

1 Mitchell F. Boomer (State Bar No. 121441)
2 Janelle J. Sahouria (State Bar No. 253699)
3 **JACKSON LEWIS P.C.**
4 50 California Street, 9th Floor
5 San Francisco, California 94111-4615
6 Telephone: (415) 394-9400
7 Facsimile: (415) 394-9401
8 E-mail: Mitchell.Boomer@jacksonlewis.com
9 E-mail: Janelle.Sahouria@jacksonlewis.com

10 Attorneys for Defendant
11 CALIFORNIA UNITED MECHANICAL, INC.

12 Douglas Han (SBN 232858)
13 Shunt Tatavos-Gharajeh (SBN 272164)
14 Talia Lux (SBN 336074)
15 **JUSTICE LAW CORPORATION**
16 751 North Fair Oaks Avenue, Suite 101
17 Pasadena, California 91103
18 Telephone: (818) 230-7502
19 Facsimile: (818) 230-7259
20 Email: dhan@justicelawcorp.com
21 Email: statavos@justicelawcorp.com
22 Email: cpetersen@justicelawcorp.com

23 *Attorneys for Plaintiff* ESTEBAN ALCAZAR

24 **UNITED STATES DISTRICT COURT**
25 **NORTHERN DISTRICT OF CALIFORNIA**

26 ESTEBAN ALCAZAR, individually, and on
27 behalf of other members of the general public
28 similarly situated;

Plaintiff,

v.

CALIFORNIA UNITED MECHANICAL, INC.,
a California corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No. 3:21-cv-09003-TLT

**JOINT STIPULATION AND
SETTLEMENT AGREEMENT**

Complaint Filed: September 13, 2021
Removed: November 19, 2021
Trial Date: Not Set

1 **JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**
2 **AND RELEASE**

3 This Joint Stipulation of Class, and Representative Action Settlement Agreement and
4 Release, including Exhibit A hereto (“Settlement Agreement” or “Settlement”) is made and
5 entered into between (1) Plaintiff Esteban Alcazar (“Plaintiff” or “Class Representative”), as an
6 individual and on behalf of all others similarly situated, the State of California, and all alleged
7 aggrieved employees, by and through his counsel of record, Justice Law Corporation (“Class
8 Counsel”); and (2) Defendant California United Mechanical, Inc. (“Defendant”), by and through
9 its counsel of record, Jackson Lewis P.C. (“Defense Counsel”), and is subject to the approval of
10 the Court, as provided below.

11 This settlement shall be binding on (1) Plaintiff, all Participating Class Members, the
12 State of California (including but not limited to the California Labor Workforce Development
13 Agency), and all alleged aggrieved employees, all of whom Plaintiff purports to represent; and
14 (2) Defendant and its respective present and former parent companies, subsidiaries, divisions,
15 related or affiliated companies, shareholders, partners, officers, directors, employees, agents,
16 attorneys, successors and assigns, and any individual or entity which could be liable for any of
17 the released claims (as defined below), subject to the terms and conditions hereof and the
18 approval of the Court.

19 **RECITALS**

- 20 1. On September 13, 2021, Plaintiff initiated this putative class action by filing a
21 Complaint in the Superior Court of California, County of Santa Clara (Case
22 No. 21CV388469) on behalf of himself and non-exempt hourly-paid employees in
23 California, alleging the following causes of action: (a) unpaid overtime; (b) unpaid meal
24 period premiums; (c) unpaid rest period premiums; (d) unpaid minimum wages; (e) final
25 wages not timely paid; (f) non-compliant wage statements; (g) unreimbursed business
26 expenses; and (h) violation of Business and Professions Code section 17200, *et seq.*
- 27 2. On November 19, 2021, Defendant filed a Notice of Removal and removed the Action to
28 the United States District Court, Northern District of California.

- 1 **3.** On November 1, 2022, the Parties participated in mediation before Jeffrey A. Ross
2 (“Mediator”), a respected mediator for wage and hour class actions. The settlement
3 discussions were conducted at arm’s-length, and the settlement is the result of an
4 informed and detailed analysis of Defendant’s potential liability of total exposure in
5 relation to the costs and risks associated with continued litigation. Further, the Parties
6 engaged in informal discovery, in which Defendant made available policies, payroll and
7 timekeeping data, and workforce data. Based on the documents and information
8 produced, as well as Class Counsel’s own independent investigation and evaluation, and
9 the Mediator’s efforts, Class Counsel believes that the settlement with Defendant for the
10 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable,
11 and adequate, and is in the best interest of the putative class members in light of the
12 facts and circumstances, including the risk of significant delay and uncertainty
13 associated with litigation and various defenses asserted by Defendant.
- 14 **4.** On August 29, 2023, Plaintiff filed a First Amended Complaint (the “operative
15 complaint”), which included a PAGA claim, but left the other claims unchanged.
- 16 **5.** Defendant denies all material allegations set forth in the operative complaint and this
17 Action and has asserted numerous affirmative defenses and other defenses. But in the
18 interest of avoiding the cost and expense of further litigation, Defendant desires to settle
19 all actual or potential claims fully and finally by the putative class members.
- 20 **6.** Class Counsel in the Action diligently investigated the putative class members’ claims
21 against Defendant, including any and all applicable defenses and the applicable law. The
22 investigation included, *inter alia*, the exchange of documents, information, and data
23 through formal and informal discovery methods during the litigation.
- 24 **7.** This Settlement Agreement is made and entered into by and between: (a) Plaintiff,
25 individually and on behalf of all others similarly situated, the State of California
26 (including the LWDA), and all alleged aggrieved employees; and (b) Defendant and is
27 subject to the terms and conditions hereof and the Court’s approval. The Parties
28 expressly acknowledge that this Settlement Agreement is entered into solely for the

1 purpose of compromising significantly disputed claims and that nothing herein is an
2 admission of liability or wrongdoing by Defendant. If for any reason the Settlement
3 Agreement is not approved, it will be of no force or effect, and the Parties shall be
4 returned to their original respective positions.

5 **DEFINITIONS**

6 **8.** This Settlement Agreement is intended by Plaintiff and Defendant to resolve, discharge,
7 and settle the Released Claims (as defined below), upon and subject to the terms and
8 conditions hereof, as follows: fully, finally, and forever.

9 **8.1** “**Action**” means *Esteban Alcazar v. California United Mechanical, Inc.*, U.S.
10 District Court for the Northern District of California, Case No. 3:21-cv-09003-
11 TLT.

