicated to this Agreement; (iv) promptly furnishing to counsel for the Parties copies of any Opt-Out Statements, Objections, or other written or electronic communications that the Settlement Claims Administrator receives from Class Members; (v) receiving, retaining and reviewing the Claim Forms submitted by Class Members via mail and the website; (vi) keeping track of Opt-Out Statements, including maintaining the original mailing envelope in which the Opt-Out Statement was mailed or an electronic record of when the Opt-Out Statement was uploaded to the website; (vii) mailing the Service Awards and the Settlement Checks to Claimants; (viii) preparing and mailing Class Counsel’s attorneys’ fees, expenses, and costs, service payments, and Settlement Checks in accordance with this Agreement and any order of the Court; (ix) issuing tax forms as required for all

amounts paid from the Settlement Fund; (x) within five days of receipt, ascertaining current address and addressee information for each Notice and Claim Form returned as undeliverable and re-mailing the Notice and Claim Form to the current address; (xi) responding to inquiries of Class Members regarding the administration process called for by this Agreement; (xii) referring to Class Counsel all inquiries by Class Members regarding matters not within the Settlement Claims Administrator's duties specified herein; (xiii) responding to inquiries of Class Counsel and Defense Counsel consistent with the Settlement Claims Administrator's duties specified herein; (xiv) promptly apprising counsel for the Parties of the activities of the Settlement Claims Administrator; (xv) maintaining adequate records of its activities, including the dates of the mailing of Notice(s) and mailing and receipt of Claim Forms(s), returned mail and other communications and attempted written or electronic communications with Class Members or Claimants; (xvi) confirming in writing, including through a report if necessary, to Class Counsel, Defense Counsel and the Court its completion of the administration of the settlement; (xvii) timely responding to communications from the Parties or their counsel; (xviii) providing all information, documents, and, if requested, calculations necessary to determine each Claimant's share or allocation of the Settlement Fund without disclosing the identities of the Claimants; (xix) providing Class Counsel and Defense Counsel a weekly email that includes the total number of Claimants, opt-outs, and objections, the total number of Class Members that did not submit a valid Claim Form, the number and amounts of Settlement Payments distributed, and the number and gross amount of Settlement Checks cashed; and (xx) any other tasks as the Parties mutually agree. In addition, no later than thirty (30) days after the Bar Date or at least fifteen (15) days prior to the Fairness Hearing (if scheduled), the Settlement Claims Administrator by email shall certify jointly to Class Counsel and Defense Counsel (a) the number of Claimants who timely filed their Claim Form, (b) a list of all Class Members who filed a timely Objection, (c) a list of all Class Members who submitted an Opt-Out statement, and (d) the aggregate payments to all Claimants, plus Class Counsel's attorneys' fees, costs and expenses, Settlement Claims Administrator's fees and costs, and Service Awards.

- (C) The Parties will have equal access to the Settlement Claims Administrator. Class Counsel and Defense Counsel shall provide the Settlement Claims Administrator with information necessary to calculate the Settlement Checks and reasonably assist the Settlement Claims Administrator in locating Class Members.
- (D) To the extent that Class Counsel makes isolated and limited requests for Individual Net Amounts regarding any Claimant identified by name by Class Counsel, the Settlement Claims Administrator shall provide such information, wage information, calculation as prescribed by this Agreement, or an estimate of any Individual Net Amount to Class Counsel within two business days.

2.4 Settlement Claims Administration Timeline

The following summarizes the dates that shall govern the schedule in connection with the settlement process:

