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9 Attorneys for Plaintiff,  
10 KYLE COLLINS, and all others similarly situated  
11 (additional counsel for Plaintiff on following page)

12 **JACKSON LEWIS P.C.**

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18 Attorneys for Defendants

19 SPA PRODUCTS IMPORT & DISTRIBUTION CO., LLC, a New York limited liability  
20 company; XPRESSPA HOLDINGS, LLC, a New York limited liability company; XPRESSPA  
21 LAX AIRPORT, LLC, a New York limited liability company; XPRESSPA LAX TOM  
22 BRADLEY, LLC, a New York limited liability company; XPRESSPA JOHN WAYNE  
23 AIRPORT, LLC, a New York limited liability company; and XPRESSPA S.F.  
24 INTERNATIONAL, LLC, a New York limited liability company

25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

26 **FOR THE COUNTY OF LOS ANGELES**

27 KYLE COLLINS, on behalf of himself, all  
28 others similarly situated,

*Plaintiff(s),*

vs.

SPA PRODUCTS IMPORT &  
DISTRIBUTION CO., LLC, a New York  
limited liability company; XPRESSPA  
HOLDINGS, LLC, a New York limited  
liability company; XPRESSPA LAX  
AIRPORT, LLC, a New York limited liability  
company; XPRESSPA LAX TOM BRADLEY,  
LLC, a New York limited liability company;  
XPRESSPA JOHN WAYNE AIRPORT, LLC,  
a New York limited liability company;  
XPRESSPA S.F. INTERNATIONAL, LLC, a  
New York limited liability company; and

CASE NO.: 19STCV10586

**FIRST AMENDED JOINT STIPULATION  
OF CLASS ACTION AND  
REPRESENTATIVE ACTION PURSUANT  
TO LABOR CODE § 2699(f) SETTLEMENT  
AND RELEASE BETWEEN PLAINTIFF, ON  
BEHALF OF HIMSELF AND ALL OTHERS  
SIMILARLY SITUATED AND AGGRIEVED,  
AND DEFENDANTS**

Complaint Filed: March 28, 2019

1 DOES 1 through 50, inclusive,  
2 Defendant(s).

3  
4 **ADDITIONAL COUNSEL FOR PLAINTIFF**

5 Walter Haines (SBN 71075)  
6 UNITED EMPLOYEES LAW GROUP  
7 4276 Katella Ave., #301  
8 Los Alamitos, CA 90720  
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1 company; *XpresSpa S.F. International, LLC*, a New York limited liability company; and *DOES 1*  
2 *through 50 inclusive*, Los Angeles Superior Court, Case No.: 19STCV10586. The Complaint  
3 sets forth the following cause of action: (1) Failure to Provide Rest Breaks (Lab. Code §§ 226.7  
4 and 1198); (2) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198); (3) Failure  
5 to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code §§ 510,  
6 1194, 1197, and 1198); (4) Wage Statement Penalties (Lab. Code § 226); (5) Waiting Time  
7 Penalties (Lab. Code §§ 201-203); and (6) Unfair Competition (Bus. & Prof. Code §§ 17200, et  
8 seq.).

9 2. On April 16, 2021, Plaintiff filed a First Amended Complaint against Defendants  
10 in the Los Angeles Superior Court, Case No.: 19STCV10586. The First Amended Complaint  
11 (“FAC”) sets forth the following causes of action: (1) Failure to Provide Rest Breaks (Lab. Code  
12 §§ 226.7 and 1198); (2) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198); (3)  
13 Failure to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code  
14 §§ 510, 1194, 1197, and 1198); (4) Wage Statement Penalties (Lab. Code § 226); (5) Waiting  
15 Time Penalties (Lab. Code §§ 201-203); (6) Unfair Competition (Bus. & Prof. Code §§ 17200,  
16 et seq.); (7) Civil Penalties (Lab. Code §§ 2698, *et seq.*).

17 3. Defendants deny all material allegations set forth in the Complaint and FAC and  
18 have asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further  
19 litigation, the Parties desire to fully and finally settle all actual or potential claims by the Class  
20 Members.

21 4. On March 18, 2021, the Parties participated in mediation before Michael Loeb,  
22 Esq. (the “Mediator”), a respected mediator of wage and hour class actions.

23 5. The settlement discussions during and after mediation were conducted at arm’s  
24 length and the settlement is the result of an informed and detailed analysis of Defendants’ alleged  
25 potential liability in relation to the costs and risks associated with continued litigation.

26 6. On March 28, 2019, Plaintiff exhausted his administrative remedies pursuant to  
27 California Labor Code § 2699, *et seq.* by providing notice to the Labor and Workforce  
28 Development Agency (“LWDA”). Plaintiff did not receive a response from the LWDA.



1 responding to any objections to the settlement and appeals arising therefrom, administering the  
2 Settlement, obtaining entry of a Judgment terminating this Action, and expenses for any experts.  
3 Class Counsel will request attorneys' fees not to exceed one-third [33.33%] of the Gross  
4 Settlement Amount, or up to ONE HUNDRED TWENTY-FOUR THOUSAND, NINE  
5 HUNDRED AND NINETY-NINE DOLLARS AND ZERO CENTS (\$124,999.00) and actual  
6 litigation costs incurred in the Action (not to exceed Fifteen Thousand Dollars [\$15,000.00]).  
7 Defendants have agreed not to oppose Class Counsel's request for fees and reimbursement of  
8 costs as set forth above.

9 11. "Claims Administrator" means CPT Group, Inc. or any third-party class action  
10 settlement claims administrator agreed to by the Parties and approved by the Court for purposes  
11 of administering this settlement. The Parties each represent that they do not have any financial  
12 interest in the Claims Administrator or otherwise have a relationship with the Claims  
13 Administrator that could create a conflict of interest.

14 12. "Claims Administration Costs" means the costs payable from the Gross Settlement  
15 Amount to the Claims Administrator for administering this Settlement, including, but not limited  
16 to, printing, distributing, and tracking documents for this Settlement, calculating estimated  
17 amounts per Class Member, tax reporting, distributing the appropriate settlement amounts, and  
18 providing necessary reports and declarations, and other duties and responsibilities set forth herein  
19 to process this Settlement, and as requested by the Parties. The Claims Administration Costs will  
20 be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of  
21 the amount represented by the Claims Administrator as being the maximum costs necessary to  
22 administer the settlement. The Claims Administration Costs are currently estimated to be  
23 TWELVE THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS (\$12,500.00). To  
24 the extent actual Claims Administrations Costs are greater than TWELVE THOUSAND FIVE  
25 HUNDRED DOLLARS AND ZERO CENTS (\$12,500.00), such excess amount will be deducted  
26 from the Gross Settlement Amount.

27 13. "Class Counsel" means THE SPIVAK LAW FIRM and UNITED EMPLOYEES  
28 LAW GROUP, which will seek to be appointed counsel for the Settlement Class.

1           14.    “Class List” means a complete list of all Class Members that Defendants will  
2 diligently and in good faith compile from its records and provide to the Claims Administrator  
3 within thirty (30) calendar days after Preliminary Approval of this Settlement. The Class List  
4 will be formatted in a readable Microsoft Office Excel spreadsheet and will include Class  
5 Members’ names, last-known addresses, last-known telephone numbers, social security numbers,  
6 and Workweek data during the Class Period.

7           15.    “Class Member(s)” or “Settlement Class” means all individuals who were non-  
8 exempt employees of Defendant from March 28, 2015 to May 23, 2020 who do not opt out of the  
9 settlement. The Settlement Class does not include any person who previously settled or released  
10 any of the claims covered by this Settlement, or any other person who previously was paid or  
11 received awards through civil or administrative actions for the claims covered by this Settlement.  
12 Defendants represents that there are approximately 252 individuals that comprise the Settlement  
13 Class.

14           16.    “Class Period” means the period from March 28, 2015 through May 23, 2020.

15           17.    “Class Representative” means Plaintiff Kyle Collins, who will seek to be  
16 appointed as the representative for the Settlement Class.

17           18.    “Class Representative Enhancement Payment” means the amount to be paid to  
18 Plaintiff in recognition of Plaintiff’s effort and work in prosecuting the Action on behalf of Class  
19 Members and negotiating the Settlement. Defendants agree not to dispute that the Class  
20 Representative will be paid, subject to Court approval, up to FIFTEEN THOUSAND DOLLARS  
21 AND ZERO CENTS (\$15,000.00) from the Gross Settlement Amount for Plaintiff’s services on  
22 behalf of the class, subject to the Court granting final approval of this Settlement Agreement and  
23 subject to the exhaustion of any and all appeals. Should the Court reduce the Class Representative  
24 Enhancement Payment, any such reduction shall revert to the Net Settlement distributed to  
25 Participating Class Members.