12 **8.2** “**Attorneys’ Fees and Costs**” means the attorneys’ fees and costs agreed upon by
13 the Parties and approved by the Court for Class Counsel’s litigation and resolution
14 of this Action, including, but not limited to, attorneys’ fees and costs associated
15 with documenting the Settlement, securing the Court’s approval of the Settlement,
16 administering the Settlement, obtaining entry of a Judgment terminating this
17 Action, and expenses for any experts. Class Counsel will request, and Defendant
18 will not oppose, attorneys’ fees of up to one-third of the Maximum Settlement
19 Amount (*i.e.*, up to Three Hundred Thirty-One Thousand Six Hundred and Sixty-
20 Six Dollars and Sixty-Six Cents (\$331,666.66)). Attorneys’ Fees and Costs also
21 includes the additional reimbursement of any reasonable costs and expenses
22 associated with Class Counsel’s litigation and settlement of the Action, not to
23 exceed Twenty Thousand Dollars (\$20,000.00), subject to the Court’s approval.
24 Defendant has agreed not to oppose Class Counsel’s cost application up to the
25 above specified amounts. Any portion of the requested attorneys’ fees and costs
26 not awarded to Class Counsel by the Court shall be added to the Net Class
27 Settlement Amount for the benefit of Participating Class Members.

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1 **8.3** **“Class”** or **“Settlement Class”** means all current and former hourly-paid or non-
2 exempt employees of Defendant within the State of California at any time during
3 the period from September 13, 2017, through January 15, 2023.

4 **8.4** **“Class Counsel”** means Justice Law Corporation collectively, which will seek to
5 be appointed counsel for the Settlement Class.

6 **8.5** **“Class Data”** means a complete list of all Class Members that Defendant will
7 diligently and in good faith compile from its records and provide to the Settlement
8 Administrator. Class Data will be formatted in a readable Microsoft Office Excel
9 spreadsheet and will include each Class Member’s (a) full name; (b) Social
10 Security Number; (c) most recent mailing address; and (d) dates of employment.

11 **8.6** **“Class Member”** means any member of the Class.

12 **8.7** **“Class Notice”** means the form of direct-mail notice to the Class, substantially in
13 the form attached hereto as **Exhibit A**, as may be modified by the Court. The Class
14 Notice shall include: (a) information regarding the nature of the Action; (b)
15 summary of the Settlement’s principal terms; (c) Settlement Class definition; (d)
16 total number of workweeks each Class Member worked for Defendant during the
17 Class Period and the PAGA Period (as defined below); (e) each Class Member’s
18 estimated Individual Settlement Payment and formula for calculating Individual
19 Settlement Payments; (f) the dates that comprise the Class Period and the PAGA
20 Period; (g) information regarding disputing workweeks, objections, or requests for
21 exclusion from the Settlement (to the extent permitted by this Settlement
22 Agreement); (h) deadlines by which Class Members must fax or postmark disputes
23 of workweeks, objections, or requests for exclusion from the Settlement (to the
24 extent permitted by this Settlement Agreement); (i) claims to be released; and (j)
25 date for the Final Approval Hearing. The Class Notice shall be mutually agreed
26 upon by the Parties and presented to the Court for approval.

27 **8.8** **“Class Period”** means the period from September 13, 2017, through January 15,
28 2023.

1 **8.13 “Final Approval Hearing”** means the hearing at which the Court will make a
2 final determination whether the terms of the Settlement Agreement are fair,
3 reasonable, and adequate for the Class and meet all applicable requirements for
4 approval, and, if the Settlement is so approved, whether a judgment should be
5 entered thereon, whether the Class Representative’s application for Enhancement
6 Payment should be granted, and whether an application by Class Counsel for an
7 award of reasonable Attorneys’ Fees and Costs should be granted.

8 **8.14 “Final Approval Order”** means the final order by the Court approving the
9 Settlement Agreement following the Final Approval Hearing.

10 **8.15 “Individual Settlement Payment”** means the total amount a Class Member will
11 receive under the terms of this Settlement. A Class Member’s Individual
12 Settlement Payment will be comprised of two parts: (a) if the Class Member is a
13 Participating Class Member, their share of the Net Class Settlement Amount as
14 determined by the formula set forth in this Settlement Agreement; and (b) if the
15 Class Member is a PAGA Member, their share of the portion of the PAGA
16 Payment that will be distributed to alleged employees as determined by the
17 formula set forth in this Settlement Agreement.

18 **8.16 “Judgment”** means the final judgment by the Court approving the Settlement and
19 entering judgment consistent with Federal Rule of Civil Procedure 23(e).

20 **8.17 “Maximum Settlement Amount”** means the maximum settlement amount that
21 Defendant shall be obligated to pay under this Settlement: Nine Hundred Ninety-
22 Five Thousand Dollars and Zero Cents (\$995,000.00). In no event shall Defendant
23 be required to pay more than the Maximum Settlement Amount, except for
24 Defendant’s payment of employer’s side payroll taxes as provided herein.

25 **8.18 “Net Class Settlement Amount”** means the Maximum Settlement Amount, less
26 the amounts awarded by the Court for: (a) Class Counsel’s Attorneys’ Fees and
27 Costs; (b) Settlement Administration Costs; (c) PAGA Payment; and
28 (d) Enhancement Payment. The Net Class Settlement Amount is the maximum

1 amount that shall be made available and distributed to the Participating Class
2 Members as part of their Individual Settlement Payments.

3 **8.19 “PAGA Members”** means the subclass of Class Members employed by
4 Defendant in California as a non-exempt or hourly employee at any time during
5 the PAGA Period, who constitute the alleged aggrieved employees within the
6 meaning of PAGA in this Action.

7 **8.20 “PAGA Payment”** means the amount that the Parties have agreed to pay from the
8 Maximum Settlement Amount to the LWDA in connection with PAGA. The
9 Parties have agreed that Fifty Thousand Dollars and Zero Cents (\$50,000.00) of
10 the Maximum Settlement Amount will be allocated to the resolution of the claims
11 under PAGA. Of this amount, and in accordance with PAGA, 75% (*i.e.*, Thirty-
12 Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00)) of the PAGA
13 Payment will be paid to the LWDA and 25% (*i.e.*, Twelve Thousand and Five
14 Hundred Dollars and Zero Cents (\$12,500.00)) of the PAGA Payment will be
15 distributed to the PAGA Members in accordance with the formula set forth in this
16 Settlement Agreement.

17 **8.21 “PAGA Period”** means the period from July 10, 2020 (*i.e.*, one year and sixty-
18 five days prior to the filing of the original Complaint on September 13, 2021)
19 through January 15, 2023.

20 **8.22 “Participating Class Members”** means the Class Members included in the
21 Settlement who do not timely request to be excluded from the Settlement (to the
22 extent permitted by this Settlement Agreement) pursuant to the terms set forth in
23 the Class Notice and approved by the Court.

24 **8.23 “Party” or “Parties”** means Plaintiff Esteban Alcazar and Defendant United
25 Mechanical, Inc., individually or collectively.

