

JOINT STIPULATION OF SETTLEMENT AND RELEASE

It is stipulated, by and between Plaintiff Adrian Escobedo (“Plaintiff”) on behalf of himself, others similarly situated, and other aggrieved employees, and Defendant Ameripec, Inc. (“Defendant”) (Plaintiff and Defendant are collectively referred to herein as the “Parties”), that the Action (as defined below) is hereby compromised, fully resolved, and settled pursuant to the terms and conditions in this Joint Stipulation of Settlement and Release (referred to herein as either the “Agreement,” “Joint Stipulation,” “Settlement,” or “Settlement Agreement”).

I. DEFINITIONS

In addition to the other terms defined in this Settlement Agreement, the terms below have the following meaning:

- A. **Action**: The lawsuit originally filed by then-plaintiff Todd Martin on November 18, 2020, entitled *Todd Martin, individually, and on behalf of aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”) v. Ameripec, Inc., a California corporation; and Does 1 through 100, inclusive*; Case No. 30-2020-01170846-CU-OE-CXC, in the Superior Court of California, County of Orange.
- B. **Administration Costs**: All administrative costs, fees, and expenses incurred by the Settlement Administrator in relation to services rendered in administration of this Settlement pursuant to the terms of this Agreement, which shall not exceed \$9,500.00, absent approval of the Court for a greater amount. The Administration Costs shall be deducted from the Gross Settlement Amount and shall be paid from the Qualified Settlement Fund. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- C. **Agreement, Joint Stipulation, Settlement, or Settlement Agreement**: The joint stipulation of settlement and release reflected in this document.
- D. **Attorney Fee Award**: The amount, not to exceed thirty-five percent (35%) of the Gross Settlement Amount or \$165,375.00, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be deducted from the Gross Settlement Amount and shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Attorney Fee Award will cover all work performed and all fees incurred by Class Counsel to date, and all work to be performed and all fees to be incurred in connection with the litigation of the Action, seeking preliminary and final approval by the Court of this Agreement, the administration of the Settlement, seeking and obtaining a Preliminary Approval Order and Final Approval Order, and obtaining Final Judgment. If the Court awards less than the amount requested by Class Counsel, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

- E. **Class or Class Member**: All current and former non-exempt employees (whether hired directly or through a staffing agency or labor contractor) of Defendant who worked for Defendant within California for any period of time between August 31, 2016, and March 1, 2022. Defendant estimates that there are approximately 218 such Class Members.
- F. **Class Counsel**: Attorneys Douglas Han, Shunt Tatavos-Gharajeh, and Jason Rothman of Justice Law Corporation.
- G. **Class Period**: The time period from August 31, 2016 up through and including March 1, 2022.
- H. **Class Representative or Plaintiff**: Adrian Escobedo.
- I. **Class Representative Enhancement Payment**: The amount the Court awards to Plaintiff for his services as the Class Representative, which will not exceed \$7,500.00 to Plaintiff. This payment shall be deducted from the Gross Settlement Amount and shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Class Representative Enhancement Payment is subject to Court approval. If the Court awards less than the amount requested for Plaintiff, any amount(s) not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- J. **First Amended Complaint**: The First Amended Complaint filed in the Action by Plaintiff on April 12, 2022
- K. **Cost Award**: The amount the Court awards Class Counsel for payment of actual litigation costs and expenses, which shall not exceed \$20,000.00, which amount will cover all costs and expenses incurred by Class Counsel to date, and all costs and expenses to be performed or incurred in connection with the litigation of the Action, seeking preliminary and final approval by the Court of this Agreement, the administration of the Settlement, seeking and obtaining a Preliminary Approval Order and Final Approval Order, and obtaining Final Judgment. The Cost Award will be deducted from the Gross Settlement Amount and will be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- L. **Counsel for Defendant**: Attorneys Greg S. Labate and Tyler Z. Bernstein of Sheppard Mullin Richter & Hampton LLP.
- M. **Effective Date**: The “Effective Date” of the Settlement will be the last to occur of the following: (a) if there are no objections to the Settlement, then the date on which the Court enters the Final Approval Order; (b) if one or more timely objections has/have been filed and not withdrawn, then upon passage of the applicable date for an objector

to seek appellate review of the Final Approval Order; or (c) if an appeal, review, or writ is sought from the Final Approval Order, the day after the Final Approval Order is affirmed or the appeal, review, or write is dismissed or denied, and the Final Approval Order is no longer subject to further judicial review.