Within twenty (20) days of the signing of this Agreement.	Class Counsel shall file the unopposed Motion for Approval.
Within ten (10) days of the entry of the Court's Approval Order.	Defendant will provide the Settlement Claims Administrator with the Class Member List as set forth in this Agreement.
Within forty (40) days after entry of the Court's Approval Order.	Settlement Claims Administrator shall mail Notice of Class Action Settlement and Claim Form to Class Members.
Within forty-five (45) of the entry of the Court's Approval Order.	Defendant shall fund the Court-approved amounts of Class Counsel's attorneys' fees and costs and the Service Awards. The Settlement Claims Administrator shall pay such amounts to the Named Plaintiffs and Class Counsel.
Within thirty (30) days after the Mailing of Notice of Class Action Settlement and Claim Form.	Settlement Clams Administrator shall mail reminder notice to any Class Member who has not yet submitted a completed Claim Form.
Sixty (60) days after date of first mailing of Class Notice or sixty (60) days after any re-mailing to Class Members.	Last day for Class Members to submit written objections, Request for Exclusions, and Claim Forms ("Bar Date").
Within Thirty (30) days after Bar Date.	Settlement Claims Administrator shall certify jointly to Class Counsel and to Defense Counsel the following: (a) a list of all Objectors, (b) a list of all opt-outs, (c) a list of all Claimants who timely submitted Claim Forms during the Claim Period, (d) a list of all Claimants who submitted late or otherwise defective Claim Forms, and (e) the amount the Defendant needs to pay to the Settlement Fund.

Forty (40) days after the Bar Date.	Defendant shall fund the balance of the Settlement Fund to the QSF.
Forty (40) days after the Bar Date.	Class Counsel shall file any objections with the Court.
Fourteen (14) days after the Settlement Claims Administrator advises Defendant of the amount the Defendant needs to pay to the Settlement Fund.	Defendant shall remit the amount to be paid to all Claimants plus all Class Counsel's attorneys' fees, costs, expenses, Settlement Claims Administrator's fees and costs, and Service Awards payable to the Settlement Claims Administrator's QSF.
Within thirty (30) days of Defendant's funding.	The Settlement Claims Administrator shall mail the settlement checks to Claimants.

2.5 Approval Motion.

- (A) Within twenty (20) days of the signing of this Agreement, Class Counsel shall file a Motion for Approval, which shall include (1) the proposed Notice and reminder notice as agreed upon by the Parties, (2) the proposed Claim Form, (3) the proposed Approval Order, (4) an executed version of this Agreement, and (5) the necessary documents, memorandum, affidavits and exhibits for the purposes of certifying, for settlement purposes only, a Class under CPLR §§901 and 902, and approving the settlement. The proposed Notice, proposed Claim Form and proposed Approval Order approved by the Parties shall be annexed to Class Counsel's Affirmation in support of this proposed settlement. Defendant may review a draft of the Approval Motion and attachments to ensure they are consistent with this Agreement.
- (B) In the Motion for Approval, Class Counsel shall seek the implementation of dates for effectuating the terms of this Agreement, including (1) the setting of the Bar Date for individuals to submit Claim Forms, opt-out of this Agreement and/or provide objections to this Agreement, which date will be sixty (60) days from the initial mailing of Notice and Claim Forms to the Class Members by the Settlement Claims Administrator, and (2) to the extent required by the Court, a Fairness Hearing for Final Approval of the settlement before the Court at the earliest practicable date.
- (C) Named Plaintiffs will file the Motion for Approval as "unopposed."

2.6 Notice and Claim Forms to Class

- (A) Within ten (10) days of entry of the Approval Order, Defense Counsel shall provide the Settlement Claims Administrator the Class Member List in electronic form. All information provided regarding the Class Members will be treated as confidential

information by the Settlement Claims Administrator and may not be used by the Settlement Claims Administrator for any purpose other than to effectuate the terms of settlement.

