

1 DOUGLAS HAN (Sate Bar No. 232858)  
2 SHUNT TATAVOS-GHARAJEH (State Bar No. 272164)  
3 **JUSTICE LAW CORPORATION**  
4 751 N Fair Oaks Ave Suite 101  
5 Pasadena, California 91103  
6 Tel. (818) 230-7502  
7 Fax. (818) 230-7259

8 Attorney for Plaintiff Rafael Martinez

9 [Additional Counsel on the Following Page]

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF KERN**

12 TRAVONN HALEY, on behalf of himself and  
13 others similarly situated,

14 Plaintiff,

15 v.

16 JOHASEE REBAR, LP, a Delaware limited  
17 liability company; and DOES 1 through 50,  
18 inclusive;

19 Defendant.

) Case Nos. BCV-19-101679 consolidated with  
) BCV-19-100374 and BVC-20-100609

) [Assigned to the  
) Honorable Judge J. Eric Bradshaw, Div., J]

20 **JOINT STIPULATION OF CLASS ACTION  
21 AND PAGA SETTLEMENT AND RELEASE**

22 Complaint Filed: November 19, 2018

23 RAFAEL MARTINEZ, individually, and on  
24 behalf of other members of the general public  
25 similarly situated;

26 Plaintiff,

27 v.

28 LMS REINFORCING STEEL, an unknown  
entity; and DOES 2 through 100, inclusive;

Defendants.

1 DAVID YEREMIAN (State Bar No. 226337)  
ROMAN SHKODNIK (State Bar No. 285152)  
2 **DAVID YEREMIAN & ASSOCIATES, INC.**  
2540 Foothill Blvd., Suite 201  
3 La Crescenta, California 91214  
Tel. (818) 230-8380  
4 Fax. (818) 230-0308

5 Attorney for Plaintiff Travonn Haley  
6

7 VANESSA FRANCO CHAVEZ (State Bar No. 266724)  
**KLEIN, DENATALE, GOLDNER,**  
8 **COOPER, ROSENLIEB & KIMBALL, LLP**  
10000 Stockdale Highway, Suite 200  
9 Bakersfield, California 93311  
10 Tel. (661) 395-1000  
Fax. (661) 326-0418

11 Attorney for Defendant LMS Reinforcing Steel USA, LP  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement and Release (the “Agreement” or “Stipulation of Settlement” or “Settlement”) is made and entered into by and between Plaintiffs Travonn Haley (“Plaintiff Haley”) and Rafael Martinez (“Plaintiff Martinez”) (collectively, “Plaintiffs” or “Class Representatives”), individually and on behalf of the Settlement Class (as defined below), on the one hand, and Defendant LMS Reinforcing Steel USA, LP (formerly known as Johasee Rebar, LP) (“Defendant”), on the other hand. Plaintiffs and Defendant (collectively, the “Parties”) enter into this Agreement to affect a full and final settlement of all claims brought against Defendant.

Subject to approval of the Court pursuant to the California Rules of Court, this Stipulation of Settlement shall be binding on Plaintiffs, Class Counsel, the Settlement Class (as defined below), the alleged PAGA Aggrieved Employees (as defined below), including the State of California as their representative, Defendant, and its former and present parents, subsidiaries, and affiliates, and their current and former officers, directors, employees, partners, shareholders and agents, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals, subject to the terms and conditions hereof and the approval of the Court.

### RECITALS

1. On November 19, 2018, Plaintiff Haley filed a Class Action Complaint against Defendant in the Superior Court of California, County of Riverside, entitled *Travonn Haley, on behalf himself and others similarly situated, v. Johasee Rebar, LP, a Delaware limited liability company; DOES 1 through 50, inclusive*. Plaintiff Haley’s Class Action Complaint alleged violation of: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal Period Liability Under Labor Code § 226.7; (4) Rest-Break Liability Under Labor Code § 226.7; (5) Failure to Reimburse Necessary Business Expenditures Under Labor Code § 2802; (6) Violation of Labor Code § 226(a); (7) Violation of Labor Code § 221; (8) Penalties Pursuant to Labor Code § 203; and (9) Violation of Business & Professions Code § 17200 *et seq.* On January 22, 2019, Plaintiff Haley filed his First Amended Class Action Complaint to add a cause of action seeking Penalties under the Private Attorney General Act (PAGA), Labor Code § 2699, *et seq.*

2. On March 18, 2019, Defendant filed its Answer to the First Amended Complaint.

1 Defendant and Plaintiff Haley filed a Stipulation and Proposed Order to transfer venue from Riverside  
2 County Superior Court to Kern County Superior Court. Pursuant to that stipulation, on May 21, 2019,  
3 the Riverside County Superior Court ordered the transfer of the action to Kern County Superior Court.

4 3. On February 8, 2019, Plaintiff Martinez also filed a Class Action Complaint against  
5 Defendant in the Superior Court of California, County of Kern, entitled *Rafael Martinez, individually,*  
6 *and on behalf of other members of the general public similarly situated, v. LMS Reinforcing Steel, an*  
7 *unknown entity; and DOES 1 through 100, inclusive*, Case No. BCV-19-100374. Plaintiff Martinez's  
8 Class Action Complaint alleged violation of: (1) Unpaid Overtime under Labor Code § 510 and 1198;  
9 (2) Unpaid Meal Period Premiums Under Labor Code §§ 226.7 and 512(a); (3) Unpaid Rest Period  
10 Premiums Under Labor Code § 226.7; (4) Unpaid Minimum Wages Under Labor Code §§ 1194, 1197,  
11 1197.1; (5) Final Wages Not Timely Paid Under Labor Code §§ 201 and 202; (6) Non-Compliant Wage  
12 Statements Under Labor Code §§ 226(a); (7) Violation of Labor Code §§ 2800 and 2802; and (8)  
13 Violation of Business & Professions Code § 17200 et seq. On April 11, 2019, Defendant filed its Answer  
14 to Plaintiff Martinez's Class Action Complaint.

15 4. On September 17, 2019, pursuant to the Parties' stipulation, the Court consolidated  
16 Plaintiff Haley's class and PAGA action and Plaintiff Martinez's class action for all purposes.

17 5. On October 11, 2019, Defendant filed a motion to compel arbitration of each Plaintiff's  
18 individual claims and seek a stay of all proceedings pending arbitration. The hearings on the motions  
19 were continued by stipulation while the parties attempted to mediate.

20 6. On March 2, 2020, Plaintiff Martinez filed a Complaint for Civil Penalties for Violation  
21 of Labor Code § 2698, *et seq.* (Private Attorneys General Act of 2004) in Kern County Superior Court,  
22 entitled *Rafael Martinez, individually, and on behalf of aggrieved employees pursuant to the Private*  
23 *Attorneys General Act (PAGA) v. LMS Reinforcing Steel USA, LP f/k/a Johasee Rebar, LP, a Delaware*  
24 *limited partnership; and DOES 1 through 100, inclusive*. On April 29, 2020, Defendant filed its Answer  
25 to Plaintiff Martinez's PAGA Complaint.

26 7. On September 11, 2020, the Court entered a further Order granting Plaintiff's request for  
27 dismissal of their respective class and individual claims without Prejudice. Thereafter, Defendant  
28 withdrew its motions to compel arbitration.



1           8.       On October 14, 2020, the Court entered an Order to consolidate Plaintiff Haley’s PAGA  
2 Action Complaint and Plaintiff Martinez’s PAGA Complaint for all purposes with the *Haley* Action  
3 designated as the lead case. Plaintiffs’ consolidated actions are collectively referred to herein as the  
4 “Action.”

5           9.       Defendant denies any and all liability and wrongdoing of any kind associated with the  
6 claims alleged by the Class Representatives and denies all material allegations set forth in the Action  
7 and has asserted numerous affirmative defenses. Defendant further contends that, for any purpose other  
8 than settlement, the Action is not appropriate for class or representative action treatment. Defendant  
9 contends, among other things, that at all times it complied with the California Labor Code, the California  
10 Business and Professions Code, and the Industrial Wage Commission Orders. However, in the interest  
11 of avoiding further litigation, Defendant desires to settle all actual or potential claims fully and finally  
12 by the Class and PAGA Aggrieved Employees.

13           10.     In response to the *Viking River Cruises, Inc. v. Moriana* 142 S. Ct. 1906 (2022),  
14 Defendant compelled Plaintiffs’ individual PAGA claims to arbitration in July 2022. The Court stayed  
15 the representative PAGA claims pending the outcome of the arbitration.

16           11.     On April 21, 2022, the Parties participated in mediation before David Phillips, Esq. (the  
17 “Mediator”), a respected mediator of wage and hour class actions. After a full day of negotiations, the  
18 Parties were unable to reach a settlement. However, after continued negotiations between the Parties  
19 following mediation, the Parties eventually agreed to settle on January 27, 2023 and stipulated to the  
20 material terms of this Stipulation of Settlement now before this Court.

21           12.     The Parties agree to cooperate and take all steps necessary and appropriate to obtain  
22 preliminary and final approval of this Settlement and to effectuate all aspects of this Settlement  
23 Agreement, including but not limited to promptly executing a stipulation and proposed order to lift the  
24 stay in the Action and granting Plaintiffs leave of court to file the contemplated Second Amended  
25 Complaint for the sole purposes of effectuating the terms of this Settlement. The contemplated Second  
26 Amended Complaint will add the class and individual wage and hour claims that were previously  
27 dismissed without prejudice with the Court’s order on September 11, 2020.  
28



1           17.     **“Action”** means the consolidated lawsuits in the matter entitled *Travonn Haley v. Johasee*  
2 *Rebar, LP*, et al., Case No. BCV-19-101679, together with the lawsuit in the matters entitled *Rafael*  
3 *Martinez v. LMS Reinforcing Steel USA, LP*, et al., Case No. BCV-19-100374, and *Rafael Martinez v.*  
4 *LMS Reinforcing Steel USA, LP f/k/a Johasee Rebar, LP, et al.*, Case No. BCV-20-100609, in the Kern  
5 County Superior Court, which were consolidated for all purposes with the first filed *Haley* matter (Case  
6 No. BCV-19-101679) on September 16, 2019 and October 29, 2019. To effectuate the terms of this  
7 Settlement Agreement, the Plaintiffs will file a Second Amended Complaint to add Plaintiffs’ class and  
8 individual wage and hour claims that were previously dismissed without prejudice with the Court’s order  
9 on September 11, 2020, which claims are part of the Action.

10           18.     **“Agreement”** or **“Stipulation of Settlement”** or **“Settlement”** means this Joint Stipulation  
11 of Class Action and PAGA Settlement and Release.

12           19.     **“Attorneys’ Fees and Costs”** means attorneys’ fees agreed upon by the Parties and  
13 approved by the Court for Class Counsel’s litigation and resolution of this Action, and all litigation costs  
14 and expenses incurred and to be incurred by Class Counsel in the Action, including, but not limited to,  
15 costs and expenses associated with mediation, documenting the Settlement, securing the Court’s  
16 approval of the Settlement, administering the Settlement, obtaining entry of a Judgment terminating this  
17 Action, and expenses for any experts. Class Counsel will collectively request attorneys’ fees not to  
18 exceed thirty-five percent (35%) of the Maximum Settlement Amount, or up to Three Hundred Eighty-  
19 Five Thousand Dollars (\$385,000). Class Counsel will also request reimbursement of Class Counsel’s  
20 litigation costs and expenses, not to exceed Fifty Thousand Dollars (\$50,000). For any Attorneys’ Fees  
21 and Costs approved by the Court, the Claims Administrator may purchase an annuity to utilize U.S.  
22 treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Defendant has agreed not  
23 to oppose Class Counsel’s request for fees and reimbursement of costs and expenses as set forth above.  
24 Any portion of the Attorneys’ Fees and Costs not awarded to Class Counsel will be a part of the Net  
25 Settlement Amount, for distribution in conformity with this Agreement.

