

## **FIRST AMENDED CLASS ACTION SETTLEMENT AGREEMENT**

THIS FIRST AMENDED SETTLEMENT AGREEMENT (hereinafter “Agreement” or “Settlement”) is entered into and effective upon its execution by all parties hereto. It is entered into by and between Plaintiff Janet Mitchell on her own behalf and on behalf of all members of the “Plaintiff Class,” as defined in paragraph 4(a) below, on the one hand, and Defendant 1Force Government Solutions, LLC (collectively the “Parties”), on the other hand, with reference to the recitals and provisions set forth below.

### **RECITALS**

A. Plaintiff and Defendant are parties to a legal dispute, formerly filed as putative class action, *Mitchell v. 1Force Government Solutions, LLC*, Case Number 2:18-cv-07612-PSG-SK (the “Lawsuit”), previously pending in the United States District Court for the Central District of California.

B. At the time the Lawsuit was pending, Plaintiff alleged, on her behalf and on behalf of all members of the Plaintiff Class, causes of action for (1) failure to pay all wages for all hours worked at the correct rates of pay (Cal. Lab. Code §§ 226.2, 510, 1194, 1197 and 1198); (2) failure to provide meal and rest periods (Cal. Lab. Code §§ 226.7, 512 and 1198); (3) failure to indemnify (Cal. Lab. Code §§ 1198 and 2802); (4) failure to provide accurate written wage statements (Cal. Lab. Code §§ 226, and 226.2); (5) unfair competition (Cal. Bus. & Prof. Code §§ 17200, *et seq.*; and (6) civil penalties (Cal. Lab. Code §§ 2698, *et seq.*). Plaintiff, on her behalf and on behalf of all members of the Plaintiff Class, sought recovery of unpaid wages, restitution, penalties, interest, and attorneys’ fees and costs. Defendant had generally denied all allegations of the Lawsuit and alleged that Plaintiff and the members of the Plaintiff Class were correctly compensated; that members of the Plaintiff Class were correctly classified as independent contractors; that members received all due and payable compensation; and that Plaintiff and the Plaintiff Class were not entitled to any damages, unpaid wages, premium wages, civil and statutory penalties, interest, attorney’s fees and/or costs or any other form of recovery for alleged violations of Cal. Lab. Code sections 201, 202, 203, 204, 210, 226, 226.2, 226.3, 226.7, 226.8, 510, 512, 515, 558, 1174, 1174.5, 1194, 1197, 1198, 1682, 2698, *et seq.* and 2802, all applicable Industrial Welfare Commission Wage Orders, and California Business & Professions Code § 17200, *et seq.*

C. Plaintiff filed the Lawsuit on July 6, 2018 in the Los Angeles Superior Court, which was subsequently removed to the United States District Court for the Central District of California. Defendant later filed, pursuant to Fed. R. Civ. Proc. 13, two counter claims against Plaintiff for breach of contract (the “Counterclaims”). Pursuant to a tolling agreement signed by the Parties on June 12, 2019, the Parties dismissed without prejudice the Lawsuit and Counterclaims so that the Parties could mediate their respective disputes. At the time of dismissal, the Lawsuit and Counterclaims were pending before the Hon. Phillip S. Gutierrez of the United States District Court for the Central District of California. The alleged class periods date back to July 6, 2014.

D. Plaintiff and the proposed Plaintiff Class have been represented in the Lawsuit by the following firm (“Plaintiff’s Counsel”):

**David G. Spivak  
The Spivak Law Firm  
16530 Ventura Boulevard, Suite 203  
Encino, California 91436**

E. Defendant is represented in the Lawsuit by:

**David L. Cheng**  
**Ford & Harrison LLP**  
**350 South Grand Ave., Suite 2300**  
**Los Angeles, California 90071**

F. The Parties have thoroughly investigated all of the facts relevant to the alleged claims. As a result, by the time this settlement was reached, both sides had thoroughly prepared to negotiate this resolution from a position of full knowledge and expertise on the issues.

G. On October 23, 2019, the Parties engaged in a formal mediation session with the Honorable Carl J. West (Ret.) of JAMS in Los Angeles, California. In preparation for mediation, the parties engaged in informal discovery. On October 23, 2019, the Parties resolved their dispute at mediation and entered into a Memorandum of Understanding.

H. After considering all the facts and law developed in connection with this Lawsuit and the concurrent Counterclaims, and the mutual costs and risks of continuing to prosecute and defend the Lawsuit and Counterclaims, the parties agreed to resolve the Lawsuit and Counterclaims by way of settlement. The Plaintiff and Plaintiff's Counsel have concluded, based upon their independent investigation and evaluation, and taking into account the sharply contested and disputed legal and factual issues involved, the expense and time necessary to prosecute the Lawsuit through trial and possible appeals, the risks, uncertainty and costs of further prosecution of the Lawsuit, including the challenge to certifying and managing the Lawsuit as a class action, the uncertainties of complex litigation, and the relative benefits to be conferred upon the Plaintiff and the members of the Plaintiff Class pursuant to this Settlement, that a settlement with Defendant for the consideration and on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Plaintiff Class as a whole. The Defendant and Defendant's Counsel have concluded, based upon their independent investigation and evaluation, and taking into account the sharply contested and disputed legal and factual issues involved, the expense and time necessary to prosecute the Counterclaims through trial and possible appeals, the risks, uncertainty and costs of further prosecution of the Counterclaims, that a settlement with Plaintiff for the consideration and on the terms set forth herein is fair, reasonable, adequate, and in the best interests of Defendant.

I. Defendant has denied and continues to deny each of the claims and contentions alleged in the Complaint. Plaintiff has denied and continues to deny each of the claims and contentions alleged in the Counterclaims. Neither this Agreement nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed or used in the Lawsuit, the Counterclaims or in any other action or proceeding as an admission, concession or indication by or against any of the respective Parties, or any of them, of any fault, wrongdoing or liability whatsoever.