- N. **PAGA Members**: All current or former non-exempt employees (whether hired directly or through a staffing agency or labor contractor) who worked for Defendant within California for any period of time between August 31, 2019 up through and including March 1, 2022.
- O. **Exclusion Form**: The Election Not to Participate In Class Action Settlement, substantially like the form attached hereto as **Exhibit B**, subject to Court approval.
- P. **Final Approval, Final Approval Order, Judgment or Final Judgment**: “Final Approval” or “Final Approval Order” means the order of the Court that grants final approval of the Settlement. “Judgment” or “Final Judgment” means the final judgment entered by the Court based upon the Settlement and following the Final Approval Order.
- Q. **Gross Settlement Amount**: The Gross Settlement Amount means the amount of Four Hundred Seventy-Two Thousand Five Hundred Dollars and Zero Cents (\$472,500.00), inclusive of the requested (1) Attorney Fee Award; (2) Cost Award; (3) Administration Costs; (4) Class Representative Enhancement Payment to Plaintiff; and (5) the PAGA Payment paid to the LWDA and to PAGA Members but excluding employer portion of any applicable payroll taxes.
- R. **Individual PAGA Payment(s)**: The amount payable to each PAGA Member from their individual portion of the PAGA Payment allocation under the terms of this Settlement Agreement. PAGA Members are not required to submit a claim form to receive their Individual PAGA Payments. Rather, PAGA Members will receive an Individual PAGA Payment automatically, without the return of a claim form. PAGA Members will also be unable to opt out of their Individual PAGA Payment.
- S. **Individual Settlement Share(s)**: The amount payable to each Participating Class Member from the Net Settlement Amount under the terms of this Agreement.
- T. **LWDA**: California Labor and Workforce Development Agency.
- U. **Net Settlement Amount**: The Gross Settlement Amount, minus the Court-approved Attorney Fee Award, Cost Award, Class Representative Enhancement Payment, Administration Costs, and PAGA Payment.
- V. **Notice**: The “Notice of Class Action and PAGA Settlement” to be provided to all Class Members, in English and Spanish, regarding the terms of this Settlement, substantially like the form attached hereto as **Exhibit A**, subject to Court approval. The Notice shall constitute class notice pursuant to California Rules of Court, rule 3.769 (f) and, once

approved by the Court, shall be deemed compliant with California Rules of Court, rule 3.766.

- W. **Notice Packet**: The Notice and Exclusion Form.
- X. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (California Labor Code section 2698, *et seq.*).
- Y. **PAGA Payment**: The PAGA Payment consists of Twenty-Five Thousand Dollars (\$25,000.00) from the Gross Settlement Amount allocated for the settlement and release of claims for civil penalties pursuant to PAGA, as alleged in the Action. Seventy-five percent (75%) of the PAGA Payment (\$18,750.00) shall be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment (\$6,250.00) shall be distributed to PAGA Members, on a pro rata basis, as set forth below.
- Z. **PAGA Period**: The time period from August 31, 2019 up through and including March 1, 2022.
- AA. **PAGA Released Claims**: PAGA Released Claims means the any and all claims, debts, liabilities, demands, actions, or causes of action for civil penalties that were alleged or which could have been alleged in the Action based on the facts and allegations pleaded in the First Amended Complaint in the Action, including all claims for civil penalties based upon or arising out of Defendant's alleged failure to pay earned wages, failure to pay minimum wage, failure to pay overtime compensation, failure to provide meal breaks, failure to provide rest breaks, failure to pay meal period premium wages, failure to pay rest period premium wages, failure to provide accurate wage statements, failure to timely pay final wages during employment and at separation, failure to maintain accurate payroll records, failure to reimburse business-related expenses, and claims for civil penalties arising under or based upon alleged violations of California Labor Code Sections 200, 201, 202, 203, 204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, 2699 *et seq.*, and/or those arising under applicable Industrial Welfare Commission Wage Orders.
- BB. **Participating Class Members**: All Class Members who do not submit valid and timely Exclusion Forms to the Settlement Administrator.
- CC. **Preliminary Approval or Preliminary Approval Order**: The order entered by the Court that grants preliminary approval of the Settlement.
- DD. **Qualified Settlement Fund**: A fund within the meaning of Treasury Regulation section 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.*, which is established by the Settlement Administrator for the benefit of Participating Class Members, Plaintiff, and Class Counsel.