26           19.    “Court” means the Superior Court of California, County of Los Angeles or any  
27 other court taking jurisdiction of the Action.

28           20.    “Defendants” means Spa Products Import & Distribution Co., LLC, XpresSpa

1 Holdings, LLC, XpresSpa LAX Tom Bradley, LLC, XpresSpa John Wayne Airport, LLC, and  
2 XpresSpa S.F. International, LLC and its present and former agents, officers, employees,  
3 directors, trustees, fiduciaries, subsidiaries, affiliated divisions and companies, parent companies,  
4 predecessors, successors and assigns.

5 21. "Effective Date" means the date on which the settlement embodied in this  
6 Settlement Agreement shall become effective after all of the following events have occurred: (i)  
7 this Settlement Agreement has been executed by all parties and by counsel for the Settlement  
8 Class and Defendants; (ii) the Court has given preliminary approval to the Settlement; (iii) notice  
9 has been given to the putative members of the Settlement Class, providing them with an  
10 opportunity to object to the terms of the Settlement or to opt-out of the Settlement; (iv) the Court  
11 has held a formal fairness hearing and, having heard no objections to the Settlement, entered a  
12 final order and judgment certifying the Class, and approving this Settlement Agreement; (v)  
13 sixty-five (65) calendar day have passed following the Court's entry of a final order and judgment  
14 certifying the Settlement Class, and approving the settlement; and (vi) in the event there are  
15 written objections filed prior to the formal fairness hearing which are not later withdrawn or  
16 denied, the later of the following events: (a) five (5) business days after the period for filing any  
17 appeal, writ or other appellate proceeding opposing the Court's final order approving the  
18 Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed;  
19 or (b) five (5) business days after any appeal, writ or other appellate proceeding opposing the  
20 Settlement has been dismissed finally and conclusively with no right to pursue further remedies  
21 or relief.

22 22. "Gross Settlement Amount" means the amount used to satisfy all of Defendants'  
23 liability arising from the settlement other than employer-side taxes on the amounts allocated to  
24 wages. Here, the Gross Settlement Amount is THREE HUNDRED AND SEVENTY-FIVE  
25 THOUSAND DOLLARS AND ZERO CENTS (\$375,000.00). The Gross Settlement Amount  
26 shall be an "all in" settlement including payment of employee-side taxes, interest, plaintiff's  
27 attorneys' fees and costs, administrative fees, the enhancement payment for the Plaintiff, the  
28 payment to the LWDA, and payments to all members of the Settlement Class. Defendants will

1 not pay more than the Gross Settlement Amount plus employer-side taxes on the amounts  
2 allocated to wages. Defendants estimate that there are 252 Class Members and 10,439 workweeks  
3 in the Class Period. If the number of Class Members or the number of workweeks increases by  
4 more than 10%, the Defendants will pay a pro rata increase in the Gross Settlement Amount,  
5 including pro rata increases in attorney fees and the allocation to PAGA, by the amount over  
6 10%.

7 23. "Individual Settlement Payment" means each Participating Class Member's share  
8 of the Net Settlement Amount, to be distributed to the Class Members who do not submit a valid  
9 Request for Exclusion.

10 24. "Labor and Workforce Development Agency Payment" means the amount that the  
11 Parties have agreed to pay to the Labor and Workforce Development Agency ("LWDA") in  
12 connection with the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698,  
13 *et seq.*, "PAGA"). The Parties have agreed that EIGHTEEN THOUSAND DOLLARS AND  
14 ZERO CENTS (\$18,000.00) of the Gross Settlement Amount will be allocated to the resolution  
15 of any Class Members' claims arising under PAGA. Pursuant to PAGA, 75%, or THIRTEEN  
16 THOUSAND, FIVE HUNDRED DOLLARS AND ZERO CENTS (\$13,500.00), of the PAGA  
17 Settlement Amount will be paid to the California Labor and Workforce Development Agency  
18 ("LWDA Payment") , and 25%, or FOUR THOUSAND, FIVE HUNDRED DOLLARS AND  
19 ZERO CENTS (\$4,500.00) ("Aggrieved Employee Payment"), of the PAGA Settlement Amount  
20 will be part of the Net Settlement Amount. Those non-exempt employees who worked for  
21 Defendants in the year prior to the filing of the initial Complaint shall comprise the PAGA sub-  
22 class and they will receive a pro-rata portion of the Aggrieved Employee Payment based on their  
23 relative percentage of pay periods during the PAGA period. No aggrieved employee shall have  
24 the right to opt out of the PAGA settlement.

25 25. "Net Settlement Amount" means the portion of the Gross Settlement Amount  
26 remaining after deduction of the approved Class Representative Enhancement Payment, Claims  
27 Administration Costs, Labor and Workforce Development Agency Payment, and Attorneys' Fees  
28 and Costs. The Net Settlement Amount will be distributed to Participating Class Members.

1           26.     “Notice of Objection” means a Class Member’s valid and timely written objection  
2 to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the  
3 objector’s full name, signature, address, telephone number, and the last four digits of the  
4 objector’s social security number, (b) the dates the objector was employed by Defendants in  
5 California, (c) a written statement of all grounds for the objection accompanied by any legal  
6 support for such objection, and (d) copies of any papers, briefs, or other documents upon which  
7 the objection is based.

8           27.     “Notice Packet” or “Notice” means the Notice of Class Action Settlement,  
9 substantially in the form attached as Exhibit A.

10          28.     “Parties” means Plaintiff and Defendants collectively.

11          29.     “Participating Class Members” means all Class Members who do not submit valid  
12 Requests for Exclusion.

13          30.     “Plaintiff” means Kyle Collins.

14          31.     “Preliminary Approval” means the Court order granting preliminary approval of  
15 the Settlement Agreement.

16          32.     “Released Claims” means all claims, demands, rights, liabilities, and causes of  
17 action of every nature and description whatsoever against the Released Parties (as defined below),  
18 or any of them, for any type of relief and penalties that existed or came into existence at any time  
19 during the Class Period that were or could have been pled based on the facts alleged in the  
20 operative complaint, including but not limited to: (1) Failure to Provide Rest Breaks (Lab. Code  
21 §§ 226.7 and 1198); (2) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198); (3)  
22 Failure to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code  
23 §§ 510, 1194, 1197, and 1198); (4) Wage Statement Penalties (Lab. Code § 226); (5) Waiting  
24 Time Penalties (Lab. Code §§ 201-203); (6) Unfair Competition (Bus. & Prof. Code §§ 17200,  
25 *et seq.*); (7) Civil Penalties (Lab. Code §§ 2698, *et seq.*).

26          33.     “Released Claims Period” means the period from March 28, 2015 through May  
27 23, 2020.

28          34.     “Released Parties” means: (i) Defendants; (ii) each of Defendants’ respective past,

1 present and future parents, subsidiaries, and affiliates including, without limitation, any  
2 corporation, limited liability company, partnership, trust, foundation, and non-profit entity which  
3 controls, is controlled by, or is under common control with Defendants; (iii) the past, present and  
4 future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners,  
5 managers, contractors, agents, consultants, representatives, administrators, payroll service  
6 providers, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of  
7 the foregoing; and (iv) any individual or entity which could be jointly liable with any of the  
8 foregoing.

9 35. "Request for Exclusion" means a timely letter submitted by a Class Member  
10 indicating a request to be excluded from the settlement. The Request for Exclusion must: (a) be  
11 signed by the Class Member; (b) contain the name, address, telephone number, and the last four  
12 digits of the Social Security Number of the Class Member requesting exclusion; (c) clearly state  
13 that the Class Member received the Notice, does not wish to participate in the settlement, and  
14 wants to be excluded from the settlement; (d) be returned by first class mail or equivalent to the  
15 Claims Administrator at the specified address; and, (e) be postmarked on or before the Response  
16 Deadline. The date of the postmark on the return mailing envelope will be the exclusive means  
17 to determine whether a Request for Exclusion has been timely submitted. A Class Member who  
18 does not request exclusion from the settlement will be deemed a Class Member and will be bound  
19 by all terms of the settlement, if the settlement is granted final approval by the Court.