J. It is the intention of the parties to this Agreement to settle and dispose of, fully and completely, any and all claims, demands and causes of action that are set forth in the Lawsuit or Counterclaims, or are factually related so that they could have been set forth in the Lawsuit or Counterclaims.

## PROVISIONS

### 1. COOPERATION BY THE PARTIES

The Parties to this Agreement and their counsel agree to cooperate fully with each other, to execute all documents promptly, and take all steps necessary to effectuate the terms and conditions of this Agreement. To that end, upon the Parties' execution of this Agreement, Plaintiff shall re-file the Complaint in a court of competent jurisdiction (the "Court") for the sole purpose of seeking court approval of the Parties' Agreement. Defendant shall file an Answer generally denying the Complaint's allegations and asserting its affirmative defenses within the time limits prescribed by applicable civil procedural law. The Parties shall also prepare and file, subject to the Court's approval, a mutually-agreeable protective order governing the disclosure or dissemination of confidential information and documents ("Protective Order").

### 2. APPOINTMENT OF SETTLEMENT ADMINISTRATOR

The Parties will stipulate to and seek the Court's order appointing CPT Group to act as the settlement administrator (the "Administrator") for purposes of this settlement. The Administrator shall be responsible for, among other matters:

(a) Mailing of notice of settlement to members of the Plaintiff Class and receiving any requests for exclusion.

(b) Determining and resolving any dispute by any member of the Plaintiff Class as to any factor or issue regarding the computation of any such Plaintiff Class member's Individual Settlement Award (as defined below), and the Administrator's decision on any such issue or dispute shall be final and binding.

(c) Resolving any disputes regarding membership in the Plaintiff Class as provided for in paragraph 4 of this Agreement.

(d) Upon successful final approval of this settlement and in accordance with the deadlines set forth herein, calculating the amounts to be paid pursuant to this Agreement, including payments to the members of the Plaintiff Class, Plaintiff, and Plaintiff's Counsel, with appropriate tax withholdings and forms, and distributing payments.

The fees and costs of the Administrator are to be paid from the Maximum Settlement Amount described herein.

### 3. CLASS PERIODS

The class period will be as follows:

**For the Class:** From July 6, 2014 through the date on which the Court grants preliminary approval of the Settlement.

The class period shall be referred to herein as the "Class Period."

### 4. DEFINITION OF PLAINTIFF CLASS

(a) Class Definition

For purposes of this settlement only the parties agree that the “Plaintiff Class” is defined as follows:

**ALL SIMILARLY SITUATED PERSONS IN CALIFORNIA WHO DEFENDANT CLASSIFIED AS CONTRACT INVESTIGATORS DURING THE CLASS PERIOD.**

(b) Certification of the Plaintiff Class

Solely for the purposes of implementing this Agreement and effectuating the settlement, Plaintiff shall file, and Defendant shall not oppose, a motion to the court requesting entry of an order preliminarily approving the Settlement; conditionally certifying the Plaintiff Class for purposes of settlement, appointing the Plaintiff as the Class Representative, appointing Plaintiff’s counsel as Class Counsel, and approving dissemination of a notice of the Settlement to the Plaintiff Class. As prescribed by the terms set forth in this Agreement, Plaintiff shall also file, and Defendant shall not oppose, a motion to the Court requesting entry of an order seeking final approval of the Settlement.

In the event that this settlement does not receive final approval from the Court (or if a final approval order is reversed on appeal), no party shall use the foregoing provision or the certification of the Plaintiff Class, the appointment of Plaintiff as the Class Representative, or the appointment of Plaintiff’s Counsel as Class Counsel for any purpose whatsoever in the Lawsuit or in any other action or proceeding.

(c) Class Members’ Right to Exclude Themselves from the Plaintiff Class

Members of the Plaintiff Class may exclude themselves from the Plaintiff Class and from participation in the proceeds of the settlement by notifying the Administrator no later than 45 days after the Notice of Settlement (described in paragraph 7(a) of this Agreement) is first mailed to members of the Plaintiff Class as set forth herein. Any member of the Plaintiff Class who does not provide the Administrator with a timely request for exclusion shall be bound by all the terms and conditions of this Agreement, including the release of claims set forth herein.

(d) Defendant’s Right to Void Settlement Due to Number of Opt-Outs

If the number of persons that submit a request for exclusion to the Administrator on a timely basis is equal to or in excess of eight percent (8%) of the total number of persons to whom Notices are sent, Defendant shall have the right, at their sole discretion, within 55 days after the Notice of Settlement (described in paragraph 7(a) of this Agreement) is mailed to members of the Plaintiff Class, to void this Agreement and the Parties’ settlement. The Agreement and the Parties’ settlement shall become void seven (7) days after Defendant exercises such right unless, during that period, the Parties agree in writing to a mutually acceptable resolution of the issue set forth in the written notification and thereafter the Court approves such resolution.

**5. CONSIDERATION BY DEFENDANT**

In consideration for the releases and dismissals set forth in this Agreement, Defendant agrees to pay the Maximum Settlement Amount, from which all the following amounts shall be paid: (1) the payment to members of the Plaintiff Class whom have not timely opted out of the Plaintiff Class (herein defined as “Settlement Class Members”) pursuant to the payment procedure as described in paragraphs 8 and 9 herein; (2) the payment of an enhancement award to the named Plaintiff as set forth herein and as awarded by the Court; (3) the payment of civil penalties pursuant to Cal. Lab. Code §§ 2698, *et seq.*; (4) the payment of attorneys’ fees and costs

as set forth herein and as awarded by the Court; and (5) the payment of the cost of administration of the settlement, including, without limitation, all fees of the Administrator, as set forth herein; and (6) the employee's share of any standard tax deductions and withholdings and payroll taxes. The employer's share of any payroll taxes shall be borne by Defendant and paid separately from the Maximum Settlement Amount.