- (B) The Parties shall cooperate regarding any further due diligence as maybe necessary to verify the information provided to the Settlement Claims Administrator regarding the Class Member List. The Parties will attempt in good faith to resolve the issue amicably in the event a dispute shall arise in connection with a request for information. If no agreement is reached, the parties agree to convene a mediation session with the Settlement Mediator who is Dennis Clifford, Esq.
- (C) Within forty (40) days of the entry of the Approval Order by the Court or as otherwise ordered by the Court, the Settlement Claims Administrator will mail to all Class Members, via First Class United States Mail, the Court approved Notice and Claim Form. The Settlement Claims Administrator will take all reasonable steps to obtain the correct address of every Class Member, including a skip trace, and shall attempt a one-time re-mailing, via First Class United States Mail, to any Class Member for whom it obtains a more recent address. The Settlement Claims Administrator shall also mail a Notice and Claim Form to any Class Member who contacts the Settlement Claims Administrator during the time period between the initial mailing of the Notice and the Bar Date and requests that their Notice and Claim Form be remailed. The Settlement Claims Administrator will notify Class Counsel and Defense Counsel of any Notice and Claim Form sent to a Class Member that is returned as undeliverable after the first mailing, as well as any such Notice and Claim Form returned as undeliverable after any subsequent mailing(s) as set forth in this Agreement. Thirty (30) days after sending Notices, the Settlement Administrator shall send one reminder notice to any Class Member who has not submitted a Claim Form.
- (D) Claim Forms may be filed with the Settlement Claims Administrator via First Class United States Mail or via the case-specific website established by the Settlement Claims Administrator. Class Members who send their Claim Forms by the Bar Date will be deemed Claimants. To be effective for the purposes of becoming a Claimant, a Claim Form must be postmarked or otherwise received by the Settlement Claims Administrator by the Bar Date. The Bar Date shall be (i) sixty (60) days from the date of the initial mailing or 60 days after remailing, as necessary, and (ii) unless otherwise agreed to by the Parties or directed by the Court, an additional fifteen (15) days for any Class Members who did not receive the Notice, or were unable to file the Claim Form within thirty (30) days due to such factors as change of address, military service, hospitalization, or other extraordinary circumstances. To the extent that the envelope does not contain a postmark, the date that the Settlement Claims Administrator stamps the envelope or claim form "received" shall apply.
- (E) To be considered a valid Claim Form, the Claim Form must not be altered, unsigned, or untimely postmarked.

- (F) Any Person who does not receive a Notice because they are not determined to be a Class Member based on ConEd's records, and claims that they should be a Class Member, must, prior to the Bar Date, present evidence and information to the Settlement Claims Administrator demonstrating that they should be included in the Settlement.
- (G) ConEd's records, including payroll and timekeeping records, shall control with respect to who is a Class Member and the individual's weeks worked. Prior to the Bar Date, if the Parties determine that a Person previously identified as a Class Member should not receive Notice, or that a Person not previously identified as a Class Member is a Class Member, the Settlement Claims Administration shall promptly make such correction as appropriate.

2.7 Opt-outs

- (A) Class Members who choose to opt-out of the settlement as set forth in this Agreement must mail via First Class United States Mail, a written, signed statement to the Settlement Claims Administrator that states he or she is opting out of the settlement, and include his or her name, address, and telephone numbers and statement indicating his or her intention to opt-out, such as: "I opt out of the ConEd settlement." To be effective, an Opt-Out Statement must be postmarked on or before the Bar Date.
- (B) The last day to opt-out of the settlement shall be the Bar Date.
- (C) The Settlement Claims Administrator will stamp the received date on the original of each Opt-Out Statement that it receives and shall serve copies of each Opt-Out Statement on Class Counsel and Defense Counsel no later than three (3) days after receipt. The Settlement Claims Administrator will, no later than thirty (30) days after the Bar Date, send a final list of all Opt-Out Statements to Class Counsel and Defense Counsel. The Settlement Claims Administrator will retain the stamped originals of all Opt-Out Statements and originals of all envelopes accompanying Opt-Out Statements in its files until such time as the Settlement Claims Administrator is relieved of its duties and responsibilities under this Agreement.

2.8 Objections

- (A) Class Members who wish to present objections to the proposed settlement at the Fairness Hearing must first do so in writing. To be considered, such statement must be sent to the Settlement Claims Administrator via First Class United States Mail postmarked by the Bar Date. The statement must include all reasons for the objection, and any supporting documentation. The statement must also include the name, address, and telephone numbers for the Class Member making the objection. The Settlement Claims Administrator will stamp the date received on the original and send copies of each objection and supporting documents to Class Counsel and Defense Counsel by email delivery no later than three (3) days after receipt of the objection. Class Counsel will also

file the date-stamped originals of any and all objections with the Court within ten (10) days of receipt.