20 36. "Response Deadline" means the deadline by which Class Members must postmark  
21 to the Claims Administrator valid Requests for Exclusion, or file and serve objections to the  
22 settlement. The Response Deadline will be forty-five (45) calendar days from the initial mailing  
23 of the Notice Packet by the Claims Administrator, unless the 45th day falls on a Sunday or federal  
24 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.  
25 Postal Service is open. The Response Deadline for Requests for Exclusion will be extended  
26 fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet by the Claims  
27 Administrator, unless the 15<sup>th</sup> day falls on a Sunday or federal holiday, in which case the  
28 Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

1 The Response Deadline may also be extended by express agreement between Class Counsel and  
2 Defendants. Under no circumstances, however, will the Claims Administrator have the authority  
3 to extend the deadline for Class Members to submit a Request for Exclusion or objection to the  
4 settlement.

5 37. "Workweeks" means the number of weeks of employment for each Class Member  
6 as a non-exempt employee during the Class Period. Workweeks are determined by calculating  
7 the number of days each Class Member was employed during the Class Period, dividing by seven  
8 (7), and rounding up to the nearest whole number.

### 9 CLASS CERTIFICATION

10 38. Solely for the purpose of settling all claims alleged in Plaintiff's First Amended  
11 Complaint and not for any other purpose in the event this settlement is not granted final approval,  
12 the Parties stipulate and agree that the requisites for establishing class certification with respect  
13 to the Settlement Class have been met and are met. More specifically, the Parties stipulate and  
14 agree for purposes of this settlement only that:

15 a. The Settlement Class is ascertainable and so numerous as to make it  
16 impracticable to join all Class Members;

17 b. There are common questions of law and fact including;

18 c. The Class Representative's claims are typical of the claims of the members of  
19 the Settlement Class; should this Settlement not be approved or be terminated, this stipulation  
20 shall be null and void and shall not be admissible, in this or any other action, for any purpose  
21 whatsoever.

22 d. The Class Representative and Class Counsel will fairly and adequately protect the  
23 interests of the Settlement Class; should this Settlement not be approved or be terminated, this  
24 stipulation shall be null and void and shall not be admissible, in this or any other action, for any  
25 purpose whatsoever.

26 e. The prosecution of separate actions by individual members of the Settlement Class  
27 would create the risk of inconsistent or varying adjudications, which would establish  
28 incompatible standards of conduct; should this Settlement not be approved or be terminated, this

1 stipulation shall be null and void and shall not be admissible, in this or any other action, for any  
2 purpose whatsoever.

3 f. With respect to the Settlement Class, the Class Representative believes that questions  
4 of law and fact common to the members of the Settlement Class predominate over any questions  
5 affecting any individual member in such Class, and a class action is superior to other available  
6 means for the fair and efficient adjudication of the controversy; should this Settlement not be  
7 approved or be terminated, this stipulation shall be null and void and shall not be admissible, in  
8 this or any other action, for any purpose whatsoever.

### 9 **TERMS OF AGREEMENT**

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

12 39. **Funding of the Gross Settlement Amount.** Within ten (10) business days after the  
13 Effective Date, the Claims Administrator will provide the Parties with an accounting of the  
14 amounts to be paid by Defendants pursuant to the terms of the Settlement. Defendants will make  
15 a one-time deposit for payment of all Court approved and claimed amounts from the Gross  
16 Settlement Amount into a Qualified Settlement Account to be established by the Claims  
17 Administrator. Defendants must make this payment fully funding the Gross Settlement Amount,  
18 within 14 days after the Claims Administrator provides them with an accounting of the amounts  
19 to be paid pursuant to the terms of the Settlement. Within fourteen (14) business days of the  
20 funding of the Settlement, the Claims Administrator will issue payments to (a) Participating Class  
21 Members; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and (d) Class  
22 Counsel. The Claims Administrator will also issue a payment to itself for Court-approved  
23 services performed in connection with the settlement.

24 40. **Attorneys' Fees and Costs.** Defendants agree not to oppose or impede any  
25 application or motion by Class Counsel for Attorneys' Fees up to ONE HUNDRED TWENTY  
26 FOUR THOUSAND, NINE HUNDRED AND NINETY-NINE DOLLARS AND ZERO CENTS  
27 (\$124,999.00), associated with Class Counsel's litigation and settlement of the Action and costs  
28 up to FIFTEEN THOUSAND DOLLARS AND ZERO CENTS (\$15,000) per Class Counsel's

1 billing statements, both of which will be paid from the Gross Settlement Amount.

2 Plaintiff's counsel share the following fee splitting agreement: "If the total legal fees  
3 received in this case are greater than \$250,000 it is agreed that United Employees Law Group,  
4 PC will receive 33 and 1/3% of the total legal fees received and the Spivak Law Firm shall receive  
5 the remaining 66 and 2/3% of the total legal fees received. If the total legal fees received in this  
6 case are equal or less than \$250,000, it is agreed that United Employees Law Group, PC will  
7 receive 25% of the total legal fees received and the Spivak Law Firm shall receive the remaining  
8 75% of the total legal fees received." Plaintiff has given written approval of this agreement in his  
9 signed Retainer Agreement, dated April 2<sup>nd</sup>, 2019.

10 41. Class Representative Enhancement Payment. In exchange for a release of the class  
11 claims, and in recognition of their effort and work in prosecuting the Action on behalf of Class  
12 Members and negotiating the Settlement, Defendants agree not to oppose or impede any  
13 application or motion for Class Representative Enhancement Payment of up to FIFTEEN  
14 THOUSAND DOLLARS AND ZERO CENTS (\$15,000.00) to the Class Representative, subject  
15 to the Court's approval. The Class Representative Enhancement Payment, which will be paid  
16 from the Gross Settlement Amount, will be in addition to Plaintiff's Individual Settlement  
17 Payment paid pursuant to the Settlement. The Class Representative agrees to execute a release  
18 of all class claims, against Defendants and all agents, employees, officers, directors and related  
19 parties, past and present, for this payment. The Claims Administrator will issue an IRS Form  
20 1099 for the enhancement payment to the Class Representative, and the Class Representative  
21 shall be solely and legally responsible for correctly characterizing this compensation for tax  
22 purposes and for paying any taxes on the amount received. The Class Representatives agree to  
23 indemnify and hold Defendants harmless from any claim or liability for taxes, penalties, or  
24 interest arising as a result of the Class Representative Enhancement Payment. Should the Court  
25 reduce the Class Representative Enhancement Payment, any such reduction shall revert to the  
26 Net Settlement distributed to Participating Class Members.

27 42. Claims Administration Costs. The Claims Administrator will be paid for the  
28 reasonable costs of administration of the Settlement and distribution of payments from the Gross

1 Settlement Amount, which is currently estimated to be TWELVE THOUSAND FIVE  
2 HUNDRED DOLLARS AND ZERO CENTS (\$12,500.00). These costs, which will be paid from  
3 the Gross Settlement Amount, will include, *inter alia*, the required tax reporting on the Individual  
4 Settlement Payments, the issuing of 1099 IRS Forms, distributing the Notice Packet, calculating  
5 and distributing the Gross Settlement Amount and Attorneys' Fees and Costs, and providing  
6 necessary reports and declarations.

7 43. Labor and Workforce Development Agency Payment. Subject to Court approval,  
8 the Parties agree that the amount of EIGHTEEN THOUSAND DOLLARS AND ZERO CENTS  
9 (\$18,000.00) of the Gross Settlement Amount will be designated for satisfaction of Plaintiff's  
10 and Class Members' PAGA claims. Pursuant to PAGA, 75%, or THIRTEEN THOUSAND,  
11 FIVE HUNDRED DOLLARS AND ZERO CENTS (\$13,500.00), of the PAGA Settlement  
12 Amount will be paid to the LWDA, and 25%, or FOUR THOUSAND, FIVE HUNDRED  
13 DOLLARS AND ZERO CENTS (\$4,500.00), will be distributed to Participating Class Members  
14 as part of the Net Settlement Amount.

15 44. Net Settlement Amount. The Net Settlement Amount will be used to satisfy  
16 Individual Settlement Payments to Participating Class Members from the Settlement Class in  
17 accordance with the terms of this Agreement.