(a) "Maximum Settlement Amount" to be Paid by Defendant

The "Maximum Settlement Amount" to be paid by Defendant is the total sum of One Hundred Sixty Thousand Dollars and Zero Cents (\$160,000.00). The payment by Defendant shall be "all inclusive," including: any unpaid wages, restitution, penalties, including penalties under the Labor Code sections 203, 226 and Labor Code Private Attorneys General Act of 2004 ("PAGA"), or damages associated with or related to the alleged misclassification of all members of the Plaintiff Class as independent contractors; any restitution under California Business and Professions Code Section 17200 *et seq.*; all payments to the State of California under the PAGA; interest, attorneys' fees, costs, and expenses, as approved by the Court; all of the fees, costs and expenses of the Administrator in connection with settlement administration including any fees, costs, and expenses in connection with notice and the exclusion process; settlement payments; an enhancement payment to Plaintiff, as approved by the Court; the employees' share of any standard tax deductions and withholdings and payroll taxes (including without limitation state and federal income taxes, social security contributions, FICA, and unemployment taxes); and all other settlement-related payments and costs. The Defendant will separately pay its employer-side payroll taxes in addition to the Maximum Settlement Amount.

Under no condition will Defendant's liability for payments exceed the Maximum Settlement Amount. The timing on which the funds comprising the Maximum Settlement Amount shall be segregated and funded to the Administrator is set forth under Paragraph 16 of this Agreement. Defendant shall retain exclusive authority over, and the responsibility for, those funds until the dates set forth for funding pursuant to Paragraph 16 of this Agreement. All settlement payments due to members of the Plaintiff Class, and all attorneys' fees, costs, the enhancement award, settlement administration expenses, and all employee-paid withholding and payroll taxes, including state and federal income taxes, social security contributions and unemployment taxes with respect to settlement payments to members of the Plaintiff Class shall be paid from the Maximum Settlement Amount.

(b) Attorneys' Fees and Costs

Defendant understands that Plaintiff's Counsel will file an application for an award of attorneys' fees in an amount not to exceed one-third (33 and 1/3% or \$53,333.33) of the Maximum Settlement Amount, and shall also seek reasonable reimbursement of costs and expenses incurred up to \$15,000.00. Defendant agrees not to object to such application. Any such attorneys' fees and costs approved by the Court shall be paid from the Maximum Settlement Amount. Any such attorneys' fees and costs, or amounts thereof, not approved by the Court shall revert to the Settlement Class Members. In the event that this settlement does not receive final approval from the Court (or if a final approval order is reversed on appeal), no party shall use the foregoing provision or the application for or award of attorneys' fees and costs for any purpose whatsoever in this Lawsuit or in any other action or proceeding.

(c) Enhancement Award

Plaintiff's Counsel will file an application for approval of an enhancement award to Plaintiff in an amount not to exceed a maximum total of \$10,000. The addition of any new named plaintiffs to the Complaint shall not increase the Maximum Settlement Amount or the maximum total amount of enhancement awards specified herein. This enhancement award is in

addition to the individual settlement award to Plaintiff as a member of the Plaintiff Class. Defendant agrees not to object to such application. Any such enhancement award approved by the Court shall be paid from the Maximum Settlement Amount. Any such enhancement award, or amount thereof, not approved by the Court shall revert to the Settlement Class Members. The named Plaintiff's enhancement award funds will be reported to the IRS on Form 1099. In the event that this settlement does not receive final approval from the Court (or if a final approval order is reversed on appeal), no party shall use the foregoing provision or the application of or award for an enhancement for any purpose whatsoever in this Lawsuit or in any other action or proceeding.

(d) Payment of Penalties Under the PAGA

Pursuant to Labor Code § 2699(1)(2), concurrent with its filing of a Motion for Preliminary Approval, Plaintiff's Counsel will file an application for court-approval of an award of \$5,000, to be designated as penalties under the PAGA ("PAGA Payment"). Plaintiff's Counsel shall also submit its application for court-approval of an award of \$5,000 to the California Labor & Workforce Development Agency ("LWDA"). As required by statute, 75% of the PAGA penalties (\$3,750) shall be paid to the LWDA, and 25% (\$1,250) shall be awarded to the Settlement Class Members. This payment to the LWDA shall be deducted from the Maximum Settlement Amount.

(e) Administration Costs. Plaintiff will apply to the Court for up to \$10,000 in administration costs. In the event that this settlement does not receive final approval from the Court (or if a final approval order is reversed on appeal), the Parties will split equally the Administration Costs. Any such Administration Costs approved by the Court shall be paid from the Maximum Settlement Amount. Any such Administration Costs not approved by the Court shall revert to the Settlement Class Members.

## 6. FILING OF MOTION TO CERTIFY CLASS

Plaintiff shall request the Court conditionally certify the Plaintiff Class, as defined herein, for the purpose of settlement. Defendant does not consent to, and does not advocate for, but shall not oppose, the certification of the Plaintiff Class for settlement purposes only. In the event that this settlement does not receive final approval from the Court (or if a final approval order is reversed on appeal), no party shall use the foregoing provision or the certification of the Plaintiff Class for any purpose whatsoever in the Lawsuit or in any other action or proceeding.

## 7. NOTICE OF SETTLEMENT

(a) Notice of Settlement

The parties agree that within seven (7) calendar days of execution of the Court's order granting preliminary approval, Defendant will provide, subject to the Parties' Protective Order entered pursuant to Paragraph 1 of this Agreement, reports containing the following information for members of the Plaintiff Class to the Administrator: name, social security number, number of units performed; and last-known mailing address ("Class List") Upon receipt of the Class List, the Settlement Administrator shall perform a search based on the National Change of Address Database maintained by the United States Postal Service to update and correct any known or identifiable address changes. Within ten (10) calendar days of preliminary approval, the Administrator will provide members of the Plaintiff Class via first class United States Mail with notice of the terms and conditions of this settlement substantially in a form of a "Notice" agreed upon by the Parties and approved by the Court, in substantially the same form as Exhibit "A," which is attached hereto.