- (B) If a Fairness Hearing is scheduled, an Objector has the right to appear either in person or through counsel hired by the Objector. An Objector who wishes to appear at the Fairness Hearing must state his or her intention to do so in writing on his or her written objections at the time he or she submits his or her written objections. An Objector may withdraw his or her objections at any time. Any Class Member who has elected to opt-out may not submit an objection to the settlement.
- (C) The Parties may file with the Court written responses to any filed objections.

2.9 Fairness Hearing and the Motion for Final Approval and Dismissal.

- (A) This Agreement contemplates a “one-step” process for Court approval of the Parties’ settlement, without the need for a motion seeking final approval or the convening of a Fairness Hearing. However, in the event the Court, in its discretion, adopts a multi-step procedure and convenes a Fairness Hearing, the following deadline and procedures shall apply.
- (B) To the extent scheduled by the Court, Class Counsel shall file supporting documents and materials for final approval of the settlement (“Motion for Final Approval”). The Motion for Final Approval may contain a report from the Settlement Claims Administrator, an application for attorneys’ fees and costs, and supporting exhibits from Class Counsel regarding the fairness, adequacy and reasonableness of the settlement or any aspect related to this Agreement. The Motion for Final Approval may also include a proposed Final Order.
- (C) In the Motion for Final Approval, the Parties shall request that the Court, among other things, issue an Order that shall: (1) certify the Class for purposes of settlement only; (2) finally approve the settlement and Agreement as fair, reasonable, adequate, and binding on all Class Members who have not timely opted out of the settlement; (3) order the Settlement Claims Administrator to distribute Settlement Checks to the Claimants, including Service Awards as described in this Agreement; (4) order Class Counsel’s attorneys’ fees, costs and expenses, Settlement Claims Administrator’s fees and costs, and Service Awards to be paid from the QSF; (5) order the dismissal with prejudice of all FLSA Claims with respect to Claimants; (6) order the dismissal with prejudice of all NYLL Claims of all Class Members who did not opt-out; (7) direct Class Counsel to file a Notice of Entry of the Approval Order via NYSCEF; and (8) retain jurisdiction over the interpretation and implementation of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the settlement contemplated thereby.

2.10 Termination of Agreement

- (A) Either Party may terminate the Agreement if the Court declines to enter the Approval Order, except if the Court declines to enter such orders because of the attorneys’ fees

sought by Class Counsel. This Agreement is not contingent upon approval by the Court of Class Counsel's application for attorneys' fees and Service Awards, and if the Court approves the settlement payment amount allocated to the Claimants as set forth in this Agreement, but not the application for attorneys' fees, and Service Awards: (i) the Agreement may not be terminated, and (ii) after final determination from any motion for reconsideration and/or any appeal that is brought, any Court-required reduction of the attorneys' fees will be redistributed to the Class. Defendant will not oppose: (a) an application for attorneys' fees of up to one-third of the Settlement Fund, plus reasonable costs and expenses, (b) a motion for reconsideration of such application, and/or (c) an appeal regarding Class Counsels' application for attorneys' fees and costs.

(B) Termination shall have the following effects:

1. The Agreement shall be terminated and shall have no force or effect.
2. The Action will resume as if no settlement had been attempted and the Agreement and all negotiations, statements and proceedings relating thereto shall be inadmissible in any proceeding and without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the settlement.
3. In the event of this Agreement being terminated by the Court, or by mutual agreement by the Parties, Defendant shall have no obligation to make any payments to any party, Class Member, Claimant, or Class Counsel. However, the Parties shall be jointly responsible for paying the costs and fees associated with the settlement mediator (if any is engaged) subsequent to the signing of this Agreement.
4. The Settlement Claims Administrator will provide a Court-approved notice to Class Members that the Agreement was not approved and that, as a result, no payments will be made to Class Members under the Agreement. Such notice shall be mailed by the Settlement Claims Administrator via First Class United States Mail.
5. The Parties may jointly or individually seek reconsideration of a ruling by the Court declining to enter the Approval Order or Approval Order in the form submitted by the Parties, or to seek Court approval of a renegotiated settlement.