18 45. Acknowledgement of Potential Administration Cost Increases. The Parties hereby  
19 acknowledge that Claims Administration Costs may increase above the current estimate of  
20 \$12,500.00 and that any such additional Claims Administration Costs will be taken out of the  
21 Gross Settlement Amount. Any portion of the estimated or designated Class Administration  
22 Costs which are not in fact required to fulfill the total Class Administration Costs will become  
23 part of the Net Settlement Amount.

24 46. Individual Settlement Payment Calculations. Individual Settlement Payments will  
25 be calculated and apportioned from the Net Settlement Amount based on the Workweeks a  
26 Participating Class Member worked during the Class Period. Such payments will be distributed  
27 pro rata to Participating Class Members on a workweek basis. Specific calculations of Individual  
28 Settlement Payments will be made as follows:

1 a. The Claims Administrator will calculate the number of Workweeks per  
2 Participating Class Member during the Class Period based on records in Defendants' possession,  
3 custody or control. Defendants' Workweek data will be presumed to be correct, unless a  
4 particular Class Member proves otherwise to the Claims Administrator by credible written  
5 evidence. All Workweek disputes will be resolved and decided by the Claims Administrator in  
6 consultation with Class Counsel and counsel for Defendants. The Claims Administrator's  
7 decision on all Workweek disputes will be final and non-appealable.

8 b. The Claims Administrator will calculate the total number of Workweeks  
9 for each individual Class Member ("Individual Workweeks"). The Claims Administrator will  
10 calculate the total number of Workweeks for all Class Members during the Class Period ("Class  
11 Workweeks").

12 c. To determine each Class Member's "Individual Settlement Payment" the  
13 Claims Administrator will use the following formula: Individual Settlement Payment = (Net  
14 Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each  
15 individual Participating Class Member.

16 d. If the number of Workweeks is greater than 10% of the number of  
17 Workweeks Defendants alleged, Plaintiff may, at his option, rescind and void the Settlement and  
18 all actions taken in furtherance of it will thereby be null and void

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

1 compensation or benefits as a result of having received the individual settlement awards  
2 (notwithstanding any contrary language or agreement in any benefit or compensation plan  
3 document that might have been in effect during the period covered by this Settlement).

4 48. Claims Administration Process. The Parties agree to cooperate in the  
5 administration of the settlement and to make all reasonable efforts to control and minimize the  
6 costs and expenses incurred in administration of the Settlement.

7 49. Delivery of the Class List. Within thirty (30) calendar days of Preliminary  
8 Approval, Defendants will provide the Class List to the Claims Administrator.

9 50. Notice by First-Class U.S. Mail. Within thirty (30) calendar days of Preliminary  
10 Approval, the Claims Administrator will mail a Notice Packet to all Class Members via regular  
11 First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class  
12 List.

13 51. Confirmation of Contact Information in the Class Lists. Prior to mailing, the  
14 Claims Administrator will perform a search based on the National Change of Address Database  
15 for information to update and correct for any known or identifiable address changes. Any Notice  
16 Packets returned to the Claims Administrator as non-deliverable on or before the Response  
17 Deadline will be sent, within ten (10) calendar days of notice of non-delivery, via regular First-  
18 Class U.S. Mail to the forwarding address affixed thereto and the Claims Administrator will  
19 indicate the date of such re-mailing on the Notice Packet. If no forwarding address is provided,  
20 the Claims Administrator will promptly attempt to determine the correct address using a skip-  
21 trace, or other search using the name, address and/or Social Security number of the Class Member  
22 involved, and will then perform a single re-mailing. Those Class Members who receive a re-  
23 mailed Notice Packet, whether by skip-trace or by request, will have between the later of (a) an  
24 additional fifteen (15) calendar days or (b) the Response Deadline to fax or postmark a Request  
25 for Exclusion, or file and serve an objection to the Settlement.

26 52. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice  
27 Packet will provide: (a) information regarding the nature of the Action; (b) a summary of the  
28 Settlement's principal terms; (c) the Settlement Class definition; (d) each Class Member's

1 estimated Individual Settlement Payment and the formula for calculating Individual Settlement  
2 Payments; (e) the dates which comprise the Class Period; (f) instructions on how to submit valid  
3 Requests for Exclusion or objections; (g) the deadlines by which the Class Member must fax or  
4 postmark Requests for Exclusions or file and serve objections to the Settlement; (h) the claims to  
5 be released, as set forth herein; and (i) the date for the Final Approval Hearing.

6 53. Disputed Information on Notice Packets. Class Members will have an opportunity  
7 to dispute the information provided in their Notice Packets. To the extent Class Members dispute  
8 the number of weeks he/she worked during the Class Period, or the amount of their Individual  
9 Settlement Payment, Class Members may produce evidence to the Claims Administrator showing  
10 that such information is inaccurate. Absent evidence rebutting Defendants' records, Defendants'  
11 records will be presumed determinative. However, if a Class Member produces evidence to the  
12 contrary, the Claims Administrator will evaluate the evidence submitted by the Class Member in  
13 consultation with Class Counsel and counsel for Defendants and will make the final decision as  
14 to the Individual Settlement Payment to which the Class Member may be entitled.

15 54. Request for Exclusion Procedures. Any Class Member wishing to opt-out from  
16 the Settlement Agreement must sign and postmark a written Request for Exclusion to the Claims  
17 Administrator within the Response Deadline. The date of the postmark on the return mailing  
18 envelope will be the exclusive means to determine whether a Request for Exclusion has been  
19 timely submitted. All Requests for Exclusion will be submitted to the Claims Administrator, who  
20 will certify jointly to Class Counsel and Defendants' Counsel the Requests for Exclusion that  
21 were timely submitted. Any Class Member who submits a Request for Exclusion shall be  
22 prohibited from objecting to the Settlement Agreement.

23 55. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class  
24 Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely  
25 and valid Request for Exclusion will be bound by all of its terms, including those pertaining to  
26 the Released Claims, as well as any Judgment that may be entered by the Court if it grants final  
27 approval to the Settlement.

28 56. Objection Procedures. To object to the Settlement Agreement, a Class Member

1 must submit a written objection to the Claims Administrator before the Response Deadline. The  
2 objection must be signed by the Class Member and contain all information required by this  
3 Settlement Agreement. The postmark date of the filing and service will be deemed the exclusive  
4 means for determining that the Notice of Objection is timely. The objection should be mailed to  
5 the Claims Administrator at the address provided on the Class Notice. The Claims Administrator  
6 will forward a copy of the objection to counsel for the parties. The written objection should state  
7 the objecting Class Member's full name, address, and the approximate dates of his or her  
8 employment with Defendants. The written objection should state the basis for each specific  
9 objection and any legal support in clear and concise terms. The written objection also should state  
10 whether the Class Member intends to formally intervene and become a party of record in the  
11 action, and upon formally intervening, appear and argue at the Final Approval Hearing.

12 Alternatively, Class Members may appear remotely at the Final Approval Hearing to be  
13 heard on their objections, even if they have not previously served a written objection. Class  
14 Members who fail to object in the specific manners specified above will be deemed to have waived  
15 all objections to the Settlement and will be foreclosed from making any objections and seeking  
16 any adjudication or review, whether by appeal or otherwise, to the Settlement Agreement. At no  
17 time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members  
18 to object to the Settlement Agreement or appeal from the Order and Judgment. Class Counsel will  
19 not represent any Class Members with respect to any such objections to this Settlement.

20 57. Certification Reports Regarding Individual Settlement Payment Calculations. The  
21 Claims Administrator will provide Defendants' counsel and Class Counsel a weekly report which  
22 certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion;  
23 and (b) whether any Class Member has submitted a challenge to any information contained in  
24 their Notice Packet. Additionally, the Claims Administrator will provide to counsel for both  
25 Parties any updated reports regarding the administration of the Settlement Agreement as needed  
26 or requested.

27 58. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to  
28 Participating Class Members will expire 180 calendar days from the date the check was issued.

1 Uncashed settlement award checks will not be re-issued, except for good cause and as mutually  
2 agreed upon by the Parties in writing. All uncashed checks will not be reissued and will be sent  
3 to the State of California Unclaimed Property Fund in the name of the employee pursuant to  
4 California Code of Civil Procedure Section 384. The Claims Administrator shall reverse any tax  
5 documents issued to Class Members who did not cash his or her check and refund the Defendants'  
6 share of employer's taxes.

7 59. Certification of Completion. Upon completion of administration of the Settlement,  
8 the Claims Administrator will provide a written declaration under oath to certify such completion  
9 to the Court and counsel for all Parties.