The Notice shall inform members of the Plaintiff Class:

- (1) Of the terms of the settlement;
- (2) That the Class Member has been identified as a person who worked for Defendant during the Class Period; and
- (3) Of the opportunity to object to the settlement, pursuant to paragraph 12 herein, and of the right to elect to opt-out of the Plaintiff Class.

(b) Mailing of Notice

The Administrator shall send the Notice to all members of the Plaintiff Class via first class United States Mail. The Administrator shall take all reasonable measures to provide Notices to members of the Plaintiff Class, including skip tracing and re-mailing as to any Notices (and accompanying documents) that are returned by the post office for invalid addresses within 7 days of the Administrator's receipt of such returned Notice. The Administrator shall take reasonable measures to locate and provide Notice to members of the Plaintiff Class. Plaintiff Class Members who are sent a re-mailed Notice shall have their Response Deadline, including their deadline to dispute, extended by fifteen (15) calendar days from the date the Settlement Administrator re-mails the Settlement Notice. The Administrator shall notify Plaintiff's Counsel and Defendant's counsel of the identity of all members of the Plaintiff Class who (i) were re-mailed Notice as a result of skip tracing and whose Notice was again returned, or (ii) could not be located through reasonable efforts to provide Notice to the member of the Plaintiff Class. The Administrator shall provide such notification within seven (7) days of such unsuccessful searches or receipt of returned Notices.

(c) Report by Administrator

The Administrator shall provide the parties with a weekly status report regarding Notice to the Class, Objections and Opt-outs if any.

**8. PAYMENT TO MEMBERS OF THE PLAINTIFF CLASS**

(a) Administrator's Role

The Administrator will calculate the amounts to be paid to Settlement Class Members as provided below and issue payments to the Settlement Class Members.

(b) Net Settlement Proceeds

The "Net Settlement Proceeds" shall equal the Maximum Settlement Amount minus the total of (i) Court-approved attorneys' fees (not to exceed \$53,333.33) and costs (up to \$15,000.00); (ii) Court-approved Enhancement Award to the named Plaintiff (up to \$10,000.00); (iii) PAGA Payment to the LWDA(\$5,000.00); (iv) all fees, costs, and expenses of the Administrator in connection with the settlement administration including, without limitation, those connected with providing notice to the members of the Plaintiff Class and making settlement distributions to members of the Plaintiff Class( up to \$10,000.00); and (v) employees' share of any standard tax deductions and withholdings and payroll taxes (including

without limitation state and federal income taxes, social security contributions, FICA, and unemployment taxes).

(c) Individual Settlement Awards

Each Settlement Class Member's "Individual Settlement Award" shall equal the Net Settlement Proceeds multiplied by the quotient of the total number of units performed by the individual Settlement Class Member (determined by Defendant's records) divided by the total number of units performed by the Plaintiff Class (determined by Defendant's records), subject to employee-side deductions and withholdings to be paid to taxing authorities. The Administrator will pay out all Awards owed to the Settlement Class Members and issue IRS tax forms.

The Individual Settlement Awards for the Settlement Class Members will be allocated as follows: twenty percent (20%) for alleged unpaid wages which will be reported to the IRS on Form W-2, including amounts to be deducted for employee taxes; forty percent (40%) for alleged interest, which will be reported to the IRS on Form 1099; and forty percent (40%) to alleged penalties, which will be reported to the IRS on Form 1099.

(d) Claimed Settlement Amount; Unclaimed Amount

This is a non-reversionary settlement, and the total of all Individual Settlement Awards shall be the "Settlement Amount." Any member of the Plaintiff Class who opts out of the Settlement Class shall not receive any Individual Settlement Award or any Settlement Amount, and their portion of the Net Settlement Proceeds shall be distributed to the other Plaintiff Class Members pro rata. Any portion of the Net Settlement Proceeds that are not cashed by Settlement Class Members shall be distributed to the California State Controller's Unclaimed Property Fund.

(e) Tax Liability and Net Payments

Each Settlement Class Member will be responsible for his or her own tax obligations. In accordance with both State and Federal tax laws, the Administrator shall withhold such sums from each Settlement Class Member's Individual Settlement Award as is required in order to comply with the Settlement Class Member's tax obligation but not Defendant's employer-side tax obligations. Portions of any Individual Settlement Award not subject to withholding will be issued with a 1099 form. After appropriate tax withholding from Individual Settlement Awards, the net payment to be received by each Settlement Class Member shall be designated as the "Net Payment", and the sum shall be paid as provided in this Agreement. The Administrator shall report the taxes withheld from the wages of each Settlement Class Member as required by law via a W-2 form, and shall immediately pay over all such withheld funds to the appropriate State and Federal taxing authorities. The Administrator shall provide each Settlement Class Member with appropriate documentation setting forth the amount of any of the Settlement Class Member's tax or other payment withheld in accordance with State and

Federal tax requirements. Settlement Class Members shall be responsible for remitting to State and/or Federal taxing authorities any applicable other taxes due and shall hold Defendant harmless and indemnify them for any liabilities, costs and expenses, including attorneys' fees, assessed or caused by any such taxing authority relating in any way to the tax treatment of the payments made pursuant to this Agreement.

(f) Payment of Settlement Funds Will Not Be Considered By Defendant as Having Any Effect on Any Benefit Plan and Similar Plans.