26 **8.24 “Released Class Claims”** means all claims under state or local law, whether
27 statutory or common law arising out of the claims expressly pleaded in the Action
28 and all other claims, such as those under the California Labor Code, applicable

1 Wage Orders, regulations, and/or other provisions of law, that could have been
2 pleaded based on the facts pleaded in the Action, including but not limited to: (a)
3 failure to pay minimum wages; (b) failure to pay overtime wages; (c) failure to
4 provide all meal breaks; (d) failure to provide all rest breaks; (e) failure to provide
5 accurate itemized wage statements; (f) failure to timely pay wages upon
6 termination; (g) failure to maintain required records; (h) failure to reimburse
7 necessary business expenses; (i) unfair business practices; and (j) all claims for
8 injunctive relief, liquidated damages, penalties, including all civil penalties under
9 the Private Attorneys General Act of 2004 (“PAGA”), interest, fees, and costs, and
10 all other claims and allegations made that could have been made in the Action
11 during the Released Class Claims Period based on the facts and allegations in the
12 operative complaint.

13 **8.25 “Released Class Claims Period”** means the period from September 13, 2017,
14 through January 15, 2023.

15 **8.26 “Released PAGA Claims”** means the claims released by Plaintiff and the State of
16 California (including the LWDA), which include all claims for civil penalties,
17 attorneys’ fees, and costs arising out of the Labor Code claims and allegations
18 expressly pleaded in the Action, and all other Labor Code claims that could have
19 been asserted based on the facts and allegations pleaded in the Action, including
20 but not limited to: (a) failure to pay wages owed, including minimum and overtime
21 wages; (b) failure to provide meal and rest periods; (c) failure to pay all wages due
22 to discharged or quitting employees; (d) failure to provide accurate wage
23 statements; and (e) failure to reimburse business expenses. PAGA Members shall
24 be barred from asserting the Released PAGA Claims on behalf of the State of
25 California that arose during the Released PAGA Claims Period.

26 **8.27 “Released PAGA Claims Period”** means the period from July 10, 2020 (*i.e.*, one
27 year and sixty-five days prior to the filing of the original Complaint on September
28 13, 2021) through January 15, 2023.

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including overtime; (b) failed to provide Class Members accurate wage statements; and (c) failed to pay Class Members all wages due upon termination. The common questions of law and fact predominate, making a class action a superior mode for fairly and efficiently adjudicating the claims; and

(4) Plaintiff and Class Counsel will fairly and adequately protect the Class Members' interests.

10.2 Should this Settlement not be approved by the Court or be terminated, the stipulations above with respect to class action certification shall be null and void and shall not be admissible for any purpose whatsoever.

11. Consideration/Payments to Class Members, Class Counsel, and Plaintiff.

11.1 Maximum Settlement Amount. Defendant shall pay Nine Hundred Ninety-Five Thousand Dollars and Zero Cents (\$995,000.00) in exchange for the resolution of all claims, causes of action, allegations, fees, expenses, and costs for this Action and settlement, including (a) Class Counsel's Attorneys' Fees and Costs; (b) the Enhancement Payment; (c) Settlement Administration Costs; (d) the PAGA Payment; and (e) the Individual Settlement Payments. In no event shall Defendant be required to pay more than the \$995,000.00 Maximum Settlement Amount, except for Defendant's share of employer-side payroll taxes as provided herein.

11.2 Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for Attorneys' Fees and Costs of not more than one-third (1/3) of the Maximum Settlement (*i.e.*, up to Three Hundred Thirty-One Thousand Six Hundred and Sixty-Six Dollars and Sixty Six Cents (\$331,666.66), plus the reimbursement of reasonable costs and expenses associated with Class Counsel's litigation and settlement of the Action, not to exceed Twenty Thousand Dollars (\$20,000.00). All the above attorneys' fees and costs will be paid from the Maximum Settlement Amount.

1 **11.3** Enhancement Payment. In exchange for a general release of all claims, and in
2 recognition of his effort and work in prosecuting the Action on behalf of the Class
3 Members, the State of California, and the PAGA Members, and negotiating the
4 Settlement, Defendant agrees not to oppose or impede any application or motion
5 for an Enhancement Payment of up to Ten Thousand Dollars and Zero Cents
6 (\$10,000.00) to the Class Representative. The Enhancement Payment, which will
7 be paid from the Maximum Settlement Amount, will be in addition to Plaintiff's
8 Individual Settlement Payment paid pursuant to the Settlement. The Class
9 Representative agrees to execute a general release of all claims, including a waiver
10 of Civil Code section 1542. The Settlement Administrator will issue an IRS Form
11 1099 for the Enhancement Payment to the Class Representative, and the Class
12 Representative shall be solely and legally responsible for correctly characterizing
13 this compensation for tax purposes and for paying any taxes on the amounts
14 received. The Class Representative agrees to indemnify and hold Defendant
15 harmless from any claim or liability for taxes, penalties, or interest arising because
16 of the Enhancement Payment. Should the Court approve the Enhancement
17 Payment to the Class Representative in an amount less than that set forth above,
18 the amount shall be added to the Net Class Settlement Amount for the benefit of
19 the Participating Class Members.

20 **11.4** Settlement Administration Costs. The Settlement Administrator will be paid for
21 the reasonable costs of administration of the Settlement and distribution of
22 payments from the Maximum Settlement Amount, which is currently estimated to
23 be no more than Twenty Thousand Dollars and Zero Cents (\$20,000.00). These
24 expenses and costs, which will be paid from the Maximum Settlement Amount,
25 will include, *inter alia*, setting up and periodically updating a website for Class
26 Members to access that will list key deadlines and have links to the Class Notice,
27 Preliminary Approval Order, motions for preliminary approval, final approval, and
28 attorneys' fees, and any other important documents in this Action, the required tax

1 reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS
2 Forms, distributing the Class Notice, calculating and distributing the Maximum
3 Settlement Amount and Attorneys' Fees and Costs, and providing necessary
4 reports and declarations. The Parties acknowledge that Settlement Administration
5 Costs may increase above the current estimate set forth above and that any such
6 additional Settlement Administration Costs will be taken out of the Maximum
7 Settlement Amount. Any portion of the estimated or designated Settlement
8 Administration Costs that are not in fact required to fulfill the total Settlement
9 Administration Costs will become part of the Net Class Settlement Amount for the
10 benefit of the Participating Class Members.

11 **11.5** PAGA Payment. Subject to Court approval, the Parties agree that the PAGA
12 Payments designated above in Section 8.20 will be designated for satisfaction of
13 Plaintiff's, State of California's, and PAGA Members' claims under PAGA.

14 **11.6** Individual Settlement Payments. Individual Settlement Payments will be
15 calculated based on the number of workweeks a Class Member worked during
16 the Class Period and the PAGA Period. Specific calculations of Individual
17 Settlement Payments will be made as follows:

18 (1) The Settlement Administrator will determine the number of
19 workweeks worked by each Participating Class Member during
20 the Class Period, amount from the Net Class Settlement Amount
21 to be paid per workweek, number of workweeks worked by each
22 PAGA Member during the PAGA Period, amount from the PAGA
23 Payment to be paid per workweek, and Individual Settlement
24 Payments to be distributed to each Class Member.

25 (2) Defendant's employee data will be presumed to be correct unless
26 a Class Member proves otherwise to the Settlement Administrator
27 by credible evidence. All workweek disputes will be resolved and
28 decided by the Settlement Administrator, and the Settlement

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Administrator’s decision on all workweek disputes will be final and non-appealable.