26           20.     **“Claimants”** mean all Class Members who submit timely and valid Claim Forms to  
27 receive a proportional share of the Net Settlement Amount in the form of an Individual Settlement  
28 Payment.

1           21.    “**Claim Form**” means the document, substantially in the form attached as **Exhibit B**, that  
2 Class Members must complete and postmark by the Response Deadline (defined below) to receive a  
3 proportional share of the Net Settlement Amount in the form of an Individual Settlement Payment.

4           22.    “**Claims Administrator**” means CPT Group, Inc., an independent third-party class action  
5 settlement claims administrator selected by the Parties, subject to approval by the Court, for purposes of  
6 administering this settlement. The Parties each represent that they do not have any financial interest in  
7 the Claims Administrator or otherwise have a relationship with the Claims Administrator that could  
8 create a conflict of interest.

9           23.    “**Claims Administration Costs**” means the costs payable from the Maximum Settlement  
10 Amount to the Claims Administrator for administering this Settlement, including, but not limited to: (a)  
11 printing, translating into Spanish, mailing, and tracking documents for this Settlement, as well as sending  
12 reminder notices; (b) calculating estimated amounts per Class Member and Individual Settlement  
13 Payments; (c) tax reporting, including issuing 1099 and W-2 forms; (d) distributing the Maximum  
14 Settlement Amount in accordance with the settlement and the Court’s order, including to Settlement  
15 Class Members who submit a timely and valid Claim Form and to all Aggrieved PAGA Employees; (e)  
16 providing necessary reports and declarations; and (f) performing other duties and responsibilities set forth  
17 herein to process this Settlement, and as requested by the Parties. The Claims Administration Costs are  
18 currently estimated not to exceed Fourteen Thousand Dollars (\$14,000). Any portion of the Claims  
19 Administration Costs that are not awarded to the Claims Administrator will flow through to the Net  
20 Settlement Amount.

21           24.    “**Class Counsel**” means Justice Law Corporation and David Yermian & Associates, Inc.,  
22 which will seek to be appointed counsel for the Class.

23           25.    “**Class Lists**” mean a complete list of all Class Members within the Class that Defendant  
24 will diligently and in good faith compile from its records and provide only to the Claims Administrator  
25 within twenty (20) business days of the Court’s Preliminary Approval of this Stipulation of Settlement.  
26 The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include each  
27 Class Member’s: (a) full name; (b) most recent mailing address and telephone number; (c) Social  
28 Security number; (d) such information as is necessary to calculate the number of weeks worked during

1 the Released Claims Period and Released PAGA Period, respectively; and (f) other relevant information  
2 needed to calculate settlement payments.

3 26. “**Class Members**” or “**Class Member(s)**” or “**Class**” collectively refer to: all current and  
4 former hourly, non-exempt employees of Defendant in the State of California at any time from May 1,  
5 2016 to the date of Preliminary Approval.

6 27. “**Class Period**” means the period from May 1, 2016 to the date of Preliminary Approval.

7 28. “**Class Representatives**” or “**Plaintiffs**” mean both Plaintiffs Travonn Haley and Rafael  
8 Martinez, who will seek to be appointed as the representatives for the Class.

9 29. “**Class Representative Enhancement Payments**” means the amounts to be paid to the  
10 Class Representatives in recognition of their effort and work in prosecuting the Action on behalf of the  
11 Class Members. The Parties agree that the Class Representatives will be paid up to Ten Thousand Dollars  
12 (\$10,000) each, subject to Court approval, from the Maximum Settlement Amount for their services on  
13 behalf of the Class, including their assistance as Plaintiffs and Class Representatives, subject to the Court  
14 granting final approval of this Stipulation of Settlement and subject to the exhaustion of any and all  
15 appeals. Any portion of the Class Representative Enhancement Payments not awarded to the Class  
16 Representatives will be a part of the Net Settlement Amount, for distribution in conformity with this  
17 Agreement.

18 30. “**Court**” means the Superior Court of the State of California for the County of Kern or  
19 any other court taking jurisdiction of the Action.

20 31. “**Defendant**” means LMS Reinforcing Steel USA, LP, formerly known as Johasee  
21 Rebar, LP, and doing business as LMS Reinforcing Steel Group.

22 32. “**Defendant’s Counsel**” or “**Defense Counsel**” means counsel for Defendant who are:  
23  
24  
25  
26  
27  
28

1 VANESSA FRANCO CHAVEZ  
2 **KLEIN, DENATALE, GOLDNER,**  
3 **COOPER, ROSENLIEB & KIMBALL, LLP**  
4 10000 Stockdale Highway, Suite 200  
5 Bakersfield, California 93311  
6 Tel. (661) 395-1000  
7 Fax. (661) 326-0418

8 33. **“Effective Date”** means the date on which the settlement embodied in this Stipulation of  
9 Settlement shall become effective after all of the following events have occurred: (i) this Stipulation of  
10 Settlement has been executed by all Parties and by Class Counsel and Defendant’s Counsel; (ii) the Court  
11 has given preliminary approval to the Settlement; (iii) the Notice Packet has been given to the Class  
12 Members, providing them with an opportunity to object to the terms of the Stipulation of Settlement or  
13 to opt out of the Stipulation of Settlement by filing a Request for Exclusion (as defined below); (iv) the  
14 Court has held a Final Fairness Hearing and entered a final Order and Judgment certifying the Class, and  
15 approving this Stipulation of Settlement, (v) notice of final judgment has been given to the Settlement  
16 Class Members and PAGA Aggrieved Employees pursuant to California Rules of Court, rule 3.771(b);  
17 and (vi) the later of the following events: (a) five (5) business days after the period for filing any appeal,  
18 writ or other appellate proceeding opposing the Court’s final Order approving the Stipulation of  
19 Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if  
20 any appeal, writ or other appellate proceeding opposing the Court’s final Order approving the Stipulation  
21 of Settlement has been filed, five (5) business days after any appeal, writ, or other appellate proceedings  
22 opposing the Stipulation of Settlement has been conclusively dismissed with no right to pursue further  
23 remedies or relief. In the event there is a timely filed motion to set aside judgment or to intervene, the  
24 expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class  
25 Settlement will be based on the later of the court’s order on any such motion or entry of final order and  
26 judgment certifying the Class and approving this Stipulation of Settlement.

27 34. **“Final Fairness Hearing”** refers to the hearing at which the Court will make a final  
28 determination whether the terms of the Settlement Agreement are fair, reasonable, and adequate for the  
Class and meet all applicable requirements for approval, and, if the Settlement is so approved, whether  
a judgment should be entered thereon, whether the Class Representatives’ application for enhancement

1 should be granted, and whether an application by Class Counsel for an award of reasonable attorneys'  
2 fees and reimbursement of their reasonable costs and expenses should be granted.

3 35. **“Individual Settlement Payments”** or **“Individual Settlement Payment”** mean the  
4 amount payable from the Net Settlement Amount (as defined below) to each Claimant.

5 36. **“LWDA Payment”** means the payment to be made to the California Labor and  
6 Workforce Development Agency (“LWDA”) for its 75% share of the PAGA Payment.

7 37. **“Maximum Settlement Amount”** means the maximum settlement amount of up to One  
8 Million One Hundred Thousand Dollars (\$1,100,000), which represents the maximum amount payable  
9 in this Settlement by Defendant in full satisfaction of all claims arising from the Action, which includes  
10 all Individual Settlement Payments to Claimants, the Class Representative Enhancement Payments, Claims  
11 Administration Costs to the Claims Administrator, Attorneys’ Fees and Costs to Class Counsel, and the  
12 PAGA Payment. This Maximum Settlement Amount has been agreed to by Plaintiffs and Defendant  
13 based on the aggregation of the agreed-upon settlement value of individual claims. In no event will  
14 Defendant be liable for more than the Maximum Settlement Amount, except that employer-side payroll  
15 taxes shall be paid separate and apart from the Maximum Settlement Amount.

16 38. **“Net Settlement Amount”** means the portion of the Maximum Settlement Amount  
17 remaining after deduction of the approved Class Representative Enhancement Payments, Claims  
18 Administration Costs, the LWDA Payment, PAGA Payment (as defined in Paragraph 43), and  
19 Attorneys’ Fees and Costs. The Net Settlement Amount will be distributed to Claimants in accordance  
20 with Paragraph 61 and 71. Plaintiffs and Defendant agree that the amount distributed to the Claimants  
21 will equal at least fifty percent (50%) of the Net Settlement Amount. If the total Individual Settlement  
22 Payments to the Claimants would equal less than fifty percent (50%) of the Net Settlement Amount, the  
23 Claims Administrator will proportionately increase the Individual Settlement Payment for each Claimant  
24 to ensure that total Individual Settlement Payments paid to all Claimants equals fifty percent (50%) of  
25 the Net Settlement Amount. Except as otherwise provided in Paragraph 71, any unclaimed amounts  
26 above fifty percent (50%) of the Net Settlement Amount will be the exclusive property of Defendant.

27 39. **“Notice of Objection”** or **“Objection”** means a Class Member’s valid and timely written  
28 objection to this Stipulation of Settlement. For the Notice of Objection to be valid, it must include: (a)

1 the objector’s full name, signature, address, and telephone number, (b) a written statement of all grounds  
2 for the objection accompanied by any legal support for such objection, (c) a clear reference to the title  
3 of this case and case number, and (d) copies of any papers, briefs, or other documents upon which the  
4 objection is based. Class Members wishing to make an objection may appear at the Final Fairness  
5 Hearing, either in person or through a lawyer retained at their own expense.

6 40. “**Notice Packet**” means the Notice of Class Action Settlement and Claim Form,  
7 substantially in the forms attached as **Exhibit A**, and **Exhibit B** respectively.

8 41. “**PAGA**” means the California Labor Code Private Attorneys General Act of 2004 (as  
9 amended), California Labor Code §§ 2698 *et seq.*

10 42. “**PAGA Aggrieved Employee**” means all current for former employees who worked for  
11 Defendant in a non-exempt position in the State of California at any time between November 19, 2017  
12 to the date of Preliminary Approval.

13 43. “**PAGA Payment**” means the amount of Fifty Thousand Dollars (\$50,000), which the  
14 Parties have agreed to allocate for penalties pursuant to the Private Attorneys’ General Act, California  
15 Labor Code § 2698, *et seq.* The Parties have agreed that the PAGA Payment will be paid out of the  
16 Maximum Settlement Amount. Pursuant to PAGA, the Labor and Workforce Development Agency  
17 (“LWDA”) shall be paid seventy-five percent (75%) or Thirty-Seven Thousand Five Hundred Dollars  
18 (\$37,500) of the PAGA Payment (“LWDA Payment”), and twenty-five percent (25%) or Twelve  
19 Thousand Five Hundred Dollars (\$12,500) of the PAGA Payment will be paid to PAGA Aggrieved  
20 Employees, for distribution in conformity with Paragraphs 61, 70, 72, and 74.