The payment to any member of the Plaintiff Class as provided for in this Agreement is not and shall not be deemed by Defendant to constitute an addition to, a modification of, or a change in any previously credited hours of service, compensation or wages under any benefit plan, policy, or stock option plan of or sponsored by Defendant or any of their present or former parent corporations or affiliates or any jointly trusted benefit plans. Any such payment to any member of the Plaintiff Class shall not be considered by Defendant to form the basis for additional contributions to, additional benefits under, or any other additional entitlements under any benefit plan, policy, or stock option plan of or sponsored by Defendant or any of their present or former parent corporations or affiliates or any jointly trusted benefit plans. Defendant and each of their present and former parent corporations and affiliates retain the right to modify and/or amend the language of their benefit plans, policies, and stock option plans, and to seek to have modified and/or amended the language of any jointly trusted benefit plans, to make clear that any amounts paid as a result of this Agreement are not considered by Defendant as compensation or wages, or payments for work, as defined by the applicable plans and policies, and that no additional contributions or benefits will be provided by Defendant by reason of the settlement. Plaintiff takes no position on the issues in this section.

## **9. ADMINISTRATION OF MAXIMUM SETTLEMENT AMOUNT**

(a) The Administrator will calculate the Individual Settlement Awards to be made to the Plaintiff Class from the Net Settlement Proceeds in accordance with the terms and provisions of this Agreement. The units data of the members of the Plaintiff Class provided by Defendant will be presumed to be correct. The fees, costs, and expenses of the Administrator in connection with the verification and/or performance of its duties in accordance with this Agreement shall be considered settlement administration expenses and shall be paid from the Maximum Settlement Amount. All of the fees, costs and expenses of the Administrator in connection with printing, issuing and/or mailing settlement payments shall be considered settlement administration expenses and shall be paid from the Maximum Settlement Amount.

(b) No person shall have any claim against Defendant, Defendant's counsel, Plaintiff, the Plaintiff Class, Plaintiff's Counsel or the Administrator based on distribution and payments made in accordance with this Agreement.

## **10. COURT PRELIMINARY APPROVAL**

Plaintiff shall seek preliminary approval of this Settlement by the Court. As part of the preliminary approval process, the Court shall be asked to approve, among other matters, the terms of the settlement, the Notice, the method of providing Notice, the procedure for the calculation of settlement distributions, the enhancement award for Plaintiff, and the attorneys' fees and costs of Plaintiff's Counsel. The Parties shall use their best efforts to conduct the preliminary approval hearing within 30 days of the execution of this Agreement. Pursuant to Labor Code § 2699(1)(2), Plaintiff's Counsel shall also submit its Motion for Preliminary Approval to the LWDA.

## **11. FINAL APPROVAL HEARING**

The Notice shall contain a date, time and location for a "Final Approval Hearing." The Final Approval Hearing shall be held on a date approved by the Court no earlier than ten days after the last day for Defendant to exercise its right to void this Agreement. The exact date, time and location of the Final Approval Hearing shall be set forth in the Notice. At the Final Approval Hearing, Class Counsel shall request the Court to grant final approval of the applications for attorneys' fees and costs and the enhancement payments.

## **12. PROCEDURE FOR OBJECTIONS TO SETTLEMENT**

### **(a) Response Deadline**

"Response Deadline" means the deadline by which members of the Plaintiff Class must postmark or fax to the Settlement Administrator a valid request for exclusion, objection, or dispute regarding the number of units performed. The Response Deadline will be forty-five (45) calendar days from the initial mailing of the Notices by the Settlement Administrator unless the 45th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defendant. Under no circumstances, however, will the Administrator have the authority to extend the deadline for members of the Plaintiff Class to submit a request for exclusion, objection, or dispute.

The Notice shall provide that members of the Plaintiff Class who wish to object to the settlement must mail or fax to the Settlement Administrator a written statement objecting to the settlement by the Response Deadline (no later than forty five (45) days after the date the Notice is first mailed). Members of the Plaintiff Class who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the settlement, or any aspect of the settlement. However, the court will hear from any class member who attends the final approval hearing and asks to speak regarding his or her objection, without faxing or mailing an objection. .

### **13. RIGHT TO BE EXCLUDED FROM TERMS OF THE SETTLEMENT**

The Notice shall provide that members of the Plaintiff Class who wish to be excluded from the settlement must mail the Administrator a written statement requesting to be excluded from the Settlement by the Response Deadline (no later than forty-five (45) days after the date the Notice is first mailed).

### **14. PROPOSED FINAL APPROVAL ORDER, FINAL JUDGMENT AND ORDER OF DISMISSAL**

Upon final approval of the settlement, the Court shall be requested to issue a Proposed Final Approval Order and Final Judgment (“Proposed Final Judgment”), which shall, inter alia:

(a) Grant final approval to the settlement as fair, reasonable, adequate, in good faith and in the best interests of the Plaintiff Class, as a whole, and order the parties to carry out the provisions of this Agreement;

(b) Adjudge that Settlement Class Members are conclusively deemed to have released Defendant and the Released Parties of and from any and all rights, claims, demands, liabilities, causes of action, liens and judgments arising out of the facts and circumstances alleged in the Complaint in relation to the alleged claims relating to the release of the Plaintiff Class;

(c) Bar and permanently enjoin each Settlement Class Member from prosecuting against Defendant and the Released Parties any and all of the settled and released claims which the Settlement Class Members or any of them had, have, arising out of, based upon, or otherwise related to any of the settled and released claims, or any of the allegations contained in the Complaint; and

(d) Reserve continuing jurisdiction as provided herein.

### **15. APPROVAL AND ADOPTION OF PROPOSED FINAL JUDGMENT BY COURT AND FINAL JUDGMENT**

The Parties shall jointly seek final approval and adoption of this settlement from the Court for entry of the Proposed Final Judgment and the Final Approval Order, as well as an Attorneys’ Fee Order and Enhancement Award Order.

Pursuant to Labor Code § 2699(l)(3), Plaintiff’s Counsel shall submit a copy of any Final Judgment issued by the Court to the LWDA.