10 60. Administration Costs if Settlement Fails. If the Settlement is voided or rejected  
11 by the Court, any costs incurred by the Claims Administrator will be paid equally by the Parties  
12 (half by Defendants and half by Class Counsel), unless otherwise specified in this Agreement.

13 61. Treatment of Individual Settlement Payments. All Individual Settlement  
14 Payments will be allocated as follows: of each Individual Settlement Payment 10% will be  
15 allocated as alleged unpaid wages, and 90% will be allocated as alleged unpaid interest, alleged  
16 unpaid meal break premiums, and alleged statutory and civil penalties, including PAGA  
17 penalties. The 10% of each Individual Settlement Payment allocated as wages will be reported  
18 on an IRS Form W2 by the Claims Administrator. The remaining 90% of each Individual  
19 Settlement Payment allocated as interest, meal break premiums, and penalties will be reported on  
20 an IRS Form-1099 by the Claims Administrator.

21 62. Administration of Taxes by the Claims Administrator. The Claims Administrator  
22 will be responsible for issuing to Plaintiff, Participating Class Members, and Class Counsel any  
23 W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this  
24 Agreement. Within ten (10) business days after the Effective Date, the Claims Administrator  
25 will provide the Parties with an accounting of the amounts to be paid by Defendants from the Net  
26 Settlement Fund pursuant to the terms of the Settlement, as well as the amount of the employer  
27 contribution for payroll taxes. The Net Settlement Fund shall be exclusive of Defendants'  
28 employer-side payroll taxes, which Defendants shall pay in addition to the Net Settlement Fund.

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

3 63. Tax Liability. Defendants make no representation as to the tax treatment or legal  
4 effect of the payments called for hereunder, and Plaintiff, Participating Class Members, and Class  
5 Counsel are not relying on any statement, representation, or calculation by Defendants or by the  
6 Claims Administrator in this regard. Plaintiff, Participating Class Members, and Class Counsel  
7 understand and agree that they will be solely responsible for the payment of any taxes and  
8 penalties assessed on the payments described herein and will defend, indemnify, and hold  
9 Defendants free and harmless from and against any claims resulting from treatment of such  
10 payments as non-taxable damages.

11 64. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR  
12 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY  
13 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER  
14 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
15 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR  
16 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS  
17 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE  
18 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN  
19 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230  
20 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED  
21 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX  
22 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS  
23 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE  
24 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO  
25 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY  
26 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY  
27 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE  
28 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER

1 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY  
2 OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF  
3 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE  
4 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY  
5 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS  
6 AGREEMENT.

7 65. No Prior Assignments. The Parties and their counsel represent, covenant, and  
8 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported  
9 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,  
10 action, cause of action or right herein released and discharged.

11 66. Release of Claims by Class Members. Upon the Effective Date, and only after  
12 Defendants have fully funded the Gross Settlement Amount, Plaintiff and all Participating Class  
13 Members will be deemed to have fully, finally and forever released, settled, compromised,  
14 relinquished, and discharged with respect to all of the Released Parties and any and all Released  
15 Claims. The Settlement Class and each member of the Class who has not submitted a valid  
16 Request for Exclusion, fully releases and discharges the Released Parties for the Released Claims  
17 for any period during the Released Claims Period. The Court will not issue injunctive relief  
18 against absent Class Members.

19 67. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit  
20 this Settlement Agreement to the Court in support of Plaintiff’s Motion for Preliminary Approval  
21 and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon  
22 execution of this Settlement Agreement, the Parties shall apply to the Court for the entry of an  
23 order:

24 a. Scheduling a fairness hearing on the question of whether the proposed  
25 settlement, including but not limited to, payment of attorneys’ fees and costs, and the Class  
26 Representative’s Enhancement Payment, should be finally approved as fair, reasonable and  
27 adequate as to the members of the Settlement Class;

28 b. Certifying the Settlement Class;

- 1 c. Approving, as to form and content, the proposed Notice;
- 2 d. Approving the manner and method for Class Members to request exclusion
- 3 from the Settlement as contained herein and within the Notice;
- 4 e. Directing the mailing of the Notice, by first class mail to the Class Members;
- 5 and
- 6 f. Preliminarily approving the Settlement subject only to the objections of
- 7 Class Members and final review by the Court.

8 68. Duties of the Parties Following Final Court Approval. Following final approval

9 by the Court of the Settlement provided for in this Settlement Agreement, Lead Counsel for the

10 Class will submit a proposed final order of approval and judgment:

- 11 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable
- 12 and adequate, and directing consummation of its terms and provisions;
- 13 b. Approving Class Counsel's application for an award of attorneys' fees and
- 14 costs; and
- 15 c. Approving the Class Representative Enhancement Payment to the Class
- 16 Representative.

17 69. Rescission of Settlement Agreement (by Defendant). If five percent (5%) or more

18 of the Class Members opt-out of the Settlement by submitting Request for Exclusion forms,

19 Defendants may, at their option, rescind and void the Settlement and all actions taken in

20 furtherance of it will thereby be null and void. Defendants must exercise this right of rescission,

21 in writing, to Class Counsel within ten (30) calendar days after the Claims Administrator notifies

22 the Parties of the total number of Requests for Exclusion received by the Response Deadline. If

23 the option to rescind is exercised, Defendants shall be solely responsible for all costs of the

24 Claims Administrator accrued to that point.

25 70. Nullification of Settlement Agreement. In the event that: (a) the Court does not

26 finally approve the Settlement as provided herein; or (b) the Settlement does not become final for

27 any other reason, then this Settlement Agreement, and any documents generated to bring it into

28 effect, will be null and void. Any order or judgment entered by the Court in furtherance of this

1 Settlement Agreement will likewise be treated as void from the beginning.

2 71. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to  
3 request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary  
4 Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes  
5 only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for  
6 a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for  
7 the Notice Packet to be sent to all Class Members as specified herein. In conjunction with the  
8 Preliminary Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth  
9 the terms of this Settlement, and will include the proposed Notice Packet; i.e., the proposed  
10 Notice of Class Action Settlement document, attached as Exhibit A. Class Counsel will be  
11 responsible for drafting all documents necessary to obtain preliminary approval. Defendants  
12 agree not to oppose the Motion for Preliminary Approval.

13 72. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of  
14 the deadlines to Requests for Exclusion, or objections to the Settlement Agreement, and with the  
15 Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine  
16 the Final Approval of the Settlement Agreement along with the amounts properly payable for (a)  
17 Individual Settlement Payments; (b) the Labor and Workforce Development Agency Payment;  
18 (c) the Attorneys' Fees and Costs; (d) the Class Representative Enhancement Payment; (e) all  
19 Claims Administration Costs; and (f) the employer's share of payroll taxes for wages paid in  
20 connection with the Individual Settlement Payments. The Final Approval/Settlement Fairness  
21 Hearing will not be held earlier than thirty (30) calendar days after the Response Deadline. Class  
22 Counsel will be responsible for drafting all documents necessary to obtain final approval,  
23 including responding to any objections and appeals arising therefrom. Class Counsel will also  
24 be responsible for drafting the attorneys' fees and costs application to be heard at the final  
25 approval hearing.

26 73. Termination of Settlement. Subject to the obligation(s) of Cooperation, either  
27 Party may terminate this Settlement if the Court declines to enter the Preliminary Approval Order,  
28 the Final Approval Order or final judgment in substantially the form submitted by the Parties, or

1 the Settlement Agreement as agreed does not become final because of appellate court action. The  
2 Terminating Party shall give to the other Party (through its counsel) written notice of its decision  
3 to terminate no later than ten (10) business days after receiving notice that one of the enumerated  
4 events has occurred. Termination shall have the following effects:

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

7 b. In the event the Settlement is terminated, Defendants shall have no  
8 obligation to make any payments to any Party, Class Member or Class Counsel, except that the  
9 Terminating Party shall pay the Claims Administrator for services rendered up to the date the  
10 Claims Administrator is notified that the settlement has been terminated;

11 c. The Preliminary Approval Order, Final Approval Order and Judgment,  
12 including any order of class certification, shall be vacated;

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

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

20 74. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by  
21 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the  
22 Judgment pursuant to California Code of Civil Procedure section 664.6 to the Court for its  
23 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for  
24 purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b)  
25 Settlement administration matters, and (c) such post-Judgment matters as may be appropriate  
26 under court rules or as set forth in this Agreement.