21 44. “**PAGA Released Claims**” means civil penalties under PAGA related to any of the  
22 claims asserted by Plaintiffs in the Action or that could be asserted in connection with any of the Released  
23 Claims, as defined below, including but not limited to any civil penalties under PAGA for violation of  
24 200, 201, 202, 203, 204, 210, 218.5, 221, 222, 224, 225.5, 226, 226.3, 226.7, 246, 248.1, 248.2, 248.3,  
25 248.5, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198,  
26 1199, 1770, 1773.1, 1774, 1775, 2800, 2802, 2810.3, or 2810.5.

27 45. “**Settlement Class Member(s)**” means any and all Class Members who do not opt out  
28 of this Settlement Agreement by submitting a timely and valid Request for Exclusion and, as a result,



1 agree to be bound by this Settlement and releasing the Released Claims. Settlement Class Members are  
2 bound by the terms of this Settlement and resulting judgment, regardless of whether or not they submit  
3 timely and valid Claim Forms to receive a proportional share of the Net Settlement Amount in the form  
4 of an Individual Settlement Payment.

5 46. “**Parties**” means Plaintiffs and Defendant collectively.

6 47. “**Preliminary Approval**” means the Court order granting preliminary approval of this  
7 Stipulation of Settlement.

8 48. “**Qualified Settlement Fund**” or “**QSF**” means a fund within the meaning of Treasury  
9 Regulations § 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.* that is established by the Claims Administrator for  
10 the benefit of Claimants, PAGA Aggrieved Employees, Plaintiffs, and Class Counsel.

11 49. “**Released Claims**” as it pertains to Settlement Class Members means and includes, but  
12 are not limited to, statutory, constitutional, contractual or common law claims for wages, damages,  
13 unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs,  
14 restitution, or equitable relief, for the following categories of allegations: (a) all claims for failure to pay  
15 wages for hours worked, including, but not limited to, claims for failure to pay minimum wage, straight  
16 time, overtime at the appropriate regular rate or for all overtime periods worked, claims for failure to  
17 pay off-the-clock work, improper rounding, prevailing wage and overtime at the prevailing wage rate on  
18 public works jobs, travel time, and all other potential wages; (b) all claims for the failure to provide meal  
19 and/or rest periods in accordance with applicable law, including payments for missed, short, or late meal  
20 and/or rest periods and alleged non-payment of wages or premium pay for meal periods and rest periods  
21 worked and not taken; (c) claims for failure to reimburse business expenses, including for personal cell  
22 phone, uniforms, protective footwear, travel, vehicle maintenance, fuel, work boots, safety equipment,  
23 lodging, subsistence, tools, materials, and any other work-related expenses; (d) failure to keep complete  
24 or accurate payroll records; (e) waiting time penalties for untimely pay during employment and untimely  
25 final pay; (f) claims for failure to annualize benefit payments made for public works jobs across all jobs  
26 worked; (g) claims for unauthorized or otherwise improper deductions from wages; (h) civil penalties  
27 under the Labor Code Private Attorneys General Act (“PAGA”); (i) all other statutory penalties,  
28 including those recoverable under the California Unfair Competition Act, and in particular, California

1 Bus. & Prof. Code §§ 17200 *et seq.*, California Code of Civil Procedure § 1021.5; and any other provision  
2 of the California Labor Code, including but not limited to Labor Code Section 2698 *et seq.* or any  
3 applicable California Industrial Welfare Commission Wage Orders, in all their iterations; (j) all claims  
4 that were alleged in the Action or that could have been brought based on the facts alleged in the Action,  
5 including but not limited to, claims and theories arising under Labor Code sections 200, 201, 202, 203,  
6 204, 210, 218.5, 221, 222, 224, 225.5, 226, 226.3, 226.7, 246, 248.1, 248.2, 248.3, 248.5, 510, 512,  
7 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 1770,  
8 1773.1, 1774, 1775, 2800, 2802, 2810.3, 2810.5, 2698, and 2699, applicable California Wage Order(s),  
9 and Business & Professions Code 17200 *et seq.* (collectively, the “Released Claims”).

10 It is understood and agreed that this Stipulation will not release any person, party or entity from  
11 claims, if any, by Class Members for workers compensation, unemployment, or disability benefits of  
12 any nature, nor does it release any claims, actions, or causes of action which may be possessed by Class  
13 Members (other than the named Plaintiffs) under state or federal discrimination statutes, including,  
14 without limitation, the Cal. Fair Employment and Housing Act, the Cal. Government Code § 12940, et  
15 seq.; the Unruh Civil Rights Act, the Cal. Civil Code §51, et seq.; the California Constitution; Title VII  
16 of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.; the Americans with Disabilities Act, as  
17 amended, 42 U.S.C. § 12101, et seq.; the Employee Retirement Income Security Act of 1974, as  
18 amended, 29 U.S.C. § 1001 et seq.; and all of their implementing regulations and interpretive guidelines.

19 50. **“Released Claims Period”** means the period from May 1, 2016 to the date of Preliminary  
20 Approval.

21 51. **“Released PAGA Period”** means the period from November 19, 2017 to the date of  
22 Preliminary Approval.

23 52. **“Released Parties”** means Defendant, and its former, present and future parent  
24 companies, subsidiaries, and affiliates, and their current, former and future, direct or indirect, officers,  
25 directors, employees, partners, members, managers, representatives, attorneys, insurers, administrators,  
26 shareholders and agents, and the predecessors and successors, assigns, and legal representatives of all  
27 such entities and individuals, as well as any entities or individuals with whom Defendant shared a Joint  
28

1 Employer relationship or who might otherwise be jointly liable with Defendant for any of the Released  
2 Claims or PAGA Released Claims.

3           53.     **“Request for Exclusion”** means a timely letter submitted by a Class Member indicating  
4 a request to be excluded from this Settlement as it pertains to the settlement of the Released Claims. The  
5 Request for Exclusion must: (a) be signed by the Class Member; (b) contain the name, address, telephone  
6 number, and the last four digits of the Social Security Number of the Class Member requesting exclusion;  
7 (c) clearly state the name of this case, the case number, and that the Class Member does not wish to be  
8 included in the settlement; (d) be returned to the Claims Administrator by mail at the specified address  
9 or by facsimile number; and (e) be postmarked or received by facsimile on or before the Response  
10 Deadline. For Requests for Exclusion returned by mail, the date of the postmark on the return mailing  
11 envelope will be the exclusive means to determine whether a Request for Exclusion has been timely  
12 submitted. A Class Member who does not request exclusion from the settlement (“Settlement Class  
13 Member”) will be bound by all terms of the settlement if the settlement is granted final approval by the  
14 Court. A Request for Exclusion will not serve to exclude any Class Member from being a PAGA  
15 Aggrieved Employee. PAGA Aggrieved Employees shall have no right or ability to opt out of the  
16 portion of this Settlement Agreement releasing the PAGA Released Claims.

17           54.     **“Response Deadline”** means the deadline by which Class Members must postmark to the  
18 Claims Administrator valid Claim Forms, Requests for Exclusion, or file and serve objections to the  
19 settlement. The Response Deadline will be forty-five (45) calendar days from the initial mailing of the  
20 Notice Packet by the Claims Administrator, unless the 45<sup>th</sup> day falls on a Sunday or Federal holiday, in  
21 which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is  
22 open. The Response Deadline for Claim Forms or Requests for Exclusion will be extended fifteen (15)  
23 calendar days for any Class Member who is re-mailed a Notice Packet by the Claims Administrator,  
24 unless the 15<sup>th</sup> day falls on a Sunday or Federal holiday, in which case the Response Deadline will be  
25 extended to the next day on which the U.S. Postal Service is open (the “Extended Response Deadline”).  
26 The Response Deadline may also be extended by express agreement between Class Counsel and  
27 Defendant. Under no circumstances, however, will the Claims Administrator have the authority to  
28

1 extend the deadline for Class Members to submit a Claim Form, Request for Exclusion, or objection to  
2 the settlement.

3 55. **“Total Settlement Payment”** means Defendant’s total monetary obligation under this  
4 Stipulation, equal to the court approved Class Representative Enhancement Payments; Claims  
5 Administration Costs to the Claims Administrator; Attorneys’ Fees and Costs to Class Counsel; the  
6 PAGA Payment; and the portion of the Net Settlement Amount claimed by Settlement Class Members  
7 by submitting a timely and valid Claim Form, equal to no less than fifty percent (50%) of the Net  
8 Settlement Amount. Defendant retains a reversionary interest in the remainder of the Net Settlement  
9 Amount that is not claimed by Settlement Class Members. Beyond the Total Settlement Payment,  
10 Defendant will not be called upon or required to contribute additional monies, except with respect to the  
11 employer’s share of payroll taxes for the portion of Individual Settlement Payments allocated and paid  
12 as wages.

13 56. **“Workweek”** or **“Workweeks”** means the number of weeks of employment that a Class  
14 Member worked for Defendant as an hourly, non-exempt employee in California at any time during the  
15 Class Period (as defined above).

16 57. **“Workweek Value”** means the value of each compensable Workweek, as determined by  
17 the formula set forth herein.

18 **CLASS CERTIFICATION**

19 58. For the purposes of this Stipulation and the Class Settlement of this Action only, the  
20 Parties stipulate that Plaintiffs will file a Second Amended Complaint to add Plaintiffs’ class and  
21 individual wage and hour claims that were previously dismissed without prejudice with the Court’s  
22 order on September 11, 2020; and to conditional class certification of the Settlement Class thereafter.  
23 Defendants counsel believes this conditional certification is appropriate because the Released Claims  
24 are being compromised without need to establish the elements of those claims on which liability turns.  
25 The certification of the Settlement Class for settlement purposes only shall not constitute, in this or any  
26 other proceeding, an admission of any kind by Defendant, including without limitation, that certification  
27 of a class for trial purposes is or would be warranted, appropriate or proper; or that Plaintiffs could  
28 establish any of the requisite elements for class treatment of any of the claims in the Action. In the event

1 that the Agreement is not finally approved by the Court, an Effective Date is not achieved, or the  
2 settlement is rejected, terminated or otherwise rendered null and void as set forth herein, then  
3 certification of the Settlement Class shall be automatically vacated, shall be void *ab initio*, of no force  
4 or effect, and shall not constitute evidence or a binding determination that the requirements for  
5 certification of a class for trial purposes in this Action or in any other action which have been, are or can  
6 be, satisfied. Further, if the Agreement does not reach an Effective Date, Plaintiffs agrees that they will  
7 promptly dismiss all the class and individual wage claims in the Second Amended Complaint without  
8 prejudice and agree to stay the remaining representative PAGA action pending arbitration of Plaintiffs'  
9 respective individual claims; and Plaintiffs will not argue, claim, reference or otherwise raise any  
10 preliminary approval of the Settlement Class in connection with any later proceeding before the Court  
11 or in any other forum.

#### 12 **TERMS OF AGREEMENT**

13 NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set  
14 forth herein, the Parties agree, subject to the Court's approval, as follows:

15 59. Settlement Consideration by Defendant. Defendant shall pay the monetary sums as  
16 specified in this Agreement, up to the Maximum Settlement Amount. The Parties agree that this is a  
17 reversionary Settlement, subject to the minimum payment requirements described in Paragraphs 71 of  
18 this Agreement. In no event shall Defendants be required to pay more than the Maximum Settlement  
19 Amount.