(3) Distribution of the Net Class Settlement Amount will be calculated by dividing the Net Class Settlement Amount by the total number of workweeks for all Participating Class Members during the Class Period (resulting in the “Class Workweek Value”), and then multiplying the Class Workweek Value by the number of workweeks worked by each Participating Class Member during the Class Period.¹

(4) Distribution of the portion of the PAGA Payment allocable to alleged aggrieved employees will be calculated by dividing \$12,500.00 by the total number of workweeks for all PAGA Members during the PAGA Period (resulting in the “PAGA Workweek Value”), and then multiplying the PAGA Workweek Value by the number of workweeks worked by each PAGA Member during the PAGA Period.²

11.7 Settlement Awards Do Not Trigger Additional Benefits. All settlement awards to Class Members shall be deemed to be paid to such Class Members solely in the year in which such payments are received by the Class Members. It is expressly understood and agreed that the receipt of such individual settlement awards will not entitle any Class Member to additional compensation or benefits under any company bonus, contest or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Class Member to any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement the individual settlement awards provided for in this Settlement are the sole payments to be made

¹ All workweek calculations shall be rounded to the nearest whole.

² All workweek calculations shall be rounded to the nearest whole.

1 by Defendant to the Class Members and that the Class Members are not entitled to
2 any new or additional compensation or benefits as a result of having received the
3 individual settlement awards (notwithstanding any contrary language or agreement
4 in any benefit or compensation plan document that might have been in effect
5 during the period covered by this Settlement).

6 **11.8** Limitation on Fees and Costs. Except as provided in this Settlement Agreement,
7 Defendant shall not be required to pay any other expenses, costs, damages, or fees
8 incurred by Plaintiff, by any Class Member, or by any of their attorneys, experts,
9 advisors, agents, or representatives. Any award of attorneys' fees and costs
10 payable hereunder to Class Counsel, and the specific allocation of the award of
11 attorneys' fees and costs payable to Class Counsel, shall be in complete
12 satisfaction of any and all claims for such attorneys' fees and costs, under state or
13 federal law, which Plaintiff, Class, Class Counsel, or any other attorneys have or
14 may have against Defendant arising out of or in connection with the Action and its
15 settlement, including, but not limited to, any claims for attorneys' fees and costs
16 involved in litigating the Action and in negotiating and implementing this
17 Settlement Agreement, as well as attorneys' fees and costs incurred through and
18 after the final disposition and termination of the Action and including any and all
19 appeals. Defendant shall not be responsible for distributing or apportioning any
20 award of attorneys' fees and costs among Class Counsel.

21 **12. Releases and Judgment.**

22 **12.1** Release of Class Claims. Upon the Effective Date, Plaintiff and all Participating
23 Class Members will be deemed to have fully, finally, and forever released, settled,
24 compromised, relinquished, and discharged with respect to all the Released Parties
25 any and all Released Class Claims that accrued during the Released Class Claims
26 Period. As defined above, Released Class Claims include all claims under state or
27 local law, whether statutory or common law arising out of the claims expressly
28 pleaded in the Action and all other claims, such as those under the Labor Code,

1 applicable Wage Orders, regulations, and/or other provisions of law, that could
2 have been pleaded based on the facts pleaded in the Action, including but not
3 limited to: (a) failure to pay minimum wages; (b) failure to pay overtime wages;
4 (c) failure to provide all meal breaks; (d) failure to provide all rest breaks; (e)
5 failure to provide accurate itemized wage statements; (f) failure to timely pay
6 wages upon termination; (g) failure to maintain required records; (h) failure to
7 reimburse necessary business expenses; (i) unfair business practices; and (j) all
8 claims for injunctive relief, liquidated damages, penalties, including all civil
9 penalties under PAGA, interest, fees, and costs, and all other claims and
10 allegations made that could have been made in the Action during the Released
11 Class Claims Period based on the facts and allegations in the operative complaint.

12 **12.2** Release of PAGA Claims. Upon the Effective Date, Plaintiff, and the State of
13 California (including the LWDA), will be deemed to have fully, finally, and
14 forever released, settled, compromised, relinquished, and discharged with respect
15 to all the Released Parties any and all Released PAGA Claims that accrued during
16 the Released PAGA Claims Period. Upon the Effective Date, the PAGA Members
17 will be barred from prosecuting on behalf of the State of California all Released
18 PAGA Claims that accrued during the Released PAGA Claims Period against the
19 Released Parties. As defined above, Released PAGA Claims include all claims for
20 civil penalties, attorneys' fees, and costs arising out of the Labor Code claims and
21 allegations expressly pleaded in the Action, and all other Labor Code claims that
22 could have been asserted based on the facts and allegations pleaded in the Action,
23 including but not limited to: (a) failure to pay wages owed, including minimum
24 and overtime wages; (b) failure to provide meal and rest periods; (c) failure to pay
25 all wages due to discharged or quitting employees; (d) failure to provide accurate
26 wage statements; and (e) failure to reimburse for necessary business expenses.

27 **12.3** General Release by Plaintiff. In exchange for the benefits of this Settlement,
28 including the Enhancement Payment, Plaintiff agrees to execute a separate general

1 release of all claims, including a waiver of Civil Code section 1542. Plaintiff shall
2 execute the general release upon executing this Settlement Agreement, and the
3 general release shall become effective on the Effective Date.

4 **12.4 Judgment.** In exchange for the consideration set forth in this Settlement
5 Agreement, Plaintiff, individually and on behalf of the Class Members, State of
6 California (including the LWDA), and PAGA Members agree to enter Judgment
7 with a release of all claims, as set forth herein.

8 **13. Settlement Administration Process – Preliminary Approval.**

9 **13.1 Duties of the Parties for Preliminary Approval.** The Parties shall promptly
10 submit this Settlement Agreement to the Court in support of Plaintiff’s Motion
11 for Preliminary Approval and determination by the Court as to the Settlement’s
12 fairness, adequacy, and reasonableness. The Parties shall apply to the Court for
13 the entry of an order:

- 14 (1) Conditionally certifying the Class for settlement purposes only;
- 15 (2) Approving, as to form and content, the proposed Class Notice;
- 16 (3) Approving the manner and method for Class Members to object
17 and request exclusion from the Settlement as permitted herein and
18 within the Class Notice;
- 19 (4) Directing the mailing of the Class Notice;
- 20 (5) Preliminarily approving the Settlement subject only to the
21 objections of Class Members and final review by the Court.

22 Class Counsel shall draft the Motion for Preliminary Approval and all other
23 materials required for Preliminary Approval, including the Class Notice and the
24 Proposed Order Granting Preliminary Approval. Defendant will be provided five
25 (5) business days to review and comment on the drafts. The Class Notice and
26 Proposed Order Granting Preliminary Approval must be mutually agreed-upon
27 by the Parties.
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1 **13.2** Delivery of the Class Data. Within twenty-one (21) calendar days of the date on
2 which the Court issues an order granting preliminary approval of the Settlement,
3 Defendant will provide the Class Data to the Settlement Administrator.