3. SETTLEMENT PAYMENTS

3.1 Settlement Amount

- (A) Defendant agrees that the potential maximum that could be paid to all Class Members, inclusive of Class Counsel's attorneys' fees, costs and expenses, and Service Awards is Seven Hundred Fifty-Nine Thousand Dollars and Zero Cents (\$759,000.00). If the number of Class Members varies by more than 3% from 1,970, then the Parties will confer in good faith on an appropriate adjustment to the Settlement Fund.
- (B) Defendant shall remit the amount to be paid per the terms of the Agreement per the schedule set forth in Section 2.4 above.

3.2 Attorneys' Fees, Expenses and Costs

- (A) Class Counsel will petition the Court for an award of attorneys' fees of no more than one-third of the Settlement Fund, plus reasonable costs and expenses, to be paid from the QSF. Defendant will not oppose this application, including any appeal or request for reconsideration if the application is denied or modified by the Court.
- (B) The substance of Class Counsel's application for attorneys' fees, expenses and costs is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Action. The outcome of any proceeding related to Class Counsel's application for attorneys' fees, expenses and costs shall not terminate this Agreement or otherwise affect the Court's issuance of a Final Order.
- (C) The attorneys' fees, expenses and costs shall be paid from the Qualified Settlement Fund at the time the payments to Claimants are made.

3.3 Service Awards to Named Plaintiffs

- (A) In return for services rendered to the Class Members and in exchange for the execution of a general release of claims, including but not limited to, FLSA Claims and NYLL Claims, Named Plaintiffs will apply to the Court to receive no more than Seven Thousand Dollars and Zero Cents (\$7,000.00) each as a Service Award from the QSF, exclusive of their Individual Net Amount.
- (B) The application for Service Awards is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Action. The outcome of the Court's ruling on the application for Service Awards will not terminate this Agreement or otherwise affect the Court's ruling on any approval motion, the Approval Order or the fairness or reasonableness of settlement. Defendant may not oppose Plaintiffs' application for Service Awards.

3.4 Allocation to Authorized Class Members and Claimants

- (A) Individual Class Members' proportionate shares of the Net Settlement Amount shall be computed pursuant to the following formula:
 - 1. Each Class Member's weeks worked for Defendant during the Relevant Period shall be determined.
 - 2. To calculate each Class Member's proportionate share: (i) add all weeks worked for Class Members together to obtain the "Total Denominator;" (ii) Divide the weeks worked for each Class Member by the Total Denominator to obtain each Class Member's "Portion of the Net Settlement Fund."
 - 3. Multiply each Class Member's Portion of the Net Settlement Fund by the Net Settlement Amount to determine each Class Member's "Settlement Award."
 - 4. The denominator for each Class Member will be the same number. As a result of this calculation, the total of all Class Members' numerators must equal the Total Denominator. Thus, the Class Member's individual weeks worked divided by the sum of all weeks worked for all Class Members, equals their individual portion of the Net Settlement Amount.
 - 5. Should a Class Member fail to submit a Claim Form and thus fail to become a participating Class Member, the portion of the Net Settlement Amount allocated to that individual based on the foregoing formula will not be reallocated to the Claimants.
- (B) Any Class Member or purported Class Member who wishes to challenge any calculation, error or omission shall provide a written statement to the Settlement Claims Administrator as to why the calculation, error or omission should be corrected. All

claims relating to calculations, errors or omissions shall be submitted by the Bar Date with any disputes resolved by the Parties. If the Parties are unable to resolve any disputes, then the Settlement Mediator shall resolve the dispute. In the event that a Class Member's settlement payment is not cashed within 90 calendar days from the date posted on the Settlement Check, the affected Class Member will be deemed to have irrevocably waived any right to the Settlement Check pursuant to this Agreement, but the settlement and such Class Member's release of claims will remain binding upon such Class Member. The Settlement Claims Administrator shall return to ConEd the value of any individual Settlement Check that was sent to a Class Member but not cashed within 90 calendar days from the date posted on the Settlement Check. The Settlement Claims Administrator shall return these funds to ConEd within three (3) business days after the 90-day expiration date.