20 60. Funding of the Settlement Amount. The Maximum Settlement Amount shall be  
21 \$1,100,000. Within ten (10) calendar days after the Effective Date, the Claims Administrator will provide  
22 the Parties with an accounting of the Total Settlement Payment and employer portion of payroll taxes to  
23 be paid by Defendant pursuant to the terms of the Settlement. Defendant will deposit the Total Settlement  
24 Payment and employer-side payroll taxes, as determined by the Claims Administrator, into a Qualified  
25 Settlement Fund account to be established by the Claims Administrator within twenty (20) calendar days  
26 of the Effective Date. In no event shall Defendant be responsible for any payments in excess of the  
27 Maximum Settlement Amount. Defendant's monetary obligation under this Stipulation is limited to the  
28 Total Settlement Payment amount, equal to the court approved Class Representative Enhancement

1 Payments, Claims Administration Costs to the Claims Administrator, Attorneys' Fees and Costs to Class  
2 Counsel, the PAGA Payment, and the portion of the Net Settlement Amount claimed by Settlement Class  
3 Members by submitting a timely and valid Claim Form, equal to no less than fifty percent (50%) of the  
4 Net Settlement Amount. Defendant retains a reversionary interest in the remainder of the Net Settlement  
5 Amount that is not claimed by Settlement Class Members. Beyond the Total Settlement Payment,  
6 Defendant will not be called upon or required to contribute additional monies, except with respect to the  
7 employer's share of payroll taxes.

8         61.     Claims Administrator's Payments to Claimants, Class Counsel, Plaintiffs and Aggrieved  
9 Employees. The Claims Administrator shall promptly deduct and pay from the Total Settlement Payment  
10 Individual Settlement Payments to Claimants who submitted timely and valid Claim Forms, the Class  
11 Representative Enhancement Payments to each of the Plaintiffs, Claims Administration Costs to the  
12 Claims Administrator, Attorneys' Fees and Costs to Class Counsel, and the PAGA Payment as follows:

13             a. Within twenty (20) days of the Claims Administrator's receipt of the Total  
14 Settlement Payment, the Claims Administrator shall issue an Individual Settlement  
15 Payment to each Claimant in the form of a check, including the Claimant's  
16 proportional share of the PAGA Payment paid to Aggrieved Employees; or, for  
17 Class Members who submitted a timely and complete Request for Exclusion, the  
18 Claims Administrator shall issue an Individual Settlement Payment exclusively  
19 consisting of such Class Member's proportional share of the PAGA Payment paid  
20 to Class Members.

21             b. Within twenty (20) days of the Claims Administrator's receipt of the Total  
22 Settlement Payment, the Claims Administrator shall wire the Court-approved  
23 attorneys' fees and costs to Class Counsel. Class Counsel shall provide the Claims  
24 Administrator with the pertinent taxpayer identification number and wire  
25 instructions within two (2) business days after the Effective Date, if not earlier.

26             c. Within twenty (20) days of the Claims Administrator's receipt of the Total  
27 Settlement Payment, the Claims Administrator shall distribute the Enhancement  
28 Payment approved by the Court to each Plaintiff.

1 d. Within twenty (20) days of the Claims Administrator's receipt of the Total  
2 Settlement Payment, the Claims Administrator shall distribute to the LWDA the  
3 portion of the PAGA Payment due to it and approved by the Court.

4 62. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or  
5 motion by Class Counsel for Attorneys' Fees and Costs of not more than thirty-five percent (35%) of the  
6 Maximum Settlement Amount or up to Three Hundred Eighty Five Thousand Dollars (\$385,000), plus  
7 the reimbursement of costs and expenses associated with Class Counsel's litigation and settlement of the  
8 Action, not to exceed Fifty Thousand Dollars (\$50,000), both of which will be paid from the Maximum  
9 Settlement Amount. Any Attorneys' Fees and Costs awarded by the Court shall not constitute payment  
10 to any Class Member(s). To the extent that the Court approves less than the amount of attorney's fees  
11 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts will  
12 be reallocated to the Net Settlement Amount. Except for the Attorneys' Fees and Costs set forth in this  
13 Agreement, the Parties agree to bear their own attorneys' fees and costs related to this Action. In  
14 consideration of their awarded Attorneys' Fees and Costs, Class Counsel waives any and all claims to  
15 any further attorneys' fees and expenses in connection with the Settlement.

16 63. Class Representative Enhancement Payments. In recognition of Plaintiffs' effort and  
17 work in prosecuting the Action on behalf of Class Members, and in exchange for a full release of all  
18 known and unknown claims, Defendant agrees not to oppose or impede any application or motion for  
19 Class Representative Enhancement Payments of up to Ten Thousand Dollars (\$10,000) to each Plaintiff.  
20 The Class Representative Enhancement Payments will be paid from the Maximum Settlement Amount  
21 and shall not constitute payment to any Settlement Class Member(s) (other than Plaintiffs). To the extent  
22 that the Court approves less than the amount of Enhancement Payments that Class Counsel requests, the  
23 difference between the requested and awarded amounts will be reallocated to the Net Settlement  
24 Amount. Because it is the intent of the Parties that the Enhancement Payments represent payments to  
25 Plaintiffs for their service to the Class Members, and not wages, the Settlement Administrator will not  
26 withhold any taxes from the Enhancement Payment. The Claims Administrator will issue an IRS Form  
27 1099 for the Enhancement Payments to Plaintiffs, and they shall be solely and legally responsible for  
28

1 correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts  
2 received.

3           64.     General Release by Class Representatives. As a condition of the class action Settlement,  
4 in consideration for the consideration set forth in this Agreement, as of the Effective Date, Plaintiffs, as  
5 the Class Representatives, for themselves and their heirs, successors and assigns, do hereby separately  
6 waive, release, acquit and forever discharge the Released Parties from any and all claims, obligations,  
7 demands, actions, charges, complaints, grievances, rights, causes of action, and liabilities of whatever  
8 kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract,  
9 federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law or  
10 contract, whether known or unknown, and whether anticipated or unanticipated, including all unknown  
11 claims covered by California Civil Code section 1542, by the Class Representatives, which exist or may  
12 exist as of the date on which the Court enters the Order of Final Approval, for any type of relief, including  
13 without limitation any and all tort claims, contract claims, claims for wages, premium and other forms  
14 of pay, unpaid/unreimbursed costs, penalties (including waiting time penalties and wage statement  
15 penalties), general damages, compensatory damages, liquidated damages, punitive damages, interest,  
16 attorneys' fees, litigation and other costs, expenses, restitution, equitable relief declaratory relief,  
17 wrongful termination claims, disability claims, benefit claims, public policy claims, retaliation claims,  
18 statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims,  
19 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any  
20 federal, state or other governmental statute, law, regulation or ordinance, including, but not limited to  
21 any and all claims for violation of any provision of the Fair Labor Standards Act ("FLSA"), the  
22 California Labor Code, any applicable California Industrial Welfare Commission Wage Orders, any city  
23 or county Living Wage Ordinances, other state wage and hour laws, the California Government Code,  
24 the California Fair Employment and Housing Act, the California Family Rights Act, California's  
25 Whistleblower Protection Act, the Unruh Civil Rights Act, the California Labor Code Private Attorneys  
26 General Act of 2004, California Labor Code Sections 2699, *et seq.*, the California Civil Code, the  
27 California Constitution, the California Business and Professions Code, including but not limited to §§  
28 17200 *et seq.*, the United States Constitution, the Age Discrimination in Employment Act ("ADEA")



1 and the Older Workers Benefit Protection Act, the Uniformed Services Employment and Reemployment  
2 Rights Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*, the Family and Medical  
3 Leave Act, to the extent not prohibited by law, the Americans with Disabilities Act, 42 U.S.C. § 12101  
4 *et seq.*, and the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, and all of  
5 their implementing regulations and interpretive guidelines, and any and all claims arising under any  
6 federal, state or other governmental statute, law, regulation or ordinance. As a condition to this  
7 Settlement, the named Plaintiffs will provide or have provided a full and general release of all known  
8 and unknown claims, including but not limited to, all claims alleged or that could have been alleged in  
9 the Action. ***Expressly excluded from this release is Plaintiff Martinez’s individual claims pending in***  
10 ***arbitration for his wrongful termination and retaliation claim, JAMS case no. 1220067536.***

11 65. Waiver of California Civil Code § 1542 by Class Representatives. As a condition of the  
12 class action Settlement, in consideration for the consideration set forth in this Agreement, as of the  
13 Effective Date, Plaintiffs expressly waive and relinquishes any and all rights or benefits that they may  
14 have under the provisions of section 1542 of the California Civil Code, which provides as follows:

15 “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
16 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST  
17 IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND  
18 THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED  
19 HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

20 Named Plaintiffs may hereafter discover claims or facts in addition to, or different from, those  
21 which they now know or believe to exist, but named Plaintiffs expressly agree to fully, finally and settle  
22 and release any and all claims against the Released Parties, known or unknown, suspected or  
23 unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this  
24 Agreement, including, but not limited to, any and all claims relating to or arising from named Plaintiffs’  
25 employment with Defendant. The Parties further acknowledge, understand and agree that this  
26 representation and commitment is essential to the Agreement and that this Agreement would not have  
27 been entered into were it not for this representation and commitment.  
28

1           66.     Release of Claims by All Settlement Class Members. Upon the Effective Date and upon  
2 fully funding the Total Settlement Payment, in exchange for the consideration set forth in this Settlement,  
3 Plaintiffs and all Class Members who have not submitted valid and timely Requests for Exclusion  
4 (whether or not they submitted timely and valid Claim Forms), will be deemed to have and by operation  
5 of the Final Approval Order and Judgment, will expressly have fully, finally, and forever released,  
6 settled, compromised, relinquished, and discharged all of the Released Parties of all Released Claims (as  
7 defined above) for any period of time during the Released Claims Period to the fullest extent permitted  
8 by law. The *res judicata* effect of the Judgment will be the same as that of this release. The Parties  
9 understand and specifically agree that the scope of the release described in this Paragraph is a material  
10 part of the consideration for this Agreement; was critical in justifying the agreed upon economic value  
11 of this Settlement and without it Defendant would not have agreed to the consideration provided; and is  
12 narrowly drafted and necessary to ensure that Defendant is obtaining peace of mind regarding the  
13 resolution of claims that were or could have been alleged based on the facts, causes of action, and legal  
14 theories asserted in the Action.

15           67.     PAGA Released Claims Released by All PAGA Aggrieved Employees. Upon the  
16 Effective Date and upon fully funding the Total Settlement Payment, in exchange for the consideration  
17 set forth in this Settlement, Plaintiffs and all PAGA Aggrieved Employees, regardless of whether or not  
18 they have submitted valid and timely Requests for Exclusion, will be deemed to have and by operation  
19 of the Final Approval Order and Judgment, will expressly have fully, finally, and forever released,  
20 settled, compromised, relinquished, and discharged all of the Released Parties of all PAGA Released  
21 Claims (as defined above) for any period of time during the Released PAGA Period to the fullest extent  
22 permitted by law. The *res judicata* effect of the Judgment will be the same as that of this release. The  
23 Parties understand and specifically agree that the scope of the release described in this Paragraph is a  
24 material part of the consideration for this Agreement; was critical in justifying the agreed upon economic  
25 value of this Settlement and without it Defendant would not have agreed to the consideration provided;  
26 and is narrowly drafted and necessary to ensure that Defendant is obtaining peace of mind regarding the  
27 resolution of claims that were or could have been alleged based on the facts, causes of action, and legal  
28 theories asserted in the Action.