4 **13.3** Class Notice by First-Class U.S. Mail. Within fourteen (14) calendar days of the
5 receipt of the Class Data, the Settlement Administrator shall mail the Class
6 Notice via regular First-Class U.S. Mail, using the most current, known mailing
7 addresses identified in the Class Data. Prior to mailing the Class Notices, the
8 Settlement Administrator will perform a search based on the National Change of
9 Address Database (“NCOA”) or any other similar services available, such as
10 provided by Experian, for information to update and correct for any known or
11 identifiable address changes.

12 **13.4** Time for Workweek Disputes, Objections, and Exclusions. Class Members will
13 have forty-five (45) calendar days from the date on which the Settlement
14 Administrator mails the Class Notices in which to fax or postmark disputes of
15 workweeks, objections, or requests for exclusion from the Settlement (to the
16 extent permitted by Sections 13.5, 13.6, 13.8, and 13.9 of this Settlement
17 Agreement). If a Class Notice is returned because of an incorrect address, within
18 five (5) calendar days after receipt of the returned Class Notice, the Settlement
19 Administrator will conduct a search for a more current address for the Class
20 Member and remail the Class Notice to the Class Member. The Settlement
21 Administrator will use the NCOA and skip tracing to attempt to find the Class
22 Member’s current address. The Settlement Administrator will be responsible for
23 taking reasonable steps to trace the mailing address of any Class Member for
24 whom a Class Notice is returned by U.S. Postal Service as undeliverable. These
25 reasonable steps shall include, at a minimum; (a) tracking of all undelivered
26 mail; (b) performing address searches for all mail returned without a forwarding
27 address; and (c) promptly re-mailing Class Notices to Class Members for whom
28 new addresses are found. If the Settlement Administrator is unable to locate a

1 better address, the Class Notice shall be remailed to the original address. If the
2 Class Notice is remailed, the Settlement Administrator will note for its own
3 records the date and address of each remailing. Those Class Members who
4 receive a remailed Class Notice, whether by skip trace or forwarded mail, will
5 have an additional ten (10) calendar days from the original response deadline to
6 postmark a request for exclusion from or objections to the Settlement. The
7 Settlement Administrator shall mark on the envelope whether the Class Notice is
8 a remailed Class Notice.

9 **13.5** Disputed Information on Class Notices. Class Members will have an opportunity
10 to dispute the information provided in their Class Notices. To the extent Class
11 Members dispute the number of workweeks to which they have been credited or
12 the estimated amount of their portion of the Net Class Settlement Amount, Class
13 Members may produce evidence to the Settlement Administrator showing that
14 such information is inaccurate. Absent evidence rebutting Defendant's records,
15 Defendant's records will be presumed determinative. However, if a Class
16 Member produces evidence to the contrary, the Settlement Administrator will
17 make the final decision as to the number of eligible workweeks that should be
18 applied and/or the Individual Settlement Payment to which the Class Member
19 may be entitled.

20 **13.6** Request for Exclusion Procedures.³ Any Class Member wishing to be excluded
21 from the Settlement Agreement must sign and postmark or fax a written request
22 for exclusion from the Settlement to the Settlement Administrator within the
23 applicable deadline (see Section 13.4). The request for exclusion must: (a) be
24 signed by the Class Member; (b) include the case name and number; (c) contain
25 the name, address, telephone number, and the last four digits of the Social
26 Security Number of the Class Member requesting exclusion; (d) clearly state that

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28 ³ This Section is subject to the limitations provided in Section 13.9.

1 the Class Member does not wish to be included in the settlement; (e) be returned
2 by fax or mail to the Settlement Administrator at the specified address and/or
3 facsimile number; and (f) be postmarked or faxed on or before the applicable
4 response deadline. The date of fax or the postmark on the return mailing
5 envelope will be the exclusive means to determine whether a request for
6 exclusion from the Settlement has been timely submitted. All requests for
7 exclusion from the Settlement will be submitted to the Settlement Administrator,
8 who will certify jointly to Class Counsel and Defense Counsel the requests for
9 exclusion that were timely submitted. Any Class Member who submits a request
10 for exclusion from the Settlement is prohibited from making any objection to the
11 Settlement Agreement.

12 **13.7 Settlement Terms Bind All Class Members Who Do Not Request Exclusion.**

13 Any Class Member who does not affirmatively request an exclusion from the
14 Settlement Agreement by submitting a timely and valid request for exclusion
15 from the Settlement will be bound by all its terms, including those pertaining to
16 the Released Class Claims, as well as any Judgment that may be entered by the
17 Court if it grants final approval to the Settlement.

18 **13.8 Objection Procedures.**⁴ To object to the Settlement Agreement, a Class Member

19 must submit a valid Notice of Objection only to the Court on or before the
20 applicable deadline (see Section 13.4) either by filing the Notice of Objection
21 electronically or in person at any location of the United States District Court,
22 Northern District of California or by mailing the Notice of Objection to the Class
23 Action Clerk, United States District Court, Northern District of California, 450
24 Golden Gate Avenue, San Francisco, California 94102. The Notice of Objection
25 must include: (a) case name and number; (b) Class Member's full name, address,
26 and telephone number; (c) last four digits of the Class Member's Social Security
27 Number; (d) written statement of all grounds for the objection accompanied by any

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⁴ This Section is subject to the limitations provided in Section 13.9.

1 legal support for such objection; (e) copies of any papers, briefs, or other
2 documents upon which the objection is based as attachments; and (f) Class
3 Member's signatures and the Class Member's attorney's signature if the Class
4 Member is represented by counsel. The postmark or filing date will be deemed
5 the exclusive means for determining that the Notice of Objection is timely. All
6 Notice of Objections will be scanned into the electronic case docket, and the
7 Parties will receive electronic notices of filings. Class Members who fail to
8 object in the specific and technical manner specified above will be deemed to
9 have waived all objections to the Settlement and will be foreclosed from making
10 any objections and seeking any adjudication or review, whether by appeal or
11 otherwise, to the Settlement Agreement. At no time will any of the Parties or
12 their counsel seek to solicit or otherwise encourage Class Members to submit
13 written objections or appeal from the Order and Judgment. Class Counsel will
14 not represent any Class Members with respect to any such objections to this
15 Settlement.

16 **13.9** No Right to Object to or Request Exclusion from the Settlement of PAGA
17 Claims. The Parties agree that there is no statutory right for any Class Member
18 to object to, opt out of, or otherwise exclude themselves from the settlement of the
19 PAGA claims. Accordingly, any timely objection or exclusion from the
20 Settlement submitted by a Class Member shall be construed as relating only to
21 the putative class action claims and shall have no effect whatsoever on the
22 settlement of the PAGA claims.