### **16. PAYMENT OF SETTLEMENT PROCEEDS**

(a) Timing of Payment to Administrator

Defendant shall make payment to the Administrator for the obligations described herein in installment payments, as follows: (1) \$50,000 upon the Court's issuance of the Proposed Final Judgment; (2) \$55,000 by no later than six months from date of the Court's issuance of the Proposed Final Judgment; and (3) \$55,000 by no later than twelve months from date of the Court's issuance of the Proposed Final Judgment. In the event an appeal is filed, Defendant's second and third installment payments (collectively amounting to \$110,000) to the Administrator shall be made no later than seven (7) calendar days after a final resolution of all appeals that results in the upholding of the Parties' Settlement.

The Administrator shall maintain in a non-interest bearing escrow account all installment payments pending the time to challenge any aspect of the Agreement by appeal has lapsed, provided that no such appeal has been filed, or, if any such appeal is filed, the date after a final resolution of all appeals that results in the upholding of the Parties' Settlement. The date upon which the time to challenge any aspect of the Agreement by appeal has lapsed, provided that no such appeal has been filed, or, if any such appeal is filed, the date after a final resolution of all appeals that results in the upholding of the Parties' Settlement shall be called the "Effective Date."

(b) Method of Payment

No earlier than seven (7) calendar days after receipt of Defendant's third installment payment, or fifteen (15) calendar days after the Effective Date, whichever is later, the Administrator shall issue payments to the Settlement Class Members in accordance with the terms of this Agreement. The Administrator will be responsible for making appropriate tax payments and withholdings, payroll deductions and reporting obligations and issuing the Individual Settlement Awards. The Administrator will also be responsible for making Court-approved payments for individual enhancements, attorneys' fees, costs, payments to the LWDA, residual to be distributed to the State Controller Unclaimed Property Fund, and administration expenses as described in this Agreement. The expiration date on the settlement checks will be one hundred eighty (180) days from the date the settlement checks are issued. The Administrator will provide notice to Plaintiff's counsel of any uncashed checks and the Administrator shall have responsibility to attempt to locate the impacted Settlement Class Members by conducting a National Change of Address search, followed by a computer/SSN and "skip trace" search to obtain an updated address and re-issue checks, if appropriate, with an expiration date ninety (90) days following the re-issuing of the checks. In the event any Settlement Class Member(s) cannot be located within one hundred eighty (180) days of the expiration of the initial settlement checks or if any settlement check(s) remain uncashed, uncashed settlement check(s) will not be re-issued and the money from the uncashed settlement checks will be distributed to the California State Treasurer's Unclaimed Property Fund.

(c) Default

In the event of Defendant's default on any payment when due and payable, and upon fifteen (15) calendar days' written notice to cure, which Plaintiff shall send by overnight mail to Defendant and by e-mail to Defendant's Counsel, David Cheng at dcheng@fordharrison.com, Plaintiff may at her option elect to accelerate all of the remaining installment payments and declare the entire unpaid balance immediately due and payable. Upon such declaration, the Defendant will be obligated to immediately pay the balance owed on the Maximum Settlement Amount. Further, upon default, the Releases will be deemed void.

## **17. COSTS**

Defendant shall bear their own costs, expenses, and attorneys' fees incurred in connection with or arising out of the Lawsuit and Counterclaims. Class Counsel's attorneys' fees and costs, as approved by the Court, shall be paid from the Maximum Settlement Amount.

## **18. RELEASE BY ALL MEMBERS OF SETTLEMENT CLASS**

As of the Effective Date, the Settlement Class Members, including Plaintiff, release Defendant and each of its respective past, present and future owners, members, stockholders, parent corporations, related or affiliate companies, subsidiaries, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, attorneys, auditors, consultants, insurers and re-insurers, and their respective successors and predecessors in interest, each of their company-sponsored employee benefit plans of any nature (including, without limitation, profit-sharing plans, pension plans, 401(k) plans, and severance plans) and all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents, and any individual or entity which could be jointly liable with Defendant (the "Released Parties") from the "Released Claims," as defined below.

### **(a) Released Claims – Plaintiff Class**

For purposes of this Agreement, the "Released Claims" are defined as: all claims, demands, rights, liabilities, and causes of action that were or could have been asserted in the Complaint based on the facts pleaded, whether in tort, contract, statute, rule, ordinance, order, regulation, or otherwise, including state and federal wage and hour laws (including the Fair Labor Standards Act, the California Labor Code sections 201, 202, 203, 204, 210, 226, 226.2, 226.3, 226.7, 226.8, 510, 512, 515, 558, 1174, 1174.5, 1194, 1197, 1198, 1682, 2698, *et seq.* and 2802, all applicable wage orders, whether for economic damages, non-economic damages, restitution, penalties, premiums, wages, or liquidated damages, relating to, on the basis of, in connection with, or arising out of, in whole or in part, the alleged facts and claims at issue, including but not limited to, the alleged failure to: (1) failure to pay all wages for all hours worked at the correct rates of pay (Cal. Lab. Code §§ 226.2, 510, 1194, 1197 and 1198); (2) failure to provide meal and rest periods (Cal. Lab. Code §§ 226.7, 512 and 1198); (3) failure to indemnify (Cal. Lab. Code §§ 1198 and 2802); (4) failure to provide accurate written wage statements (Cal. Lab. Code §§ 226, and 226.2); (5) unfair competition (Cal. Bus. & Prof. Code §§ 17200, *et seq.*; and (6) civil penalties (Cal. Lab. Code §§ 2698, *et seq.*).