1           68.    Claims Administration Costs. The Claims Administrator will be paid for the reasonable  
2 costs of administration of the Settlement and distribution of payments from the Maximum Settlement  
3 Amount, which is currently estimated not to exceed Fourteen Thousand Dollars (\$14,000). These costs,  
4 which will be paid from the Maximum Settlement Amount, will include, *inter alia*, printing, translating  
5 into Spanish, mailing, and tracking documents for this Settlement; the required tax reporting on the  
6 Individual Settlement Payments, including the issuing of 1099 and W-2 IRS Forms; distributing the  
7 Notice Packet and sending reminder notices; calculating estimated amounts per Class Member and  
8 Individual Settlement Payments; distributing the Total Settlement Payment in accordance with the  
9 settlement and the Court's order, including to Settlement Class Members who submit a timely and valid  
10 Claim Form and to all Aggrieved PAGA Employees; providing necessary reports and declarations; and  
11 performing other duties and responsibilities set forth herein to process this Settlement, and as requested by  
12 the Parties. Any portion of the Claims Administration Costs that are not awarded to the Claims  
13 Administrator will be reallocated to the Net Settlement Amount.

14           69.    Acknowledgement of Potential Administration Cost Increases. The Parties acknowledge  
15 that Claims Administration Costs may increase above the current estimate of Fourteen Thousand  
16 Hundred Dollars (\$14,000) and that any such additional Claims Administration Costs will be taken out  
17 of the Maximum Settlement Amount. Any portion of the estimated or designated Claims Administration  
18 Costs which are not in fact required to fulfill the total Claims Administration Costs will flow through to  
19 the Net Settlement Amount.

20           70.    PAGA Payment. Subject to Court approval, the Parties agree that the amount of Fifty  
21 Thousand Dollars (\$50,000) from the Maximum Settlement Amount will be designated for satisfaction  
22 of Plaintiffs' and Class Members' PAGA claims. Pursuant to PAGA, seventy-five percent (75%), or  
23 Thirty-Seven Thousand Five Hundred Dollars (\$37,500), of this sum will be paid to the LWDA and  
24 twenty-five percent (25%), or Twelve Thousand Five Hundred Dollars (\$12,500), will be part of the  
25 Total Settlement Payment, included in the Individual Settlement Payment to each Aggrieved Employee.  
26 The amount will be distributed, pro rata, based on all PAGA Aggrieved Employees' Workweeks during  
27 the Released PAGA Period.  
28

1           71.    Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual  
2 Settlement Payments to Claimants in accordance with the terms of this Agreement. If the total claimed  
3 Individual Settlement Payments would equal less than fifty percent (50%) of the Net Settlement Amount,  
4 the Claims Administrator will proportionately increase the Individual Settlement Payment for each  
5 Claimant so that the amount distributed to Claimants will equal at least fifty percent (50%) of the Net  
6 Settlement Amount. Defendant retains a reversionary interest in the remainder of the Net Settlement  
7 Amount that is not claimed by Settlement Class Members, which amount shall not be less than fifty  
8 percent (50%) of the Net Settlement Amount (the “Remainder”). Such Remainder shall be retained or  
9 returned (as applicable) to Defendant by the Claims Administrator as soon as the amount of the  
10 Remainder is calculable.

11           72.    Individual Settlement Payment Calculations. Individual Settlement Payments shall be  
12 paid from the Net Settlement Amount, less the Remainder, and shall be paid pursuant to the formula set  
13 forth herein. Each Individual Settlement Payment will be calculated and apportioned from the Net  
14 Settlement Amount based on the number of Workweeks a Class Member worked during the Class Period.  
15 Specific calculations of Individual Settlement Payments will be made as follows:

- 16           a.    The Claims Administrator will calculate the total number of Workweeks worked  
17 by each individual Class Member (“Individual Workweeks”) to determine the  
18 total number of Workweeks worked by all Class Members (“Class Workweeks”)  
19 during the Class Period. Defendant shall provide the Claims Administrator such  
20 information as is necessary to calculate the Individual Workweeks and Class  
21 Workweeks.
- 22           b.    Within ten (10) calendar days following Preliminary Approval of this Settlement,  
23 to determine each Class Member’s estimated Individual Settlement Payment, the  
24 Claims Administrator will use the following formula: Estimated Individual  
25 Settlement Payment = (Net Settlement Amount ÷ Class Workweeks) x Individual  
26 Workweeks for each individual Class Member. The estimated Individual  
27 Settlement Payment will be among the information included in the Notice Packet  
28 to each Class Member

1 c. Following the Response Deadline and at least twenty (20) days before the Final  
2 Fairness Hearing, the Claims Administrator will Calculate the Individual  
3 Settlement Payments to be paid to each Claimant and Aggrieved PAGA  
4 Employee. Only Settlement Class Members who submit timely and valid Claim  
5 Forms will receive their pro rata share of the Net Settlement Amount. If the total  
6 Individual Settlement Payments actually claimed by Claimants equals less than  
7 fifty percent (50%) of the Net Settlement Amount, the Individual Settlement  
8 Payments will proportionately increase for each Claimant submitting a Claim  
9 Form such that the total Individual Settlement Payments equal not less than fifty  
10 percent (50%) of the Net Settlement Amount. In the event the Class Members'  
11 claims exceed 50% of the Net Settlement, then the actual amount claimed will be  
12 paid to each such Class Member. The Remainder, if any, of the Net Settlement  
13 will be retained by Defendant.

14 d. The portion of the Individual Settlement Payments allocated as wages will be  
15 reduced by any required tax withholdings and deductions for each Claimant.

16 73. Individual Settlement Payments Do Not Trigger Additional Benefits. All Individual  
17 Settlement Payments to Class Members shall be deemed to be paid to such Class Members solely in the  
18 year in which such payments are received by the Class Members. It is expressly understood and agreed  
19 that the receipt of such Individual Settlement Payments will not entitle any Class Member to additional  
20 compensation or benefits under any company bonus, contest or other compensation or benefit plan or  
21 agreement in place during the period covered by the Settlement, nor will it entitle any Class Member to  
22 any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is  
23 the intent of this Settlement that the Individual Settlement Payments provided for in this Settlement are  
24 the sole payments to be made by Defendant to the Class Members, and that the Class Members are not  
25 entitled to any new or additional compensation or benefits as a result of having received the Individual  
26 Settlement Payments (notwithstanding any contrary language or agreement in any benefit or  
27 compensation plan document that might have been in effect during the period covered by this  
28 Settlement).

1           74.    Payment to PAGA Aggrieved Employees. Each PAGA Aggrieved Employee shall be  
2 entitled to receive a proportional share of the portion of the PAGA Payment paid to Class Members,  
3 which will be calculated and apportioned based on the number of Workweeks a PAGA Aggrieved  
4 Employee worked during the Released PAGA Period. Specific calculations of the PAGA Payment  
5 included in Individual Settlement Payments will be made as follows:

6           a.    The Claims Administrator will calculate the total number of Individual  
7 Workweeks during the Released PAGA Period to determine the total Class  
8 Workweeks during the Released PAGA Period. Defendant shall provide the  
9 Claims Administrator such information as is necessary to calculate the Individual  
10 Workweeks and Class Workweeks.

11           b.    To determine each PAGA Aggrieved Employee’s estimated proportional share of  
12 the PAGA Payment paid to PAGA Aggrieved Employees, the Claims  
13 Administrator will use the following formula: Proportional Share of PAGA  
14 Payment = (25% of PAGA Payment ÷ Class Workweeks during Released PAGA  
15 Period) x Individual Workweeks for each individual PAGA Aggrieved Employee  
16 during Released PAGA Period.

17           75.    Claims Administration Process. The Parties agree to cooperate in the administration of  
18 the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred  
19 in administration of the Settlement.

20           76.    Delivery of the Class List. Within twenty (20) business days of Preliminary Approval,  
21 Defendant will provide the Class List(s) to the Claims Administrator.

22           77.    Notice by First-Class U.S. Mail. Within fifteen (15) calendar days of receipt of the Class  
23 List(s), the Claims Administrator will perform a search based on the National Change of Address  
24 Database (“NCOA”), or any other similar services available, and mail a Notice Packet to all Class  
25 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses available.  
26 At the same time the Notice Packets are mailed, the Claims Administrator will post a copy of the  
27 following on their settlement website for at least 60 days: the court’s order granting preliminary approval  
28 of the settlement and certifying the class for settlement purposes; the Notice Packet; and this Stipulation.

1           78.    Confirmation of Contact Information in the Class List. Prior to mailing, the Claims  
2 Administrator will perform a NCOA check, such as provided by Experian or any other similar services  
3 available, for information to update and correct for any known or identifiable address changes. Any  
4 Notice Packets returned to the Claims Administrator as non-deliverable on or before the Response  
5 Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto  
6 and the Claims Administrator will indicate the date of such re-mailing on the Notice Packet. If no  
7 forwarding address is provided, the Claims Administrator will promptly attempt to determine the correct  
8 address using a skip-trace and will then perform a single re-mailing within five (5) days after return of  
9 the Notice Packet. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace  
10 or by request, will have between the later of (a) an additional fifteen (15) days or (b) the Response  
11 Deadline to postmark a Claim Form, Request for Exclusion, or file and serve an objection to the  
12 Settlement.

13           79.    Notice Packets. All Class Members will be mailed a Notice Packet, substantially in the  
14 forms attached as **Exhibit A** and **Exhibit B**. Each Notice Packet will provide: (a) information regarding  
15 the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Class definition; (d)  
16 the total number of Workweeks each respective Class Member worked for Defendant during the Class  
17 Period and Released PAGA Period, respectively; (e) each Class Member's estimated Individual  
18 Settlement Payment, their estimated proportional share of the PAGA Payment included in the Individual  
19 Settlement Payment, and the formula for calculating Individual Settlement Payments; (f) the dates which  
20 comprise the Class Period and Released PAGA Period; (g) instructions on how to submit valid Claim  
21 Forms, disputes regarding Workweeks, Requests for Exclusion, or objections; (h) the requirements  
22 relating to, and deadlines by which the Class Member must submit, Claim Forms, disputes regarding  
23 Workweeks, Requests for Exclusions, and objections to the Settlement; (i) the claims to be released, as  
24 set forth herein; and (j) the date for the Final Fairness Hearing.

25           80.    Disputed Information on Notice Packets. Class Members may dispute the information  
26 provided in their Notice Packets, but must do so in writing, via first class mail, and it must be postmarked  
27 by the Response Deadline. To the extent Class Members dispute the number of Workweeks to which  
28 they have been credited or the amount of their Individual Settlement Payment, Class Members must

1 produce evidence to the Claims Administrator showing that such information is inaccurate. Absent  
2 evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However,  
3 if a Class Member produces evidence to the contrary, the Claims Administrator shall immediately  
4 provide copies of all disputes to counsel for Defendant, shall inform Class Counsel of the dispute without  
5 disclosing the identity of the Class Member making the dispute, and shall immediately attempt to resolve  
6 all such disputes directly with relevant Class Member(s) with the assistance of Defendant and Class  
7 Counsel. The Parties will evaluate the evidence submitted by the Class Member and will make the final  
8 decision as to the number of eligible Workweeks that should be applied and/or the Individual Settlement  
9 Payment to which the Class Member may be entitled. If the Parties are unable to resolve the dispute, the  
10 Claims Administrator will be the final arbiter of the Workweeks for each Class Member during the Class  
11 Period, based on the information provided to it.