23 **13.10** Certification Reports Regarding Individual Settlement Payment Calculations.
24 The Settlement Administrator will provide the Parties' counsel a weekly report
25 which certifies: (a) number of Participating Class Members from the Class who
26 have submitted a dispute of workweeks; (b) number of Class Members who have
27 submitted valid requests for exclusion from the Settlement or objections; and (c)
28 whether any Class Member has submitted a challenge to any information

1 contained in the Class Notice. Additionally, the Settlement Administrator will
2 provide the Parties' counsel any updated reports regarding the administration of
3 the Settlement Agreement as needed or requested.

4 **13.11 Revocation Option for Defendant.** If five percent (5%) or more of the Class
5 Members opt out of the Settlement, Defendant may, at its election, rescind the
6 Settlement and all actions taken in furtherance of it will thereby be null and void.
7 Defendant must exercise this right of rescission, in writing, to Class Counsel
8 within five (5) days after the Settlement Administrator notifies the Parties of a
9 greater than five percent (5%) opt-out rate. If the option to rescind is exercised,
10 then Defendant shall be solely responsible for all costs of the settlement
11 administration accrued to that point.

12 **14. Settlement Administration Process – Final Approval and Settlement Distribution.**

13 **14.1 Duties of the Parties for Final Approval.** Upon expiration of the deadlines to
14 postmark workweek disputes, requests for exclusion from the Settlement (to the
15 extent permitted by this Settlement Agreement), or objections to the Settlement
16 (to the extent permitted by this Settlement Agreement), and with the Court's
17 permission, a Final Approval Hearing shall be conducted for: (a) approving the
18 Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and
19 directing consummation of its terms and provisions; (b) approving Class
20 Counsel's application for an award of Attorneys' Fees and Costs; (c) approving
21 the Enhancement Payment to the Class Representative; (d) setting a date when
22 the Parties shall report to the court the total amount that was paid to the Class
23 Members; and (e) entering judgment in this Action. Class Counsel shall draft all
24 documents necessary to obtain final approval, including the Proposed Order
25 Granting Final Approval and Entering Judgment. Defendant shall receive five (5)
26 calendar days to review and comment on the motion for final approval. The
27 Proposed Order Granting Final Approval and Entering Judgment must be
28 mutually agreed upon by the Parties.

1 **14.2** Funding of Settlement Amount. Within seven (7) business days after the
2 Effective Date, the Settlement Administrator will provide the Parties with: (a)
3 full accounting of the amounts to be paid by Defendant pursuant to the terms of
4 the Settlement; and (b) all information required for Defendant to cause the wiring
5 of the Maximum Settlement Amount securely to a Qualified Settlement Account
6 (“QSA”) established by the Settlement Administrator. Within twenty-one (21)
7 calendar days of the Effective Date, Defendant will make or otherwise cause a
8 one-time wire deposit of Nine Hundred Ninety-Five Thousand Dollars and Zero
9 Cents (\$995,000.00) and employer’s share of payroll taxes for payment of all
10 Court approved and claimed amounts constituting the Maximum Settlement
11 Amount into the QSA.

12 **14.3** Settlement Distribution. Within seven (7) calendar days of the funding of
13 Maximum Settlement Amount, the Settlement Administrator will issue
14 settlement payments to: (a) Participating Class Members; (b) PAGA Members;
15 (c) LWDA; (d) Plaintiff; and (e) Class Counsel. The Settlement Administrator
16 will also issue a payment to itself for Court-approved services performed in
17 connection with the settlement.

18 **14.4** Settlement Checks. The Settlement Administrator will be responsible for making
19 appropriate deductions, reporting obligations, and issuing the individual
20 settlement payments. The expiration date on the settlement checks will be one
21 hundred and eighty (180) calendar days from the date the settlement checks are
22 issued.

23 **14.5** Uncashed Checks. All uncashed checks will be distributed to the *cy pres*
24 recipient: University of California Law San Francisco Workers’ Rights Clinic.

25 **14.6** Payroll Taxes. In accordance with this Settlement, the transfer of the Maximum
26 Settlement Amount approved by the Court shall, to the fullest extent possible,
27 resolve, satisfy and completely extinguish all of Defendant’s liability with
28 respect to the Settlement Class except that Defendant shall solely be responsible

1 for the employer portion of the payroll taxes. Upon the transfer of the Maximum
2 Settlement Amount and the additional share of employer-side payroll taxes to the
3 Settlement Administrator, Defendant shall have no further payment or defense
4 obligation whatsoever with respect to any claims covered by this Settlement
5 made or asserted by any person or entity anywhere in the world in connection
6 with the Class Members.

7 **14.7** Treatment of Individual Settlement Payments. All distributions from the Net
8 Class Settlement Amount will be allocated as follows: thirty-three and one third
9 percent (33 1/3%) of each Individual Settlement Payment will be allocated as
10 wages, thirty-three and one third percent (33 1/3%) will be allocated as interest,
11 and thirty-three and one third percent (33 1/3%) will be allocated as penalties. All
12 distributions from the PAGA Payment to the PAGA Members will be allocated
13 as one hundred percent (100%) penalties. The portion allocated to wages will be
14 reported on an IRS Form W-2 and the portions allocated to interest and penalties
15 will be reported on an IRS Form 1099 by the Settlement Administrator.

16 **14.8** Administration of Taxes by Settlement Administrator. The Settlement
17 Administrator will be responsible for issuing to Plaintiff, Participating Class
18 Members, PAGA Members, itself, and Class Counsel any W-2, 1099, or other
19 tax forms as may be required by law for all amounts paid pursuant to this
20 Agreement. The Settlement Administrator will be responsible for forwarding all
21 payroll taxes and penalties to the appropriate government authorities.

22 **14.9** Certification of Completion. Upon completion of administration of the
23 Settlement, the Settlement Administrator will provide a written declaration under
24 oath to certify such completion to the Court and counsel for all Parties. Plaintiff
25 and Class Counsel will file a Satisfaction of Judgment within ten (10) calendar
26 days of the submission of said declaration.

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1 **15. Other Terms and Provisions.**

2 **15.1** LWDA Submissions for Settlement Approval. The Parties agree Plaintiff shall
3 comply with all requirements of the LWDA regarding settlement of claims,
4 including filing a notice of claim and notice of settlement with the LWDA.

5 **15.2** CAFA Notice. Defendant understands and agrees it will timely provide notice to
6 all state and federal authorities as required by 28 U.S.C. section 1715.

7 **15.3** Tax Liability. Defendant, Defense Counsel, and Class Counsel make no
8 representation as to the tax treatment or legal effect of the payments called for
9 hereunder, and Plaintiff and Class Members are not relying on any statement,
10 representation, or calculation by Defendant or by the Settlement Administrator in
11 this regard. Plaintiff and Class Members understand and agree that except for
12 Defendant's payment of the employer's portion of any payroll taxes, Plaintiff
13 and Class Members will be solely responsible for the payment of any taxes and
14 penalties assessed on the payments described herein.