27 75. Exhibits Incorporated by Reference. The terms of this Agreement include the  
28 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully

1 set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

2 76. Confidentiality. The Parties and their counsel agree that they will not issue any  
3 media or press releases, initiate any contact with the media or press, respond to any media or  
4 press inquiry, or have any communication with the media or press about the fact, amount, or  
5 terms of the Settlement, including through social media. Class counsel will take all steps  
6 necessary to ensure the Class Representative is aware of, and will instruct the Class  
7 Representative to adhere to, the restriction against any media or press comment on the Settlement  
8 and its terms. In addition, the Parties and their counsel agree that they will not engage in any  
9 advertising or distribute any marketing materials relating to the Settlement of this case. Any  
10 communication about the Settlement to Class Members prior to the Court-approved mailing will  
11 be limited to a statement that a settlement has been reached and the details will be communicated  
12 in a forthcoming Court-approved notice. Nothing set forth herein, however, shall prohibit the  
13 parties from providing this Agreement to the Court in connection with the Parties' efforts to seek  
14 the Court's approval of this Settlement. Neither Plaintiff nor Class Counsel shall hold a press  
15 conference or otherwise seek to affirmatively contact the media about the Settlement. Plaintiff  
16 and Class Counsel agree not to disparage or otherwise take any action which could reasonably be  
17 expected to adversely affect the personal or professional reputation of Defendants or the  
18 Settlement.

19 77. Other Lawsuits. To the fullest extent permissible under applicable law, and solely  
20 for the purposes of this Settlement Agreement and not for any other purpose, counsel for Plaintiff  
21 represent and warrant on behalf of themselves and all others acting on their behalf, that they: (i)  
22 have not been retained by any other individuals with claims against Defendants (other than those  
23 of which Defendants and/or its counsel have been advised); (ii) are not aware of, and have not  
24 been informed of, any other plaintiff, class member, or attorney who intends to bring a claim  
25 against Defendants including, but not limited to, any claim based on the subject matter of the  
26 Action; and (iii) do not currently intend to bring any other claim against Defendants. Nothing in  
27 the foregoing is intended to limit or restrict Plaintiff's counsel's ability to practice law, or to  
28 otherwise violate California Rules of Professional Conduct, Rule 1-500. To the extent any

1 portion of this paragraph is found to violate Rule 1-500, or any other Rule of Professional  
2 Conduct, such offending language will be deem stricken and will be treated as if it is of no force  
3 and effect.

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

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

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

24 81. Signatories. It is agreed that because the members of the Class are so numerous,  
25 it is impossible or impractical to have each member of the Class execute this Settlement  
26 Agreement. The Notice, attached hereto as Exhibit "A," will advise all Class Members of the  
27 binding nature of the release, and the release shall have the same force and effect as if this  
28 Settlement Agreement were executed by each member of the Class.

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

4           83.    California Law Governs. All terms of this Settlement Agreement and Exhibits  
5 hereto will be governed by and interpreted according to the laws of the State of California.

6           84.    Execution and Counterparts. This Settlement Agreement is subject only to the  
7 execution of all Parties. However, the Agreement may be executed in one or more counterparts.  
8 All executed counterparts and each of them, including facsimile and scanned copies of the  
9 signature page, will be deemed to be one and the same instrument provided that counsel for the  
10 Parties will exchange among themselves original signed counterparts.

11          85.    Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe  
12 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have  
13 arrived at this Settlement after arm's-length negotiations and in the context of adversarial  
14 litigation, taking into account all relevant factors, present and potential. The Parties further  
15 acknowledge that they are each represented by competent counsel and that they have had an  
16 opportunity to consult with their counsel regarding the fairness and reasonableness of this  
17 Agreement.

18          86.    Invalidity of Any Provision. Before declaring any provision of this Settlement  
19 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest  
20 extent possible consistent with applicable precedents so as to define all provisions of this  
21 Settlement Agreement valid and enforceable.

22          87.    Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign  
23 this Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the  
24 terms herein. For good and valuable consideration, Plaintiff further agrees that she will not  
25 request to be excluded from the Settlement Agreement, nor object to any terms herein. Any such  
26 request for exclusion or objection by Plaintiff will be void and of no force or effect. Any efforts  
27 by Plaintiff to circumvent the terms of this paragraph will be void and of no force or effect.

28          88.    Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to

1 class certification for purposes of this Settlement only; except, however, that Plaintiff or Class  
2 Counsel may appeal any reduction in the Attorneys' Fees and Costs below the amount requested  
3 from the Court, and either Party may terminate this Settlement or appeal any Court order which  
4 is not in substantially the form submitted by the Parties.

5 89. Non-Admission of Liability. The Parties enter into this Agreement to resolve the  
6 dispute that has arisen between them and to avoid the burden, expense and risk of continued  
7 litigation. In entering into this Agreement, Defendants do not admit, and specifically denies, it  
8 has violated any federal, state, or local law; violated any regulations or guidelines promulgated  
9 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached  
10 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or  
11 engaged in any other unlawful conduct with respect to its employees. Neither this Agreement,  
12 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed  
13 as an admission or concession by Defendants of any such violations or failures to comply with  
14 any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement,  
15 this Agreement and its terms and provisions shall not be offered or received as evidence in any  
16 action or proceeding to establish any liability or admission on the part of Defendants or to  
17 establish the existence of any condition constituting a violation of, or a non-compliance with,  
18 federal, state, local or other applicable law.

19 90. Captions. The captions and section numbers in this Agreement are inserted for the  
20 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the  
21 provisions of this Agreement.

22 91. Waiver. No waiver of any condition or covenant contained in this Agreement or  
23 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or  
24 constitute a further waiver by such party of the same or any other condition, covenant, right or  
25 remedy.

26 92. Enforcement Actions. In the event that one or more of the Parties institute any  
27 legal action or other proceeding against any other Party or Parties to enforce the provisions of  
28 this Settlement or to declare rights and/or obligations under this Settlement, the successful Party

1 or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys'  
2 fees and costs, including expert witness fees incurred in connection with any enforcement actions.

3 93. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
4 and conditions of this Agreement. Accordingly, this Agreement will not be construed more  
5 strictly against one party than another merely by virtue of the fact that it may have been prepared  
6 by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations  
7 between the Parties, all Parties have contributed to the preparation of this Agreement.

8 94. Representation By Counsel. The Parties acknowledge that they have been  
9 represented by counsel throughout all negotiations that preceded the execution of this Agreement,  
10 and that this Agreement has been executed with the consent and advice of counsel, and reviewed  
11 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the  
12 Settlement Agreement.

13 95. All Terms Subject to Final Court Approval. All amounts and procedures described  
14 in this Settlement Agreement herein will be subject to final Court approval.

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

19 To Plaintiff and the Settlement Class:

20 DAVID G. SPIVAK (SBN 179684)

david@spivaklaw.com

21 THE SPIVAK LAW FIRM

8605 Santa Monica Bl

22 PMB 42554

West Hollywood, CA 90069

23 Telephone: (213) 725-9094

24 Facsimile: (213) 634-2485

25 WALTER HAINES (SBN 71075)

[walter@uelglaw.com](mailto:walter@uelglaw.com)

26 UNITED EMPLOYEES GROUP

4276 Katella Ave., #301

27 Los Alamitos, CA 90720

28 Telephone: (562) 256-1047

Facsimile: (562) 256-1006

1            To Defendant:

2            **JACKSON LEWIS P.C.**

3            Joel P. Kelly (SBN 100716)  
4            Eve Tilley-Coulson (SBN 320886)  
5            725 South Figueroa Street, Suite 2500  
6            Los Angeles, California 90017  
7            Tel: (213) 689-0404; Fax: (213) 689-0430

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

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

16           99.    Binding Agreement. The Parties warrant that they understand and have full  
17           authority to enter into this Agreement, and further intend that this Agreement will be fully  
18           enforceable and binding on all parties, and agree that it will be admissible and subject to  
19           disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality  
20           provisions that otherwise might apply under federal or state law.