12       81.     Claim Form Procedures. To receive an Individual Settlement Payment, a Class Member  
13 must submit a timely Claim Form by the Response Deadline. All Claim Forms must be signed and  
14 returned to the Claims Administrator via first class mail or fax and postmarked or faxed by the Response  
15 Deadline. If mailed, the date of the postmark on the return mailing envelope will be the exclusive means  
16 to determine whether a Claim Form has been timely submitted. However, it is not the intention of the  
17 Parties to exclude Class Members from obtaining payment in the Settlement for technical reasons that  
18 do not interfere with the orderly administration of the Settlement. Therefore, the Claims Administrator  
19 will compile a list of claims rejected for (1) failure to cure an unsigned Claim Form or (2) late submission  
20 of the Claim Form. As to the Class Members on that rejected claims list, any Class Member who requests,  
21 in a signed letter, to receive payment in the Settlement will be treated like a Claimant so long as that  
22 written request is received by the Final Fairness Hearing, pursuant to the terms of Paragraph 81 of this  
23 Agreement. Class Members who do not submit a timely and valid Claim Form and who do not submit a  
24 timely and valid Request for Exclusion, will not be Claimants, and will not receive an Individual  
25 Settlement Payment; however, such persons shall nonetheless be deemed Settlement Class Members and  
26 will be bound by all terms of the Settlement and any final judgment entered in this Action if the  
27 Settlement is finally approved by the Court.  
28



1           82.   Request for Exclusion Procedures. Any Class Member wishing to opt-out from this  
2 Stipulation of Settlement must sign and postmark a written Request for Exclusion to the Claims  
3 Administrator within the Response Deadline. The Request for Exclusion request must state the Class  
4 Member's name, address, telephone number, and signature. The Request for Exclusion request should  
5 state something to the effect of:

6           "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE HALEY ET AL.  
7 V. LMS REINFORCING STEEL USA, LP; JOHASEE REBAR, LP ET AL. LAWSUIT. I  
8 UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I  
9 WILL NOT RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF THIS  
10 LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE."

11           Any Request for Exclusion request that is not postmarked by the Response Deadline, or Extended  
12 Response Deadline (as applicable), will be invalid. The date of the postmark on the return mailing  
13 envelope will be the exclusive means to determine whether a Request for Exclusion has been timely  
14 submitted. All Requests for Exclusion will be submitted to the Claims Administrator, who will certify  
15 jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted.  
16 Those Settlement Class Members who do not timely submit a Request for Exclusion will be bound by  
17 the release of Released Claims set forth in Paragraphs 49 and 66 of this Stipulation.

18           A Request for Exclusion of the Class Settlement shall *not* serve to exclude any Class Member  
19 from being a PAGA Aggrieved Employee. Class Members who submit a Request for Exclusion shall  
20 still be entitled to their share of the PAGA Payment and be deemed to have released the PAGA  
21 Released Claims against the Released Parties. PAGA Aggrieved Employees shall have no right or  
22 ability to opt out of the portion of this Settlement Agreement releasing the PAGA Released Claims.

23           83.   Defective Submissions. If a Class Member's Claim Form or Request for Exclusion is  
24 defective as to the requirements listed herein, that Class Member will be given an opportunity to cure  
25 the defect(s). The Claims Administrator will mail the Class Member a cure letter within three (3)  
26 business days of receiving the defective submission to advise the Class Member that his or her  
27 submission is defective and that the defect must be cured to render the Claim Form or Request for  
28 Exclusion valid. The Class Member will have ten (10) calendar days from the date of the cure letter to

1 postmark a revised Claim Form or Request for Exclusion. If a Class Member responds to a Cure Letter  
2 by filing a defective claim, then the Claims Administrator will have no further obligation to give notice  
3 of a need to cure. If the revised Claim Form is not postmarked or received by the Final Fairness Hearing,  
4 it will be deemed untimely. The failure of a Class Member to timely submit a Claim Form, or timely  
5 submit a response to any deficiency notice, shall invalidate a Claim Form and will not be considered a  
6 deficiency subject to cure, unless counsel for both Parties stipulate to allow cure.

7       84.     Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member  
8 who does not affirmatively opt-out of this Stipulation of Settlement by submitting a timely and valid  
9 Request for Exclusion (“Settlement Class Member”) will be bound by all its terms, including those  
10 pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if it grants  
11 final approval to the Settlement. As to Class Members who submit timely and valid Requests for  
12 Exclusion, they are nonetheless bound by the terms of this Stipulation of Settlement and any Judgment  
13 that may be entered by the Court if it grants final approval to the Settlement pertaining to PAGA  
14 Aggrieved Employees, the PAGA Released Claims, and the PAGA Payment.

15       85.     Objection Procedures. To object to this Stipulation of Settlement, a Class Member must  
16 file a valid Notice of Objection with the Court and serve copies of the Notice of Objection on the Parties  
17 before the Response Deadline. Only Class Members may object to the Settlement. The Notice of  
18 Objection must be signed by the Class Member and contain all information required by this Stipulation  
19 of Settlement. The postmark date of the filing and service will be deemed the exclusive means for  
20 determining that the Notice of Objection is timely. Class Members wishing to make an objection may  
21 also appear at the Final Fairness Hearing, either in person or through a lawyer retained at their own  
22 expense. Class Members who fail to object in the specific and technical manner specified above will be  
23 deemed to have waived all objections to the Settlement and will be foreclosed from making any  
24 objections and seeking any adjudication or review, whether by appeal or otherwise, to this Stipulation  
25 of Settlement. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage  
26 Class Members to submit written objections to this Stipulation of Settlement or appeal from the Order  
27 and Judgment. However, Class Counsel, Defense Counsel, and Defendant may respond to inquiries from  
28

1 Class Members with truthful information. Class Counsel will not represent any Class Members with  
2 respect to any such objections to this Settlement.

3 86. Reminders. Not earlier than twenty (20) days or later than thirty (30) days after the initial  
4 mailing, the Claims Administrator will send a Reminder Postcard to all Class Members who have not  
5 returned a Claim Form or a Request for Exclusion. All Reminder Postcards will include the Response  
6 Deadline, and the contact information for Class Counsel and the Claims Administrator.

7 87. Certification Reports Regarding Individual Settlement Payment Calculations. The Claims  
8 Administrator will provide Defendant's Counsel and Class Counsel a weekly report which certifies: (a)  
9 the number of Class Members who have submitted valid Claim Forms; (b) the number of Claimants; (c)  
10 the number of Class Members who have submitted valid Requests for Exclusion; (d) the then current  
11 amount and percentage of the Net Settlement Amount claimed by Claimants; and (e) whether any Class  
12 Member has submitted a challenge to any information contained in their Claim Form or Notice Packet.  
13 The Claims Administrator will not disclose the identities or any identifying information belonging to  
14 any Class Members to Class Counsel. Additionally, the Claims Administrator will provide to  
15 Defendant's Counsel and Class Counsel any updated reports regarding the administration of this  
16 Stipulation of Settlement as needed or requested.

17 88. Payment Schedule for All Court-Approved and Individual Settlement Payment Amounts.  
18 Within ten (10) calendar days of the Effective Date, the Claims Administrator will provide the Parties  
19 with a final accounting of the Total Settlement Payment and employer portion of payroll taxes to be paid  
20 by Defendant pursuant to the terms of the Settlement.

21 89. Payroll Taxes. All applicable employer-side payroll taxes relating to the portion of the  
22 Individual Settlement Payments paid as wages shall be paid separate and apart from the Total Settlement  
23 Payment.

24 90. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to  
25 Claimants and PAGA Aggrieved Employees will be negotiable for at least one hundred eighty (180)  
26 calendar days. Those funds represented by settlement checks returned as undeliverable and those  
27 settlement checks remaining un-cashed for more than one hundred eighty (180) calendar days after  
28

1 issuance will be distributed pursuant to Code of Civil Procedure section 384 (a *cy pres* to be agreed upon  
2 by the Parties and approved by the Court).

3       91.     Certification of Completion. Within twenty (20) days of completion of administration of  
4 the Settlement, the Claims Administrator will provide a written declaration under oath to certify such  
5 completion to the Court and counsel for all Parties. The declaration will include any attempts to obtain  
6 valid mailing addresses for and re-sending of any returned Notice Packets, as well as the number of valid  
7 exclusions and objections that the Claims Administrator received.

8       92.     Administration Costs if Settlement Fails or is Delayed. If the Settlement is voided or  
9 rescinded, for any reason other than set forth in Paragraph 104 of this Agreement, the Party rescinding or  
10 voiding the Settlement will pay any costs incurred by the Claims Administrator. If the Settlement is  
11 voided or rescinded for the reasons set forth in Paragraph 104, any costs incurred by the Claims  
12 Administrator will be paid equally by the Parties (half by Defendant and half by Class Counsel), unless  
13 otherwise specified in this Agreement.

14       93.     Treatment of Individual Settlement Payments. For purposes of this Stipulation of  
15 Settlement, all Individual Settlement Payments will be allocated as follows: (with the exception of Class  
16 Members' share of the PAGA Payment and Enhancement Payments) twenty percent (20%) of each  
17 Individual Settlement Payment will be allocated as wages and eighty percent (80%) will be allocated as  
18 interest and penalties. With respect to the PAGA Payment and any portion thereof paid to individual  
19 PAGA Aggrieved Employees, all such payments shall be treated as payments paid for penalties and  
20 shall not be considered wages. The amounts paid as wages shall be subject to all tax withholdings  
21 customarily made from an employee's wages and all other authorized and required withholdings and  
22 shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all  
23 authorized and required withholdings other than the tax withholdings customarily made from employees'  
24 wages and shall be reported by IRS 1099 forms.

25       94.     Administration of Taxes by the Claims Administrator. The Claims Administrator will be  
26 responsible for issuing to Plaintiffs, Claimants, PAGA Aggrieved Employees, and Class Counsel any  
27 W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement.  
28

1 The Claims Administrator will also be responsible for forwarding all payroll taxes and penalties to the  
2 appropriate government authorities.

3 95. Notice of Final Judgment. Within 10 days after the Court has held a Final Fairness  
4 Hearing and entered a final order approving the Class Settlement, the Settlement Administrator will give  
5 notice of judgment to Settlement Class Members and PAGA Aggrieved Employees pursuant to  
6 California Rules of Court, rule 3.771(b) by posting a copy of said order and final judgment on its website  
7 at a web address to be included in the Notice Packet.

8 96. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect  
9 of the payments called for hereunder; and Plaintiffs, PAGA Aggrieved Employees, and Claimants are  
10 not relying on any statement, representation, or calculation by Defendant or by the Claims Administrator  
11 in this regard. Plaintiffs, PAGA Aggrieved Employees, and Claimants understand and agree that except  
12 for Defendant's payment of the employer's portion of any payroll taxes, they will be solely responsible  
13 for the payment of any taxes and penalties assessed on the payments described herein and will defend,  
14 indemnify, and hold Defendant free and harmless from and against any claims resulting from treatment  
15 of such payments as non-taxable damages.

16 97. No Assignments. The Parties and their counsel represent, covenant, and warrant that they  
17 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or  
18 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or  
19 right herein released and discharged. Further, none of the rights, commitments, or obligations recognized  
20 under this Agreement may be assigned by any Party, Class Member, Class Counsel, or Defendant's  
21 Counsel without the express written consent of each other Party and their respective counsel. The  
22 representations, warranties, covenants, and agreements contained in this Agreement are for the sole  
23 benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any  
24 remedy to any other person.