(b) Plaintiff General Release

Plaintiff covenants not to sue and hereby releases and discharges Defendant and the Released Parties from all statutory and common law claims that Plaintiff has or may have against the Defendant and the Released Parties arising prior to the Effective Date of this Agreement and/or arising out of or relating to her work relationship with Defendant or the termination thereof (hereinafter, "Plaintiff Released Claims"). Without limitation, the Plaintiff Released Claims herein include claims arising under Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Civil Rights Act of 1991, the Age Discrimination in Employment Act, the Fair Labor Standards Act, the Equal Pay Act, as amended, the Employee Retirement Income Security Act, the Family Medical Leave Act, and any analogous local or state law or statute, including without limitation claims arising under the California Fair Employment and Housing Act, the California Family Rights Act, the California Government Code, the California Labor Code, the California Business & Professions Code, California Industrial Welfare Commission Wage Orders, the California Workers' Compensation and Insurance Act, claims arising under the Worker Adjustment and Retraining Notification Act, and any other claim based upon any act or omission of the Defendant and the Released Parties occurring prior to the Effective Date of this Agreement.

However, this general release and waiver of claims excludes, and Plaintiff does not waive, release or discharge, (i) any right to file an administrative charge or complaint with the Equal Employment Opportunity Commission or other administrative agency; (ii) claims under state workers' compensation or unemployment laws; and (iii) any other claims that cannot be waived by law.

Plaintiff stipulates and agrees that, upon the Effective Date, Plaintiff shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived and relinquished to the fullest extent permitted by law the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law that purports to limit the scope of a general release. Section 1542 provides:

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

(c) Defendant General Release as to Plaintiff Only

Defendant covenants not to sue and hereby releases and discharges Plaintiff from all statutory and common law claims that Defendant has or may have against Plaintiff arising prior to the Effective Date of this Agreement and/or arising out of or relating to its work relationship with Plaintiff or the termination thereof.

As to Plaintiff only, Defendant stipulates and agrees that, upon the Effective Date, Defendant shall be deemed to have, and by operation of the Final Judgment shall have, expressly waived and relinquished to the fullest extent permitted by law the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law that purports to limit the scope of a general release. Section 1542 provides:

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

(d) Binding Effect

Upon Defendant's payment of the full Maximum Settlement Amount, as outlined in section 16(a) above, all Settlement Class Members who have not excluded themselves shall be bound by this Agreement, all Released Claims shall be released as against Released Parties, and Settlement Class Members who have not excluded themselves shall be barred from pursuing or seeking to re-open, any Released Claims as against any Released Parties.

## **19. NO ADMISSION BY THE PARTIES**

Defendant and the Released Parties deny any and all claims alleged in the Lawsuit and in the Complaint and deny all wrongdoing whatsoever. Defendant continues to assert that it has complied with the California Labor Code and that the members of the Plaintiff Class have been paid in accordance with the law. This Agreement is neither a concession nor an admission, and shall not be used against Defendant or any of the Released Parties as an admission or indication with respect to any claim of any fault, concession or omission by Defendant or any of the Released Parties. Whether or not the settlement is finally approved, neither the settlement, nor any document, statement, proceeding or conduct related to this Agreement, nor any reports or accounts thereof, shall in any event be:

(a) Construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or

(b) Disclosed, referred to or offered or received in evidence against any of the Released Parties in any further proceeding in the Lawsuit, or any other civil, criminal or administrative action or proceeding, except for purposes of settling the Lawsuit pursuant to this Agreement.

## **20. CONFIDENTIALITY**

(a) Prior to preliminary approval of the settlement, Plaintiff agrees that negotiations leading up to this Agreement shall be kept confidential. To this end, Plaintiff agrees that she will not disclose the negotiations leading up to this Agreement. Plaintiff's Counsel will take all steps necessary to ensure that Plaintiff is aware of, and will adhere to, the restriction against any disclosure of the settlement and its terms prior to preliminary approval the negotiations including mediation discussions which led this Agreement. This confidentiality agreement is only effective up to Preliminary Approval.

(b) Plaintiff agrees that prior to obtaining Preliminary Approval of the Settlement, she, including her agents, representatives, and counsel, shall not at any time (i) initiate or cause the initiation of any communications concerning the settlement with any media organization and/or (ii) respond to or cause a response to be made to any communications concerning the settlement with any media organization. As used in this paragraph, "media organization" shall include, without limitation, print, broadcast, television, satellite, and internet media.

(c) Plaintiff agrees that paragraph 21(b) includes, but is not limited to, a prohibition of any participation in any way by Plaintiff, including her agents, representatives, and counsel in any press conferences or press releases concerning the Lawsuit, the Complaint or claims raised therein. If contacted by a media organization at any time prior to Preliminary Approval of the Settlement, Plaintiff, including her agents, representatives, and/or counsel will only state that this matter has settled.

(d) Plaintiff's Counsel will take all steps necessary to ensure that Plaintiff is aware of, and will adhere to, the restriction against any media comment on the negotiations and mediation discussions which led to this Agreement prior to Preliminary Approval.

(e) The Parties will neither encourage nor discourage members of the Plaintiff Class to opt-out under the settlement.

(f) Notwithstanding the above provision in this Paragraph, nothing in this Agreement is intended to prevent Employee from disclosing factual information related to the following acts alleged in a filed civil or administrative action: (1) an act that may be prosecuted as a felony sex offense; (2) an act of childhood sexual abuse, as defined in California Code of Civil Procedure Section 340.1; (3) An act of sexual exploitation of a minor, as defined in Section 11165.1 of the California Penal Code, or conduct prohibited with respect to a minor pursuant to Section 311.1, 311.5, or 311.6 of the California Penal Code; (4) an act of sexual assault; (5) an act of sexual harassment, as defined in Section 51.9 of the California Civil Code; (6) an act of workplace harassment or discrimination based on sex, or failure to prevent an act of workplace harassment or discrimination based on sex or an act of retaliation against a person for reporting harassment or discrimination based on sex, as described in subdivisions (h), (i), (j), and (k) of Section 12940 of the California Government Code; or (7) an act of harassment or discrimination based on sex, or an act of retaliation against a person for reporting harassment or discrimination based on sex, by the owner of a housing accommodation, as described in Section 12955 of the California Government Code.