21           IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint  
22           Stipulation of Settlement and Release Between Plaintiff and Defendants as of the date(s) set forth  
23           below:  
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**SIGNATURES**

**READ CAREFULLY BEFORE SIGNING**

**PLAINTIFF:** Kyle Collins

Dated: 02 / 23 / 2022

  
\_\_\_\_\_  
Kyle Collins

**DEFENDANT:** Spa Products Import &  
Distribution Co., LLC, XpresSpa Holdings, LLC,  
XpresSpa LAX Tom Bradley, LLC, XpresSpa  
John Wayne Airport, LLC, and XpresSpa S.F.  
International, LLC

Dated: \_\_\_\_\_

\_\_\_\_\_  
Scott Milford  
Chief Operating Officer

**APPROVED AS TO FORM:**

**THE SPIVAK LAW FIRM**

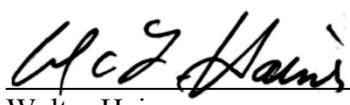
Dated: 02 / 23 / 2022

  
\_\_\_\_\_  
David Spivak

Attorney for Plaintiff Kyle Collins and the  
Settlement Class

**UNITED EMPLOYEES LAW GROUP**

Dated: February 23, 2022

  
\_\_\_\_\_  
Walter Haines

Attorney for Plaintiff Kyle Collins and the  
Settlement Class

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**SIGNATURES**

**READ CAREFULLY BEFORE SIGNING**

**PLAINTIFF:** Kyle Collins

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kyle Collins

**DEFENDANT:** Spa Products Import & Distribution Co., LLC, XpresSpa Holdings, LLC, XpresSpa LAX Tom Bradley, LLC, XpresSpa John Wayne Airport, LLC, and XpresSpa S.F. International, LLC

Dated: 02/23/2022

\_\_\_\_\_  
*Scott Milford*  
\_\_\_\_\_  
Scott Milford  
Chief Operating Officer

**APPROVED AS TO FORM:**

**THE SPIVAK LAW FIRM**

Dated: \_\_\_\_\_

\_\_\_\_\_  
David Spivak

Attorney for Plaintiff Kyle Collins and the Settlement Class

**THE UNITED EMPLOYEES LAW GROUP**

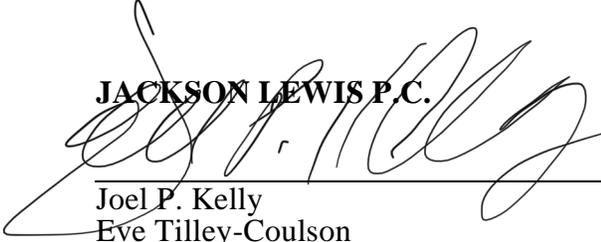
Dated: \_\_\_\_\_

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Walter Haines

Attorney for Plaintiff Kyle Collins and the Settlement Class

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Dated: 2/24/2022

**JACKSON LEWIS P.C.**  
  
\_\_\_\_\_  
Joel P. Kelly  
Eve Tilley-Coulson

Attorneys for Defendants Spa Products Import & Distribution Co., LLC, XpresSpa Holdings, LLC, XpresSpa LAX Tom Bradley, LLC, XpresSpa John Wayne Airport, LLC, and XpresSpa S.F. International, LLC

# **EXHIBIT A**

**NOTICE OF CLASS ACTION SETTLEMENT**

*Collins v. Spa Products Import & Distribution Co., LLC, et al.*  
Superior Court of California for the County of Los Angeles, Case No. 19STCV10586

**PLEASE READ THIS NOTICE CAREFULLY.**

**You have received this Notice because Defendants’ records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.**

**You do not need to take any action to receive a settlement payment.**

**This Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the settlement, object to the settlement, and/or dispute the number of Individual Workweeks that you are credited with, if you so choose.**

**YOU ARE NOTIFIED THAT:** A class and representative action settlement has been reached between Plaintiff Kyle Collins (“Plaintiff”) and Defendants Spa Products Import & Distribution Co., LLC, XpresSpa Holdings, LLC, XpresSpa LAX Airport, LLC, XpresSpa LAX Tom Bradley, LLC, XpresSpa John Wayne Airport, LLC, And XpresSpa S.F. International, LLC (together, “Defendants”) (Plaintiffs and Defendants are collectively referred to as the “Parties”) in the case entitled *Collins v. Spa Products Import & Distribution Co., LLC, et al.*, Los Angeles County Superior Court, Case No. 19STCV10586 (“*Collins Action*”), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] (“Final Approval Hearing”) to determine whether or not the Court should grant final approval of the settlement.

**I. IMPORTANT DEFINITIONS**

“**Class**” means all hourly-paid, non-exempt employees who worked for Defendants in California at any time during the Class Period.

“**Class Member**” means a member of the Class.

“**Aggrieved Employee**” means a member of the class at any time from March 28, 2018 to May 23, 2020.

“**Class Period**” means the time period from March 28, 2015, to May 23, 2020.

“**Individual Settlement Payment**” means the *pro rata* portion of the Net Settlement Amount (defined below) paid to Class Members who do not request exclusion from the settlement according to the procedures set forth in this notice.

**II. BACKGROUND OF THE LAWSUIT**

On March 28, 2019, the *Collins Action* was commenced in the Los Angeles County Superior Court, Case No. 19STCV10586. On April 16, 2021, a First Amended Consolidated Complaint (“*Collins Action*”) was filed in the *Collins Action*, which added a cause of action under the Private Attorneys General Act (“PAGA”), California Labor Code § 2698, Et Seq. (“*Operative Complaint*”).

Plaintiff alleges that Defendants failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, and keep requisite payroll records, and allegedly engaged in unfair business practices and conduct that gives rise to penalties under the PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, penalties, interest, and attorneys’ fees and costs.

Defendants deny all of the allegations in the *Collins Action* or that they violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Joint Stipulation of Class Action and Representative Action Pursuant To Labor Code § 2699(F) Settlement and Release Between Plaintiff, on Behalf of Himself and All Others Similarly Situated and Aggrieved, and Defendants (“*Settlement*” or “*Settlement Agreement*”).

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed CPT Group, Inc. as the administrator of the Settlement (“Claims Administrator”), Plaintiff Kyle Collins as representative of the Class (“Class Representative”), and the following Plaintiff’s attorneys as counsel for the Class (“Class Counsel”):

David G. Spivak  
**The Spivak Law Firm**  
16530 Ventura Boulevard, Suite 203  
Encino, California 91436  
Telephone: (818) 582-3086  
Fax: (213) 634-2485

Walter Haines  
**United Employees Law Group**  
4276 Katella Ave., #301  
Los Alamitos, CA 90720  
Telephone: (562) 256-1047  
Fax: (562) 256-1006

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Settlement (in which case you will not receive an Individual Settlement Payment), object to the Settlement, and/or dispute the Individual Workweeks credited to you, if you so choose, as explained more fully in Section III below. You do not have the right to opt out of the PAGA portion of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendants that the claims in the *Collins* Action have merit or that Defendants have any liability to Plaintiffs, Class Members or Aggrieved Employees. Plaintiffs and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members. The Court has made no ruling on the merits of the Class Members’ claims and has determined only that certification of the Class for settlement purposes is appropriate under California law.

### **III. SUMMARY OF THE PROPOSED SETTLEMENT**

#### **A. Settlement Formula**

The total gross settlement amount is three hundred seventy-five thousand dollars (\$375,000.00) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for Individual Settlement Payments to Class Members who do not opt out of the settlement is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) Attorneys’ Fees and Costs, consisting of attorneys’ fees in an amount not to exceed one third (33.33%) of the Gross Settlement Amount (i.e., \$124,999.00) and reimbursement of litigation costs and expenses in an amount not to exceed fifteen thousand dollars (\$15,000.00) to Class Counsel; (2) a Class Representative Enhancement Payment in an amount not to exceed fifteen thousand dollars (\$15,000.00) to Plaintiff for his services in the matter; (3) penalties pursuant to PAGA in the amount of eighteen thousand dollars (\$18,000.00) (“PAGA Settlement Amount”), of which the Labor and Workforce Development Agency (“LWDA”) will be paid 75% and the remaining 25% (i.e., four thousand five hundred dollars [\$4,500.00]) will be distributed to Participating Class Members as part of the Net Settlement Amount; and (4) Claims Administration Costs in an amount not to exceed twelve thousand five hundred dollars (\$12,500.00) to the Claims Administrator. If the number of Class Members or the number of Class Workweeks increases by more than 10%, the Defendants will pay a pro rata increase in the Gross Settlement Amount, including pro rata increases in attorney fees and the allocation to PAGA, by the amount over 10%.