25 98. Duties of the Parties Prior to Court Approval. Upon execution of this Agreement, the  
26 Parties agree to promptly submit a stipulation and proposed order to lift the stay in the Action and  
27 granting Plaintiffs leave of court to file the contemplated Second Amended Complaint to effectuate the  
28 terms of this Settlement. The contemplated Second Amended Complaint will add the class and individual

1 wage and hour claims that were previously dismissed without prejudice with the Court's order on  
2 September 11, 2020. Once the contemplated Second Amended Complaint has been filed, the Parties  
3 shall promptly submit this Stipulation of Settlement to the Court in support of Plaintiffs' Motion for  
4 Preliminary Approval and determination by the Court as to its fairness, adequacy, and reasonableness.  
5 Promptly upon execution of this Stipulation of Settlement, the Parties shall apply to the Court for the  
6 entry of an order scheduling the Final Fairness Hearing on the question of whether the proposed  
7 settlement, including payment of Attorneys' Fees and Costs, the Class Representative Enhancement  
8 Payments to Plaintiffs, and Individual Settlement Payments, should be finally approved as a fair,  
9 reasonable, and adequate settlement. As part of Plaintiffs' Motion for Preliminary Approval, Plaintiffs  
10 shall also apply to the Court for the entry of an order as follows:

- 11 a. Certifying the Class for the purpose of settlement;
- 12 b. Approving, as to form and content, the proposed Notice of Class Action  
13 Settlement;
- 14 c. Approving as to form and content the proposed Claim Form;
- 15 d. Approving the manner and method for Class Members to request exclusion from  
16 the Settlement as contained herein and within the Notice of Class Action  
17 Settlement;
- 18 e. Directing the mailing of the Notice of Class Action Settlement, Claim Form, and  
19 Reminder Postcards to the Class Members, in accordance with the Settlement  
20 Agreement;
- 21 f. Preliminarily approving the Settlement subject only to the objections of Class  
22 Members and final review by the Court; and
- 23 g. Enjoining Plaintiffs and any Class Member from filing or prosecuting any claims,  
24 suits, or administrative proceedings (including filing claims with the California  
25 Division of Labor Standards Enforcement and the LWDA) regarding the Released  
26 Claims unless and until such Class Members have filed valid Requests for  
27 Exclusion with the Claims Administrator.  
28

1           99.    Duties of the Parties Following Final Court Approval. Following final approval by the  
2 Court of the Settlement provided for in this Stipulation of Settlement, Class Counsel will submit a  
3 proposed final order of approval and judgment as follows:

- 4           a.    Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and  
5               adequate, and directing consummation of its terms and provisions;
- 6           b.    Approving Class Counsel’s application for an award of Attorneys’ Fees and  
7               Costs;
- 8           c.    Approving the Class Representative Enhancement Payments to Plaintiffs;
- 9           d.    Setting a date when the parties shall report to the Court the total amount that was  
10             actually paid to the Class Members; and
- 11          e.    Entering judgment in this Action consistent with this Agreement.

12           100. Defendant’s Option to Terminate the Settlement. If five percent (5%) or more of the  
13 Class Members opt out of the Settlement by filing Requests for Exclusion, Defendant may, at its election  
14 and in its sole discretion, rescind the Settlement and all actions taken in furtherance of it will thereby be  
15 null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel within ten  
16 (10) calendar days after the Claims Administrator notifies the Parties of the total number of opt-outs  
17 received by the latest Response Deadline, if the Response Deadline was extended for any Class  
18 Members. If the option to rescind is exercised, Defendant shall be solely responsible for all costs of the  
19 Claims Administrator accrued to that point.

20           101. Nullification of Stipulation of Settlement. If: (a) the Court does not finally approve the  
21 Settlement as provided herein; or (b) the Settlement does not become final for any other reason, then this  
22 Stipulation of Settlement, and any documents generated to bring it into effect, will be null and void. Any  
23 order or judgment entered by the Court in furtherance of this Stipulation of Settlement will likewise be  
24 treated as void from the beginning. In such case, the Parties and any funds to be awarded under this  
25 Settlement shall be returned to their respective statuses as of the date and time immediately prior to the  
26 execution of this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement  
27 Agreement had not been executed, except that any costs already incurred by the Settlement  
28 Administrator shall be paid by equal apportionment among the Parties. Upon nullification of this

1 Stipulation of Settlement, Plaintiffs will promptly dismiss all the class and individual wage claims in the  
2 Second Amended Complaint without prejudice and agree to stay the remaining representative PAGA  
3 action pending arbitration of Plaintiffs' respective individual claims. However, if the Settlement  
4 becomes null and void, consistent with the law at that time and the Parties' respective arbitration  
5 agreements, Plaintiffs may seek an order permitting them to simultaneously pursue their individual  
6 claims in arbitration and the representative PAGA claims in court. The Parties agree that this issue is  
7 likely to be contested and Defendant retains the right to object, oppose, and raise any defenses to  
8 Plaintiffs' efforts to lift the stay of the PAGA action before completing arbitration of Plaintiffs'  
9 individual claims. The Parties expressly agree that Defendant retains any and all rights and defenses it  
10 had as of the date this Stipulation was signed and has not waived any of those rights or defenses by  
11 engaging in settlement negotiations, agreeing to the terms of this Settlement, or taking any steps to  
12 effectuate the terms of this Settlement.

13       102. Preliminary Approval Hearing. Plaintiffs will obtain a hearing before the Court to request  
14 the Preliminary Approval of this Stipulation of Settlement, and the entry of a Preliminary Approval  
15 Order for: (a) conditional certification of the Class for settlement purposes only, (b) Preliminary  
16 Approval of the proposed Stipulation of Settlement, and (c) setting a date for a Final Fairness Hearing.  
17 The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as  
18 specified herein. In conjunction with the Preliminary Approval hearing, Plaintiffs will submit this  
19 Stipulation of Settlement, which sets forth the terms of this Settlement, and will include the proposed  
20 Notice Packet; i.e., the proposed Notice of Class Action Settlement documents, and the proposed Claim  
21 Form, attached as **Exhibit A** and **Exhibit B** respectively. Class Counsel will be responsible for drafting  
22 all documents necessary to obtain preliminary approval. Defendant agrees not to oppose the Motion for  
23 Preliminary Approval so long as Defense Counsel has seven (7) calendar days to review it before filing  
24 and it is consistent with this Settlement Agreement. If Defense Counsel does not provide commentary  
25 within seven (7) calendar days, Defense Counsel will have waived the opportunity to provide comments.

26       103. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the  
27 deadlines to postmark Claim Forms, Requests for Exclusion, or objections to this Stipulation of  
28 Settlement, and with the Court's permission, a Final Fairness Hearing will be conducted to determine



1 the Final Approval of this Stipulation of Settlement along with the amounts properly payable for (a)  
2 Individual Settlement Payments; (b) the Attorneys' Fees and Costs; (c) the Class Representative  
3 Enhancement Payments; and (d) all Claims Administration Costs, as well as confirming the total amount  
4 to be allocated towards the PAGA Payment. Class Counsel will be responsible for drafting all documents  
5 necessary to obtain final approval. Class Counsel will also be responsible for drafting the Attorneys'  
6 Fees and Costs application to be heard at the Final Fairness Hearing and shall submit to the Court a  
7 Proposed Final Approval Order. Class Counsel will provide Defense Counsel at least seven (7) calendar  
8 days to review any motions and proposed orders prior to filing them. Defendant agrees not to oppose the  
9 Motion for Final Approval and Attorneys' Fee and Costs. If Defense Counsel does not provide  
10 commentary within seven (7) calendar days, Defense Counsel will have waived the opportunity to  
11 provide comments.

12       104. Either Party's Option to Terminate the Settlement. Subject to the obligation(s) of mutual  
13 full cooperation, either Party may terminate this Settlement if the Court declines to enter the Preliminary  
14 Approval Order, the Final Approval Order or final judgment in substantially the form submitted by the  
15 Parties, or this Stipulation of Settlement as agreed does not become final because of appellate court  
16 action. The terminating Party shall give to the other Party (through its counsel) written notice of its  
17 decision to terminate no later than ten (10) business days after receiving notice that one of the enumerated  
18 events has occurred. Termination shall have the following effects:

- 19           a. The Stipulation of Settlement shall be terminated and shall have no force or effect,  
20           and no Party shall be bound by any of its terms;
- 21           b. In the event the Settlement is terminated, Defendant shall have no obligation to  
22           make any payments to any Party, Class Member, or attorney, except that the  
23           Terminating Party shall pay the Claims Administrator for services rendered up to  
24           the date the Claims Administrator is notified that the Settlement has been  
25           terminated;
- 26           c. The Preliminary Approval Order, Final Approval Order and Judgment, including  
27           any order of class certification, shall be vacated;
- 28

1 d. The Stipulation of Settlement and all negotiations, privileged statements and  
2 proceedings relating thereto shall be without prejudice to the rights of any of the  
3 Parties, all of whom shall be restored to their respective positions in the Action  
4 prior to this Stipulation of Settlement;

5 e. The Parties shall be returned to their respective statuses (in all respects) as of the  
6 date and time immediately prior to the execution of this Settlement Agreement,  
7 and the Parties shall proceed in all respects as if this Settlement Agreement had  
8 not been executed, except that any costs already incurred by the Settlement  
9 Administrator shall be paid by equal apportionment among the Parties;

10 f. Plaintiffs shall promptly dismiss all the class and individual wage claims in the  
11 Second Amended Complaint without prejudice and agree to stay the remaining  
12 representative PAGA action pending arbitration of Plaintiffs' respective  
13 individual claims, subject to the terms of Paragraph 101 of this Stipulation; and

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

18 105. Injunction Against Duplicative Claims. Upon Preliminary Approval of this Settlement,  
19 all Settlement Class Members who do not submit a valid and timely Request for Exclusion from this  
20 Settlement shall be enjoined from filing, joining or becoming a party, member or representative in any  
21 actions, claims, complaints, or proceedings in any state or federal court on an individual, representative,  
22 collective or class action basis, or with the California Department of Industrial Relations' Division of  
23 Labor Standards Enforcement ("DLSE") or the United States Department of Labor ("DOL"), or from  
24 initiating any other proceedings regarding any of the Released Claims defined herein. Any related  
25 pending actions, claims, complaints, or proceedings in any state or federal court or with the DLSE or  
26 DOL, shall be stayed until the Class Members have had an opportunity to decide to participate, object  
27 or submit an Request for Exclusion form in relation to this Settlement. In addition, upon Preliminary  
28 Approval of this Settlement, all PAGA Aggrieved Employees shall be enjoined from filing, joining, or

1 becoming a party, member or representative in any actions, claims, complaints, or proceedings in any  
2 state or federal court on an individual, representative, collective or class action basis, or with the DLSE  
3 or DOL, or from initiating any other proceedings to the extent such actions, claims, complaints, or  
4 proceedings are based on the PAGA Released Claims released via this Settlement.

5 106. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set  
6 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.  
7 Any Exhibits to this Agreement are an integral part of this Stipulation of Settlement.