3.5 Any uncashed Settlement Checks or Service Awards and all amounts remaining in the QSF 90 calendar days after the mailing of the Settlement Checks will revert to Defendant within three (3) business days. For purposes of this provision, the mailing date shall be deemed to be the date posted on the Settlement Checks.

3.6 Tax Characterization.

- (A) Individual Net Amounts to Claimants from Defendant as identified in Section 3.4 will be deemed 50% wages, subject to regular withholding and deductions and reportable via IRS Form W-2, and 50% non-wage income for alleged liquidated damages, penalties and interest and reportable via IRS Form 1099.
- (B) Payments of attorneys' fees and costs pursuant to Section 3.2 shall be made without any withholdings. Class Counsel will receive a Form 1099 for this payment. Any Service Award payment shall be made without any withholdings and reported to the IRS via a Form 1099.
- (C) Defendant will provide the Settlement Claims Administrator such information as is necessary for the Settlement Claims Administrator to issue and file tax-related forms and comply with all tax reporting obligations.
- (D) The Settlement Claims Administrator shall file all necessary reports as required by law.

- (E) With respect to payments received pursuant to this Agreement, the Named Plaintiffs and Claimants assume full responsibility of any and all federal, state and local taxes or contributions which may hereafter be imposed or required to be paid under any federal, state, or local law of any kind. As such, although the Parties believe, in good faith, that the tax treatment of all payments set forth in this Agreement are proper and in compliance with applicable IRS or other appropriate regulations, if, notwithstanding such belief, the Internal Revenue Service or any other federal, state or local government, administrative agency or court determines that any individual or entity and/or Defendant are liable for any failure by any Named Plaintiff or Claimant to pay federal, state or local income or employment or payroll taxes with respect to any payment received pursuant to this settlement, Named Plaintiffs and Claimants agree to hold Defendant harmless, and indemnify Defendant from any payments the Defendant may be required to make (including any payments for interest and penalties) to any taxing authority resulting from the issuance of an IRS tax form 1099 and any Named Plaintiff's or Claimant's failure to pay any taxes that any such individual or entity owes related to said income that are solely the responsibility of the Named Plaintiff or Claimant and not due to any errors caused by the Settlement Claims Administrator or Defendant.

4. RELEASES

- (A) By operation of the entry of the Approval Order, and except as to such rights or claims as may be created by this Agreement, each individual Class Member who does not timely opt-out pursuant to this Agreement forever and fully releases the Releasees from the NYLL Claims.
- (B) Each Claimant shall specifically and affirmatively release Releasees from all Released Claimant Claims, including, but not limited to, claims for untimely wages, unpaid wages, liquidated damages, statutory penalties, along with interest and attorneys' fees and costs related to such claims, that were or could have been asserted in the Action, whether known or unknown, during the Relevant Period.
- (C) By operation of entry of the Approval Order, and except as to such rights or claims as may be created by this Agreement, Named Plaintiffs forever and fully release Releasees from the Released Claimant Claims, as well as any other claim of any kind under federal, state, city or local law or common law from the beginning of time through the date of the Approval Order. For avoidance of doubt, Named Plaintiffs agree and understand that in exchange for the consideration noted herein and upon payment of the Service Awards, Named Plaintiffs are providing Releasees with a general and unlimited release.

5. INTERPRETATION AND ENFORCEMENT

5.1 Denial of Liability

Defendant has agreed to the terms of this Agreement without in any way acknowledging any fault or liability of any kind, and with the understanding that terms have been reached because this settlement will avoid the further expense and disruption of Defendant's business due to the pendency and expense of litigation. Nothing in this Agreement shall

be deemed or used as an admission of liability by Defendant, nor as an admission that a class or collective should be certified for any purpose in this case other than settlement purposes.

5.2 Cooperation Between the Parties; Further Acts. The Parties shall reasonably cooperate with each other and shall use their reasonable best efforts to obtain the Court's approval of this Agreement and all of its terms. Each party, upon the request of any other party, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.

5.3 No Assignment. Class Counsel and Named Plaintiffs, on behalf of the individual Class Members, represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Action, or any related action.

5.4 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement.