15 **15.4** Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
16 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND
17 EACH PARTY TO THIS AGREEMENT OTHER THAN THE
18 ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES
19 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
20 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG
21 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR
22 WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR
23 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
24 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
25 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
26 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
27 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL
28 AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN

1 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
2 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY
3 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER
4 PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
5 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER
6 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
7 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY
8 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
9 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S
10 OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
11 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
12 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
13 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
14 CONTEMPLATED BY THIS AGREEMENT.

15 **15.5** No Prior Assignments. The Parties and their counsel represent, covenant, and
16 warrant they have not directly or indirectly assigned, transferred, encumbered, or
17 purported to assign, transfer, or encumber to any person or entity any portion of
18 any liability, claim, demand, action, cause of action or right herein released and
19 discharged.

20 **15.6** Termination of Settlement. Either Party may terminate this Settlement if the
21 Court declines to enter the Preliminary Approval Order, Final Approval Order, or
22 final judgment in substantially the form submitted by the Parties, or the
23 Settlement Agreement as agreed does not become final because of appellate
24 court action. The terminating Party shall give to the other Party (through its
25 counsel) written notice of its decision to terminate no later than ten (10) calendar
26 days after receiving notice that one of the enumerated events has occurred.
27 Termination shall have the following effects:

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15.6.1 The Settlement Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms;

15.6.2 If the Settlement is terminated, Defendant shall have no obligation to make any payments to any party, State of California (including the LWDA), any class member or any attorney, except that the terminating Party shall pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the settlement has been terminated;

15.6.3 The Preliminary Approval Order, Final Approval Order and Judgment, including any order of class action certification, shall be vacated;

15.6.4 The Settlement Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the settlement;

15.6.5 Neither this Settlement, nor any ancillary documents, actions, statements, or filings in furtherance of Settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

15.7 Judgment and Continued Jurisdiction. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) interpretation and enforcement of the terms of the Settlement; (b) Settlement administration matters; and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Agreement.

15.8 Exhibit Incorporated by Reference. The terms of this Settlement include the terms set forth in any attached Exhibit, which are incorporated by this reference as though fully set forth herein. Any Exhibit to this Agreement is an integral part

1 of the Settlement.

2 **15.9** Confidentiality. Plaintiff and Class Counsel agree they will not make any public
3 disclosure of the Settlement or previously signed Memorandum of Understanding
4 until after this Settlement is preliminarily approved by the Court. Class Counsel
5 will take all steps necessary to ensure the Class Representative is aware of, and
6 will encourage him to adhere to, the restriction against any public disclosure of
7 this Settlement or previously signed Memorandum of Understanding until after
8 this Settlement is preliminarily approved by the Court. Class Counsel will not
9 include or use the settlement for any marketing or promotional purposes. If Class
10 Counsel inadvertently violates this provision, it may cure such violation by
11 withdrawing all marketing or promotional materials in violation of this provision
12 within ten (10) calendar days of receipt of notice of the violation from Defendant.

13 Following preliminary approval of the Settlement, the Class
14 Representative and Class Counsel will not have any communications with any
15 media other than to direct any media inquiries to the public records of the Action
16 on file with the Court. Following preliminary approval, Plaintiff and Class
17 Counsel may communicate with Class Members about this settlement and
18 lawsuit, as well as provide any further information as requested by any courts,
19 the LWDA, and other state and/or federal agencies. Nothing herein will restrict
20 Class Counsel from including publicly available information regarding this
21 Settlement in future judicial submissions regarding Class Counsel's
22 qualifications and experience.

23 The Parties agree that violation of this Section constitutes a breach of the
24 agreement that cannot practically be cured. Any action to enforce this provision
25 may be brought on an *ex parte* or otherwise expedited basis, and Defendant may
26 seek any and all available remedies, including, but not limited to, injunctive relief.

27 **15.10** Entire Agreement. This Settlement Agreement, including all exhibit annexed
28 hereto, sets forth the entire agreement of the Parties with respect to its subject

1 matter and supersedes any and all other prior agreements and all negotiations
2 leading up to the execution of this Settlement Agreement, whether oral or written,
3 regarding the subjects covered herein. The Parties acknowledge no representations,
4 inducements, warranties, promises, or statements relating to the subjects covered
5 herein, oral or otherwise, have been made by any of the Parties or by anyone
6 acting on behalf of the Parties, which are not embodied or incorporated by
7 reference herein, and further agree no other agreement, covenant, representation,
8 inducement, promise, or statement relating to the subjects covered herein not set
9 forth in writing in this Settlement Agreement shall be valid or binding.

10 **15.11 Amendment or Modification.** This Settlement Agreement may be amended or
11 modified only by a written instrument signed by the named Parties and counsel
12 for all Parties or their successors-in-interest.

13 **15.12 Authorization to Enter into Settlement Agreement.** Counsel for all Parties
14 warrant and represent they are expressly authorized by the Parties whom they
15 represent to negotiate this Settlement Agreement and to take all appropriate
16 action required or permitted to be taken by such Parties pursuant to this
17 Settlement Agreement to effectuate its terms and to execute any other documents
18 required to effectuate the terms of this Settlement Agreement. The Parties and
19 their counsel will cooperate with each other and use their best efforts to affect
20 the implementation of the Settlement. If the Parties are unable to reach
21 agreement on the form or content of any document needed to implement the
22 Settlement, or on any supplemental provisions that may become necessary to
23 effectuate the terms of this Settlement, the Parties may seek the assistance of the
24 Court to resolve such disagreement.

25 **15.13 Signatories.** It is agreed that because the Class Members are so numerous, it is
26 impossible or impractical to have each member of the Class execute this
27 Settlement Agreement. The Class Notice, attached hereto as **Exhibit A**, will
28 advise all Class Members of the binding nature of the release, and the release

1 shall have the same force and effect as if this Settlement Agreement were
2 executed by each member of the Class.

3 **15.14 Binding on Successors and Assigns.** This Settlement Agreement will be binding
4 upon, and inure to the benefit of, the successors or assigns of the Parties hereto,
5 as previously defined.

6 **15.15 Execution and Counterparts.** This Settlement Agreement is subject only to the
7 execution of all Parties. This Settlement Agreement may be executed in one or
8 more counterparts, by DocuSign, facsimile, and/or by PDF/email. All executed
9 counterparts and each of them, including facsimile and scanned copies of the
10 signature page, will be deemed to be one and the same instrument if counsel for
11 the Parties will exchange among themselves original signed counterparts.

12 **15.16 Acknowledgement the Settlement is Fair, Reasonable, and Adequate.** The Parties
13 believe this Settlement Agreement is a fair, adequate, and reasonable settlement
14 of the Action and have arrived at this Settlement after arm's-length negotiations
15 and in the context of adversarial litigation, considering all relevant factors,
16 present and potential. The Parties acknowledge that they are each represented by
17 competent counsel and that they have had an opportunity to consult with their
18 counsel regarding the fairness and reasonableness of this Agreement. The
19 Mediator may execute a declaration supporting the Settlement and the
20 reasonableness of the Settlement and the Court may, in its discretion, contact the
21 Mediator to discuss the Settlement and whether the Settlement is objectively fair
22 and reasonable.