8 107. Confidentiality. The Parties and their counsel agree that they will not issue any press  
9 releases, initiate any contact with the press, respond to any press inquiry, or have any communication  
10 with the press about the fact, amount, or terms of the Settlement prior to the Settlement being  
11 preliminarily approved by the Court. In addition, the Parties and their counsel agree that they will not  
12 engage in any advertising or distribute any marketing materials relating to the Settlement of this case  
13 prior to the Settlement being preliminarily approved by the Court, including but not limited to any  
14 postings on any websites maintained by Class Counsel. Any communication about the Settlement to  
15 Class Members prior to the Settlement being preliminarily approved by the Court will be limited to a  
16 statement that a settlement has been reached and the details will be communicated in a forthcoming  
17 Court-approved notice. Nothing set forth herein, however, shall prohibit (a) Defendant from providing  
18 truthful disclosure about the Settlement, including its amount, in its periodic filings on Form 10-Q or  
19 Form 10-K with the United States Securities and Exchange Commission, or (b) the Parties from  
20 providing this Agreement to the Court in connection with the Parties' efforts to seek the Court's approval  
21 of this Settlement. Neither Plaintiffs nor Class Counsel shall hold a press conference or otherwise seek  
22 to affirmatively contact the media about the Settlement. If contacted by the media regarding the  
23 Settlement, Class Counsel will direct any media inquiries to the public records of the Action on file with  
24 the Court. Additionally, neither Plaintiffs nor Class Counsel will disparage the Settlement.

25 108. Non-Disparagement. Plaintiffs each agree they shall not make, directly or indirectly,  
26 to any person or entity, including but not limited to the Defendant's present, future, or former employees  
27 or clients, or the press, any negative, derogatory or disparaging oral, written or electronic statements  
28 about Defendant, their products and services, or their employment with or separation from

1 employment with Defendant, or do anything which damages the Defendant's or any of the Released  
2 Parties or their products and services, reputation, good will, financial status, or business or client  
3 relationships. Plaintiffs further agree not to post any such statements on the internet or any blog or social  
4 networking site, including but not limited to Facebook, Glassdoor, LinkedIn, or any other internet site  
5 or platform. Plaintiffs' non-disparagement of Defendant is a materially inducement for Defendant's  
6 entering into this Agreement. The Parties and their respective counsel agree that, in the event of a proven  
7 breach by a Plaintiff of this non-publication provision, that Plaintiff shall be responsible to pay Defendant  
8 the gross sum of \$1,000 as liquidated damages for each proven breach.

9       109. Interim Stay of Proceedings. The Parties agree to stay and hold all proceedings in the  
10 Action in abeyance, except such proceedings necessary to implement and complete the Settlement,  
11 pending the Final Fairness Hearing to be conducted by the Court.

12       110. Stay Upon Appeal. In the event of a timely appeal from the approval of the Class  
13 Settlement and judgment, the judgment shall be stayed, and Defendant shall not be obligated to fund  
14 the Total Settlement Payment or take any other actions required by this Stipulation until all appeal  
15 rights have been exhausted by operation of law and consistent with the final Order of the court.

16       111. Entire Agreement. This Stipulation of Settlement and any attached Exhibits constitute  
17 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral  
18 agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil Code  
19 section 1625 and California Code of Civil Procedure section 1856(a), which provide that a written  
20 agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic  
21 evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify,  
22 vary, or contradict the terms of this Agreement.

23       112. Amendment or Modification. This Stipulation of Settlement may be amended or  
24 modified only by a written instrument signed by the named Parties and counsel for all Parties or their  
25 successors-in-interest.

26       113. Authorization to Enter Into Stipulation of Settlement. Counsel for all Parties warrant and  
27 represent they are expressly authorized by the Parties whom they represent to negotiate this Stipulation  
28 of Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant

1 to this Stipulation of Settlement to effectuate its terms and to execute any other documents required to  
2 effectuate the terms of this Stipulation of Settlement. The Parties and their counsel will cooperate with  
3 each other and use their best efforts to affect the implementation of the Settlement. If the Parties are  
4 unable to reach agreement on the form or content of any document needed to implement the Settlement,  
5 or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement,  
6 the Parties may seek the assistance of the Court to resolve such disagreement.

7       114. Signatories. It is agreed that because the members of the Class are so numerous, it is  
8 impossible or impractical to have each member of the Class execute this Stipulation of Settlement. The  
9 Notice of Class Action Settlement, attached hereto as Exhibit A, will advise all Class Members of the  
10 binding nature of the release, and the release shall have the same force and effect as if this Stipulation of  
11 Settlement were executed by each Settlement Class Member.

12       115. Binding on Successors and Assigns. This Stipulation of Settlement will be binding upon,  
13 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

14       116. California Law Governs. All terms of this Stipulation of Settlement and Exhibits hereto  
15 will be governed by, construed, and interpreted according to the laws of the State of California,  
16 irrespective of the State of California's choice of law principles.

17       117. Execution and Counterparts. This Stipulation of Settlement is subject only to the  
18 execution of all Parties. However, the Agreement may be executed in one or more counterparts. All  
19 executed counterparts and each of them, including facsimile and scanned copies of the signature page,  
20 will be deemed to be one and the same instrument.

21       118. Acknowledgement that the Settlement is Fair, Reasonable, and Adequate. The Parties  
22 believe this Stipulation of Settlement is a fair, adequate, and reasonable settlement of the Action and  
23 have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation,  
24 considering all relevant factors, present and potential. The Parties further acknowledge that they are each  
25 represented by competent counsel and that they have had an opportunity to consult with their counsel  
26 regarding the fairness and reasonableness of this Agreement. In addition, the Mediator may execute a  
27 declaration supporting the Settlement and the reasonableness of the Settlement and the Court may, in its  
28

1 discretion, contact the Mediator to discuss the Settlement and whether the Settlement is objectively fair  
2 and reasonable.

3 119. Invalidity of Any Provision. Before declaring any provision of this Stipulation of  
4 Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent  
5 possible consistent with applicable precedents so as to define all provisions of this Stipulation of  
6 Settlement valid and enforceable.

7 120. Plaintiffs' Waiver of Right to Be Excluded and Object. Plaintiffs agree to sign this  
8 Stipulation of Settlement and, by signing this Stipulation of Settlement, is hereby bound by the terms  
9 herein. For good and valuable consideration, Plaintiffs further agree that they will not request to be  
10 excluded from this Stipulation of Settlement. Any such Request for Exclusion by Plaintiffs will be void  
11 and of no force or effect.

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

26 122. Captions. The captions and section numbers in this Agreement are inserted for the  
27 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the  
28 provisions of this Agreement.

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

4           124. Meet and Confer Regarding Disputes. Should any dispute arise among the Parties or their  
5 respective counsel regarding the implementation or interpretation of this Agreement, a representative of  
6 Class Counsel and a representative of Defense Counsel shall meet and confer to resolve such disputes  
7 prior to submitting such disputes to the Court.

8           125. Enforcement Actions. If one or more of the Parties institutes any legal action or other  
9 proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare  
10 rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover  
11 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees  
12 incurred in connection with any enforcement actions. To the extent there are enforceable arbitration  
13 agreements between any of the Released Parties and individual Class Members, those arbitration  
14 agreements remain in full force and effect, with the exception of proceedings brought by any of the  
15 Parties to enforce the provisions of this Settlement Agreement. To the extent consistent with class action  
16 procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil  
17 Procedure section 664.6 and California Rule of Court 3.769(h). The Disposition entered by the Court  
18 will not adjudicate the merits of the Action or the liability of the Parties resulting from the allegations of  
19 the Action. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its  
20 enforcement. To that end, the Court shall retain continuing jurisdiction over this Action and over all  
21 Parties and Class Members to the fullest extent to enforce and effectuate the terms and intent of this  
22 Agreement.

23           126. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and  
24 conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against  
25 one party than another merely by virtue of the fact that it may have been prepared by counsel for one of  
26 the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all  
27 Parties have contributed to the preparation of this Agreement.  
28

1           127. Representation By Counsel. The Parties acknowledge they have been represented by  
2 counsel throughout all negotiations that preceded the execution of this Agreement, and this Agreement  
3 has been executed with the consent and advice of counsel and reviewed in full. Further, Plaintiffs and  
4 Class Counsel warrant and represent that there are no liens on this Stipulation of Settlement.

5           128. All Terms Subject to Final Court Approval. All amounts and procedures described in  
6 this Stipulation of Settlement herein will be subject to final Court approval.

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

11 To Plaintiffs and the Class:

12           Douglas Han, Esq.  
13           Shunt Tatavos-Garajeh, Esq.  
14           **JUSTICE LAW CORPORATION**  
15           751 N. Fair Oaks Avenue, Suite 101  
16           Pasadena, California 91103

17           David Yeremian, Esq.  
18           Roman Shkodnik, Esq.  
19           **DAVID YEREMIAN & ASSOCIATES, INC.**  
20           2540 Foothill Blvd., Suite 201  
21           La Crescenta, California 91214

22 To Defendant LMS REINFORCING STEEL USA, LP:

23           Vanessa Franco Chavez, Esq.  
24           **KLEIN, DENATALE, GOLDNER,**  
25           **COOPER, ROSENLIB & KIMBALL, LLP**  
26           10000 Stockdale Highway, Suite 200  
27           Bakersfield, California 93311

28           130. 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  
Stipulation of Settlement.

          131. Notice of Settlement to the LWDA. Plaintiffs hereby represent that Plaintiffs will  
provide notice of this Agreement and proposed settlement to the Labor Workforce Development



1 Agency (“LWDA”) at the time the motion for preliminary approval is filed as required by Labor Code  
2 Section 2699(1)(2).

3 132. Integration Clause. This Stipulation of Settlement contains the entire agreement between  
4 the Parties relating to the Settlement and transaction contemplated hereby, and all prior or  
5 contemporaneous agreements, understandings, representations, and statements, whether oral or written  
6 and whether by a party or such party’s legal counsel, are merged herein. No rights hereunder may be  
7 waived except in writing.

8 133. Binding Agreement. The Parties warrant that they understand and have full authority to  
9 enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding  
10 on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce  
11 its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under  
12 federal or state law.

13 The Parties indicate by signing below their approval of the form of this Agreement (and exhibits  
14 thereto).

15 *[Signatures follow on the next page]*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint  
2 Stipulation of Settlement and Release Between Plaintiffs and Defendant as of the date(s) set forth below:

3 **PLAINTIFFS AND CLASS COUNSEL**  
4 **READ CAREFULLY BEFORE SIGNING**

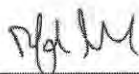
5  
6 **PLAINTIFF TRAVONN HALEY**

7  
8 DATED: 3/20/2023

9 By:   
10 **TRAVONN HALEY**  
11 **Named Plaintiff**


12  
13 **PLAINTIFF RAFAEL MARTINEZ**

14  
15 DATED: 03/09/2023

16 By:   
17 **RAFAEL MARTINEZ**  
18 **Named Plaintiff**

19  
20 **DEFENDANT LMS REINFORCING  
STEEL USA, LP**

21  
22 DATED: 3/24/2023

23 By:   
24 **[INSERT NAME] Ron McNeil, as CEO**  
25 **[INSERT TITLE]**

**APPROVED AS TO FORM**


**JUSTICE LAW CORPORATION**

1  
2  
3  
4 DATED: 3/9/23

By:   
DOUGLAS HAN  
SHUNT TATAVOS-GARAJEH  
Attorney for Plaintiff Rafael Martinez


**DAVID YEREMIAN & ASSOCIATES,  
INC.**

5  
6  
7  
8  
9  
10  
11 DATED: 3/20/23

By:   
DAVID YEREMIAN  
ROMAN SHKODNIK  
Attorney for Plaintiff Travonn Haley

**KLEIN, DENATALE, GOLDNER,  
COOPER, ROSENLIEB & KIMBALL,  
LLP**

12  
13  
14  
15  
16  
17  
18 DATED: 3/20/2023

By:   
VANESSA FRANCO CHAVEZ  
Attorneys for Defendant LMS Reinforcing  
Steel USA, LP