## **21. NULLIFICATION OF AGREEMENT**

In the event: (i) the Court does not enter the Preliminary Approval Order specified herein; (ii) the Court does not finally approve the settlement as provided herein; (iii) the Court does not issue a Proposed Final Judgment which becomes final and not subject to any appeals; or (iv) the settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this settlement shall be treated as void ab initio. In such event, the Parties hereto and any funds to be awarded under this settlement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Agreement, and the parties shall proceed in all respects as if this Agreement had not been executed.

## **22. RETURN OF DOCUMENTS AND INFORMATION**

Plaintiff, the Plaintiff Class and Plaintiff's Counsel agree that none of the documents and information provided to the Administrator by Defendant shall be used for any purpose other than approval of this Settlement. No later than thirty (30) days after the payment of all settlement proceeds as described in this Agreement, the Administrator shall destroy or return to Defendant's counsel the original and all copies of any documents designated as "confidential", including any communications and electronic files and copies related to any documents designated as "confidential." Should the Administrator elect to destroy documents designated as "confidential", the Administrator shall certify under penalty of perjury that such documents have been destroyed.

## **23. REPRESENTATIONS AND WARRANTIES**

Each party to this Agreement represents and warrants that he, she or it has not assigned or transferred, or purported to assign or transfer, any of the claims released pursuant to this Agreement to any other person and that he, she or it is fully entitled to compromise and settle same.

## **24. CALIFORNIA LAW**

All questions with respect to the construction of this Agreement and the rights and liabilities of the Parties shall be governed by the laws of the State of California applicable to agreements to be wholly performed within the State of California.

## **25. OWN COUNSEL**

Each party hereto acknowledges that he, she or it has been represented by counsel of his, her or its own choice throughout all of the negotiations which preceded the execution of this Agreement and in connection with the preparation and execution of this Agreement.

## **26. FURTHER ACTS AND DOCUMENTS**

The Parties agree to do such acts and execute all such documents necessary to effectuate the intent of this Agreement.

## **27. COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

## **28. HEADINGS**

The headings contained in this Agreement are for reference only and are not to be construed in any way as a part of the Agreement.

## **29. ENTIRE AGREEMENT**

This Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written agreements and discussions. Each of the Parties covenants that he, she or it has not entered into this Agreement as a result of any representation, agreement, inducement, or coercion, except to the extent specifically provided herein. Each party further covenants that the consideration recited herein is the only consideration for entering into this Agreement and that no promises or representations of another or further consideration have been made by any person. This Agreement may be amended only by an agreement in writing duly executed by all Parties hereto.

## **30. BINDING EFFECT**

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and to their respective heirs, assigns and successors-in-interest.

## **31. DRAFTING**

Each party hereto has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement the same shall not be construed against any party as drafter of this Agreement.

## **32. SEVERABILITY**

In the event any covenant or other provision herein is held to be invalid, void or illegal, the same shall be deemed severed from the remainder of this Agreement and shall in no way affect, impair or invalidate any other covenant, condition or other provision herein. If any covenant, condition or other provision herein is held to be invalid due to its scope or breadth,

such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

### **33. INCORPORATION OF EXHIBITS**

All exhibits attached to this Agreement are hereby incorporated by reference as though set forth fully herein and are a material part of this Agreement. Any notice, order, judgment or other exhibit that requires approval of the Court must be approved without material alteration from its current form in order for this Agreement to become effective. Notwithstanding this paragraph, insubstantial changes to the attached exhibits shall not invalidate the Agreement.

### **34. AUTHORITY**

Each party hereto warrants and represents that each of the persons or entities executing this Agreement is duly empowered and authorized to do so.

### **35. WAIVER OF RIGHT TO OBJECT**

Plaintiff agrees to sign this Agreement and by signing this Agreement is bound by the terms herein stated and further agrees not to request to be excluded from the Plaintiff Class and agrees not to object to any of the terms of this Agreement. Non-compliance with this paragraph shall be void and of no force or effect. Any such request for exclusion or objection shall therefore be void and of no force or effect.

### **36. ADMINISTRATION OF SETTLEMENT AND COMPLIANCE**

The Court shall have continuing jurisdiction to resolve any dispute which may arise with regard to the terms and conditions of this Agreement as set forth herein.

### **37. NOTICE**

All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement (other than the Notice of Settlement to members of the Plaintiff Class) shall be in writing and shall be delivered personally, telecopied or mailed postage pre-paid by first class mail to the following persons at the their addresses set forth as follows:

**Plaintiff's Counsel/Class Counsel:**

**David G. Spivak  
The Spivak Law Firm  
16530 Ventura Boulevard, Suite 203  
Encino, California 91436**

**Defendant's Counsel:**

**David L. Cheng  
Ford & Harrison LLP  
350 South Grand Ave., Suite 2300  
Los Angeles, California 90071**

WHEREFORE, Plaintiff, on her own behalf and on behalf of the Plaintiff Class, and Defendant, by its duly authorized agents, have executed this Agreement as of the dates set forth below.

**Plaintiff**

10 / 05 / 2020

Dated: October \_\_\_\_, 2020

*Janet D. Mitchell*

\_\_\_\_\_  
Janet Mitchell

**Defendant**

Dated: October 7, 2020

Defendant 1Force Government Solutions, LLC

  
\_\_\_\_\_  
By: Michael Burke  
Its: President

**Approval As To Form Only:**

Dated: October 5, 2020

UNITED EMPLOYEES LAW GROUP

By:   
\_\_\_\_\_  
Walter Haines, Esq.  
Attorney for Plaintiff Janet Mitchell

10 / 07 / 2020

Dated: October    , 2020

THE SPIVAK LAW FIRM

By:   
\_\_\_\_\_  
David Spivak, Esq.  
Attorney for Plaintiff Janet Mitchell

Dated: October 8, 2020

FORDHARRISON LLP

By:   
\_\_\_\_\_  
David L. Cheng, Esq.  
Attorneys for Defendant 1Force  
Government Solutions, LLC