5.5 Binding Effect. This Agreement shall be binding upon the Parties and, with respect to Named Plaintiffs and all Class Members, their spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys and assigns notwithstanding any changes in the law.

5.6 Arms' Length Transaction; Materiality of Terms. The Parties have negotiated all the terms and conditions of this Agreement at arms' length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement, unless otherwise expressly stated.

5.7 No Publicity and Confidentiality. Neither the Class Members nor Class Counsel shall publicize, or cause to be publicized, directly or indirectly, the discussions resulting in or the existence of this Settlement or its terms, or commentary, statements or the like relating to the confidential information exchanged between the Parties during this Action, in any type of mass media including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, messages on the Internet, Facebook, X (formerly known as Twitter), or any other social media, Class Counsel's, or any other, website. Public filings with the Court are excluded from the aforementioned prohibitions. Class Counsel may include the name of this Action on a declaration of representative cases for filing with the court in other proceedings, but may not provide information on negotiations or assert that its clients were the prevailing parties. Without limiting ConEd's rights and remedies for a breach of this provision, such breach shall entitle ConEd, in the exercise of its sole discretion, to nullify the Settlement Agreement at any time before approval by the Court. Should the

Named Plaintiffs at any time breach this provision, the full amount of the settlement payment and any Service Awards awarded to them, less \$100.00, and, if Class Counsel, the Fee and Expense Award under this Agreement. Without limitation by the foregoing, ConEd also may enforce this provision through an action for injunctive relief. Class Members and Class Counsel waive any obligation by ConEd to file a bond in connection with any such action. If Class Counsel receives any inquiry about the Settlement or this Agreement or the Action from the media, Class Counsel may respond only after the Motion for Approval has been filed and only by confirming the accurate terms of the Settlement Agreement. Nothing in this provision shall prevent ConEd from making any disclosure required by law.

5.8 Captions. The captions or headings of the Sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

5.9 Governing Law. This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of New York, without regard to choice of law principles, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.

5.10 Continuing Jurisdiction. The Parties shall request the Court to retain jurisdiction over the interpretation and implementation of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the settlement contemplated thereby.

5.11 Waivers, etc. to Be in Writing. No waiver, modification or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then only to the extent set forth in such written waiver, modification or amendment, subject to any required Court approval. Any failure by any party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement. Notwithstanding, without any need for a Court Order, the Parties, through their counsel hereto, may agree in writing to reasonable extensions of time to carry out any provisions of the Settlement Agreement.

5.12 When Agreement Becomes Effective; Counterparts. This Agreement shall become effective upon its full execution and approval by the Court. The Parties may execute this Agreement in counterparts, and execution in counterparts shall have the same force and effect as if all Parties had signed the same instrument.

5.13 Facsimile and Email Signatures. Any party may execute this Agreement by causing its counsel to sign on the designated signature block below and transmitting that signature page via facsimile or email to counsel for the other party. Any signature made

and transmitted by facsimile or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party whose counsel transmits the signature page by facsimile or email.

5.14 Construction. The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.

ACCEPTED AND AGREED:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: Michela O'Connell

Print: Michele O'Connell

Title: Senior Vice President, Customer Operations

Date: 1/4/2024

MELISSA ADAMS

M Adams
Melissa Adams

Date: 12/20/2023

SARA AKPOKE

Sara Akpoke

Date: _____

NICHOLAS LEATH

Nicholas Leath

Date: _____

OTHNIEL POPE

Othniel Pope
Date: _____

CYTHINIA SINGH

Cynthia Singh

Date: _____

AISHA ARCANGEL

Aisha Arcangel

Date: _____

STEPHANIE COLLADO

Stephanie Collado

Date: _____

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Cymba Melville

Date: _____

CHIARA RIVERA

Chiara Rivera
Date: _____

SHAY-LAY WINNS

Shay-Lay Winns

Date: _____

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Othniel Pope

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CYTHINIA SINGH

Cynthia Singh

Date: _____

AISHA ARCANGEL



Aisha Arcangel

Date: 12/27/2023

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Stephanie Collado

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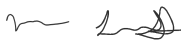
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Date: 12/26/2023