Class Members are eligible to receive payment under the Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Payment”) based on the number of weeks that each Class Member was credited to have worked for Defendants as an hourly-paid, non-exempt employee (“Individual Workweeks”), which will be calculated by the Claims Administrator by cross-checking the employee’s start and end dates of employment with his or her actual paystubs for weeks worked, based on Defendants’ records.

Class Members who do not submit a valid and timely Request for Exclusion (“Participating Class Members”) will be issued Individual Settlement Payments. Class Members who submit a valid and timely Request for Exclusion will still receive an Individual Settlement Payment if they qualify as a PAGA member. Individual Settlement Payments will be calculated as follows:

- To determine each Class Member’s “Individual Settlement Payment” the Claims Administrator will use the following formula: Individual Settlement Payment = (Net Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each individual Participating Class Member.

Each Individual Settlement Payment will be allocated as ten percent (10%) wages which will be reported on an IRS Form W2 and ninety percent (90%) will be allocated as alleged unpaid interest, alleged unpaid meal period premiums, and alleged statutory and civil penalties, including PAGA penalties, which will be reported on an IRS Form 1099 (if applicable). Individual Settlement Payments will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of Individual Settlement Payments.

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members at the address that is on file with the Claims Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Claims Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

**B. Your Workweeks Based on Defendants’ Records**

According to Defendants’ records, you worked for Defendants as an hourly-paid, non-exempt employee in California for:

- [REDACTED] Workweeks from March 28, 2015 to May 23, 2020.

If you wish to dispute the Workweeks credited to you, you must submit your dispute by way of written letter that is sent to the Claims Administrator. The written letter must: (a) contain the case name and number of the *Collins* Action (*Collins v. Spa Products Import & Distribution Co., LLC, et al.*, Case No. 19STCV10586); (b) be signed by you; (c) contain your full name, address, and telephone number; (d) clearly state that you dispute the number of Workweeks credited to you and what you contend is the correct number to be credited to you; (e) include information and/or attach documentation demonstrating that the number of Workweeks that you contend should be credited to you is correct; and (f) be returned by mail to the Claims Administrator at the address specified in Section IV.B below, postmarked **no later than [the Response Deadline]**.

**C. Your Estimated Individual Settlement Payment**

As explained above, your estimated Individual Settlement Payment is based on the number of Individual Workweeks credited to you during the Class Period.

- **Your Individual Settlement Payment is estimated to be \$ [REDACTED]. The Individual Settlement Payment is subject to reduction for the employee’s share of taxes and withholding with respect to the wages portion of the Individual Settlement Payment.**

Your Individual Settlement Payment reflected in this Notice is only an estimate. Your actual Individual Settlement Payment may be higher or lower. Your Individual Settlement Payment will only be distributed if the Court approves the Settlement and after the Settlement goes into effect. The settlement approval process may take multiple months.

**D. Release of Claims**

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff and all Class Members who do not submit a valid and timely Request for Exclusion (i.e., Settlement Class Members) will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had.

“Released Claims” means all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever against the Released Parties (as defined below), or any of them, for any type of relief and penalties that existed or came into existence at any time during the Class Period, that were or could have been pled based on the facts alleged in the operative complaint, including but not limited to: (1) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198); (2) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198); (3) Failure to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code §§ 510, 1194, 1197, and 1198); (4) Wage Statement Penalties (Lab. Code § 226); (5) Waiting Time Penalties (Lab. Code §§ 201-203); (6) Unfair Competition (Bus. & Prof. Code §§ 17200, et seq.); (7) Civil Penalties (Lab. Code §§ 2698, et seq.).

“Released Parties” means Defendants, and all their past or present owners, officers, directors, employees, agents,

representatives, partners, investors, shareholders, administrators, parent companies, subsidiaries, and affiliates.

**E. Attorneys' Fees and Costs to Class Counsel**

Class Counsel will seek attorneys' fees in an amount of up to one third (33.33%) of the Gross Settlement Amount (i.e., an amount of up to \$124,999.00) and reimbursement of litigation costs and expenses in an amount of up to fifteen thousand dollars (\$15,000) (collectively, "Attorneys' Fees and Costs"), subject to approval by the Court. All Attorneys' Fees and Costs awarded by the Court will be paid from the Gross Settlement Amount. Class Counsel have been prosecuting the matter on behalf of Plaintiffs and Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.

**F. Enhancement Payment to Plaintiff**

Plaintiff will seek the amount of fifteen thousand dollars (\$15,000.00) (the "Class Representative Enhancement Payment"), in recognition of his service in connection with the cases. The Class Representative Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment that he is entitled to under the Settlement.

**G. Claims Administration Costs to Claims Administrator**

Payment to the Claims Administrator is estimated not to exceed twelve thousand five hundred dollars (\$12,500.00) ("Claims Administration Costs") for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and disputes of Individual Workweeks, calculating Individual Settlement Payments and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

**IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?**

**A. Participate in the Settlement**

**If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything.** You will automatically be included in the Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Settlement.

Unless you elect to exclude yourself from the Settlement, you will be bound by the terms of the Settlement and any judgment that may be entered by the Court based thereon, and you will release the claims described in Section III.D above. All Class Members will be bound by the terms of the Settlement with regard to Plaintiff's PAGA claims and will release all claims for civil penalties in violation of the PAGA arising from the Released Claims during the PAGA period regardless of whether they exclude themselves from the Settlement. As a Class Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses.

**B. Request Exclusion from the Settlement**

If you do not wish to participate in the Settlement, you must seek exclusion from the Settlement by submitting a written request ("Request for Exclusion") to the Claims Administrator.

A Request for Exclusion must: (a) contain the case name and number of the *Collins* Action (*Collins v. Spa Products Import & Distribution Co., LLC, et al.*, Case No. 19STCV10586); (b) be signed by you; (c) contain your full name, address, and telephone number; (d) contain a statement clearly indicating that you do not wish to be included in the Settlement; and (e) be submitted to the Claims Administrator by mail, postmarked **no later than [Response Deadline]**, at the following mailing address:

[Claims Administrator]  
[Mailing Address]

If the Court grants final approval of the Settlement, any Class Member who submits a valid and timely Request for Exclusion will not be entitled to receive any payment from the Settlement, will not be bound by the Settlement (and the release of claims described in Section III.D above) except as pertaining to claims for civil penalties under the PAGA, and will not have any right to object to, appeal, or comment on the Settlement. Any Class Members who do not submit a valid and

timely Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

### **C. Object to the Settlement**

You can object to the terms of the Settlement as long as you have not submitted a Request for Exclusion, by submitting a written objection (“Notice of Objection”) to the Claims Administrator or presenting your objection at the Final Approval Hearing. Class Members may appear remotely at the Final Approval Hearing to be heard on their objections, even if they have not previously served a written objection. Class members must refer to the Court’s website (lacourt.org) for directions to appear remotely at the Final Approval Hearing.

A Notice of Objection must: (a) contain the case name and number of the *Collins* Action (*Collins v. Spa Products Import & Distribution Co., LLC, et al.*, Case No. 19STCV10586); (b) contain your full name, signature, address, and telephone number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be mailed to the Claims Administrator at the address listed in Section IV.B above, postmarked **no later than [Response Deadline]**. Class Members have no right to object to the PAGA portion of the Settlement.

### **V. FINAL APPROVAL HEARING**

The Court will hold a Final Approval Hearing in Department 12 of the Los Angeles Superior Court, located at the Spring Street Courthouse, 312 N. Spring Street, Los Angeles, California 90012, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Attorneys’ Fees and Costs to Class Counsel, the Enhancement Payment to Plaintiff, and Claims Administration Costs to the Claims Administrator.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear remotely if you wish to regardless of whether you submitted a Notice of Objection.

Due to the COVID-19 pandemic, hearings before the judge overseeing this case may be conducted remotely with the assistance of a third-party service provider, CourtCall, or a comparable mode of communication with the Court by telephone or video. If that remains the case at the time of the Final Approval Hearing, Class Members who wish to appear at the Final Approval Hearing should contact Class Counsel or the Claims Administrator to arrange a telephonic or video appearance, at least three days before the hearing if possible.

### **VI. ADDITIONAL INFORMATION**

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action for a fee by visiting the civil clerk’s office, located at Spring Street Courthouse, 312 N. Spring Street, Los Angeles, California 90012, during business hours, or by online by visiting the following website: <https://lacourt.org/online/civil> or [link to administrator’s website].

**PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.**

**IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE CLAIMS ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.**