23 **15.17 Invalidity of Any Provision.** Before declaring any provision of this Settlement
24 Agreement invalid, the Court will first attempt to construe the provision as valid
25 to the fullest extent possible consistent with applicable precedents so as to define
26 all provisions of this Settlement Agreement valid and enforceable. If any one or
27 more of the provisions contained in this Settlement Agreement shall for any reason
28 be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality,

1 or unenforceability shall in no way affect any other provision if Defendant's and
2 Class Counsel, on behalf of the Released Parties and the Class, mutually elect in
3 writing to proceed as if such invalid, illegal, or unenforceable provision had never
4 been included in this Settlement Agreement.

5 **15.18** Plaintiff's Waiver of Right to Be Excluded from the Settlement and Object.

6 Plaintiff agrees to sign this Settlement Agreement and, by signing this Settlement
7 Agreement, is hereby bound by the terms herein.

8 **15.19** Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to

9 class action certification for purposes of this Settlement only. Either Party may
10 appeal any court order that materially alters the Settlement Agreement's terms.

11 **15.20** Non-Admission of Liability. The Parties enter this Settlement to resolve the

12 dispute that has arisen between them and to avoid the burden, expense, and risk
13 of continued litigation. In entering into this Agreement, Defendant does not
14 admit, and specifically denies, it has violated any state, federal, or local law;
15 violated any regulations or guidelines promulgated pursuant to any statute or any
16 other applicable laws, regulations, or legal requirements; breached any contract;
17 violated or breached any duty; engaged in any misrepresentation or deception; or
18 engaged in any other unlawful conduct with respect to its employees. Neither
19 this Settlement, nor any of its terms or provisions, nor any of the negotiations
20 connected with it, shall be construed as an admission or concession by Defendant
21 of any such violations or failures to comply with any applicable law. Except as
22 necessary in a proceeding to enforce the terms of this Settlement, this Settlement
23 and its terms and provisions shall not be offered or received as evidence in any
24 action or proceeding to establish any liability or admission on the part of
25 Defendant or to establish the existence of any condition constituting a violation
26 of, or a non-compliance with state, federal, local, or other applicable law.

27 **15.21** Captions. The captions and section numbers in this Settlement Agreement are

28 inserted for the reader's convenience and in no way define, limit, construe, or

1 describe the scope or intent of the provisions of this Agreement.

2 **15.22** Waiver. No waiver of any condition or covenant contained in this Settlement or
3 failure to exercise a right or remedy by any of the Parties hereto will be
4 considered to imply or constitute a further waiver by such party of the same or
5 any other condition, covenant, right or remedy.

6 **15.23** Enforcement Actions. If one or more of the Parties institutes any legal action or
7 other proceeding against any other Party or Parties to enforce the provisions of
8 this Settlement or to declare rights and/or obligations under this Settlement, the
9 successful Party or Parties will be entitled to recover from the unsuccessful Party
10 or Parties reasonable attorneys' fees and costs, including expert witness fees
11 incurred in connection with any enforcement actions.

12 **15.24** Mutual Preparation. The Parties have had a full opportunity to negotiate the
13 terms and conditions of this Agreement. Accordingly, this Agreement will not be
14 construed more strictly against one party than another merely by it may have
15 been prepared by counsel for one of the Parties, it being recognized that, because
16 of the arms-length negotiations between the Parties, all Parties have contributed
17 equally to the preparation of this Agreement.

18 **15.25** Representation by Counsel. The Parties acknowledge they have been represented
19 by counsel throughout all negotiations that preceded the execution of this
20 Settlement, and this Settlement has been executed with the consent and advice of
21 counsel and reviewed in full. Plaintiff and Class Counsel warrant and represent
22 that there are no liens on this Settlement.

23 **15.26** All Terms Subject to Final Court Approval. All amounts and procedures
24 described in this Settlement herein will be subject to final Court approval.

25 **15.27** Notices. Unless otherwise specifically provided herein, all notices, demands, or
26 other communications given hereunder shall be in writing and shall be deemed to
27 have been duly given as of the third business day after mailing by United States
28 registered or certified mail, return receipt requested, addressed as follows:

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To Plaintiff and Settlement Class:
Douglas Han
Shunt Tatavos-Gharajeh
Talia Lux
JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue, Suite 101
Pasadena, California 91103

To Defendant California United Mechanical, Inc.:
Janelle J. Sahouria
JACKSON LEWIS P.C.
50 California Street, Floor 9
San Francisco, CA 94111

15.28 Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

15.29 Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

15.30 Binding Agreement. The Parties warrant they understand and have full authority to enter into this Agreement and further intend this Agreement will be fully enforceable and binding on all parties, including the State of California and LWDA, and agree it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under state or federal law.

16. IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily execute this Settlement Agreement between Plaintiff and Defendant as of the date(s) set forth below:

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SIGNATURES

READ CAREFULLY BEFORE SIGNING

10/10/2023
Date: October __, 2023

ESTEBAN ALCAZAR



Esteban Alcazar
Plaintiff, Class Representative, and
Representative of State of California

CALIFORNIA UNITED MECHANICAL,
INC.

Date: October __, 2023

Leonard Bertolami
President & CEO
Defendant CALIFORNIA UNITED
MECHANICAL, INC.

APPROVED AS TO FORM AND CONTENT

JUSTICE LAW CORPORATION

Date: October 10, 2023



Douglas Han
Shunt Tatavos-Gharajeh
Talia Lux
Attorneys for Plaintiff ESTEBAN
ALCAZAR, Class Members, and State of
California

JACKSON LEWIS P.C.

Date: October __, 2023

Mitchell F. Boomer
Janelle J. Sahouria
Jessica Shafer
Attorneys for Defendant
CALIFORNIA UNITED
MECHANICAL, INC.

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SIGNATURES

READ CAREFULLY BEFORE SIGNING

ESTEBAN ALCAZAR

Date: October __, 2023

Esteban Alcazar
Plaintiff, Class Representative, and
Representative of State of California

CALIFORNIA UNITED MECHANICAL,
INC.

Date: October ^{10.00}__, 2023

Leonard Bertolami

Leonard Bertolami
President & CEO
Defendant CALIFORNIA UNITED
MECHANICAL, INC.

APPROVED AS TO FORM AND CONTENT

JUSTICE LAW CORPORATION

Date: October __, 2023

Douglas Han
Shunt Tatavos-Gharajeh
Talia Lux
Attorneys for Plaintiff ESTEBAN
ALCAZAR, Class Members, and State of
California

JACKSON LEWIS P.C.

Date: October 10, 2023

Janelle J. Sahouria

Mitchell F. Boomer
Janelle J. Sahouria
Jessica Shafer
Attorneys for Defendant
CALIFORNIA UNITED
MECHANICAL, INC.