EE. Released Claims: Released Claims are defined as all claims, debts, liabilities, demands, actions, or causes of action under state, federal or local law, whether statutory, common law or administrative, pleaded in the First Amended Complaint in the Action or arising out of or reasonably related to the factual allegations in the First Amended Complaint, including, but not limited to, claims for failure to pay earned wages, failure to pay minimum wage, failure to pay overtime compensation, failure to provide meal breaks, failure to provide rest breaks, failure to pay meal period premium wages, failure to pay rest period premium wages, failure to provide accurate wage statements, failure to timely pay final wages during employment and at separation, failure to maintain accurate payroll records, failure to reimburse business-related expenses, unfair competition or business practices, any and all claims under PAGA, and any all claims for associated penalties, whether civil or statutory in nature, interest, attorneys' fees and costs, or any other associated damages, and all other alleged violations of the California Labor Code and Business and Professions Code section 17200, *et seq.*, and all other claims and allegations alleged in or which could have been alleged in the Action based on the facts and allegations pled in the First Amended Complaint. Without limiting the foregoing, the Released Claims include those arising under California Labor Code Sections 200, 201, 202, 203, 204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, 2699 *et seq.*, and/or those arising under Industrial Welfare Commission Wage Orders, PAGA, California Code of Regulations, title 8, Section 11050; the California Civil Code Sections 3287, 3289, and 3294; and California Code of Civil Procedure § 1021.5. This release excludes the release of claims not permitted by law.

FF. Released Parties: Defendant and each and all of its past, present, and future parent companies, subsidiaries, affiliates, and their respective shareholders, members, owners, partners, representatives, fiduciaries, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys, trustees, equity sponsors, joint employers, alter-egos, joint venturers, auditors, consultants, and any past, present, or future officers, directors, and employees), and each and all of them, and each and all of their predecessors, successors, heirs, and assigns, and any individual or entity which could be jointly liable with Defendant, or any of them.

GG. Response Deadline: Forty-five (45) calendar days from the mailing of the Notice Packet.

HH. Settlement Administrator: The third-party administrator agreed upon by Parties to administer this Settlement is CPT Group, Inc. ("CPT").

II. Court: The Superior Court of California, County of Orange.

II. RECITALS

- a. On August 31, 2020, then-plaintiff Todd Martin provided initial written notice to the LWDA and Defendant of the specific provisions of the Labor Code he contends Defendant violated and the theories supporting his contentions. On November 18,

2020, Todd Martin initiated the Action by filing the original complaint pursuant to PAGA. On January 6, 2022, an amended notice was submitted to the LWDA including Plaintiff as an additional representative.

- b. On December 2, 2021, the Parties participated in a private mediation with Mark Rudy, a well-respected mediator with considerable experience mediating wage-and-hour class actions. The Parties were not able to settle at the mediation, but the mediator successfully assisted the Parties in further negotiations after mediation that subsequently resulted in the Settlement described herein to resolve this Action in its entirety. The Settlement is the result of an informed and detailed analysis of the risks facing all Parties in litigating this case, including but not limited to, careful consideration of the legal and factual obstacles to Plaintiff's prospects of obtaining class certification and on the merits, and Defendant's defenses, as well as Defendant's potential exposure and the additional costs of litigating the Action.
- c. Following mediation and Todd Martin's death, Plaintiff filed the operative First Amended Complaint on April 12, 2022 that substituted Plaintiff for Todd Martin as the plaintiff and alleged the following causes of action on behalf of Plaintiff and a putative class: (1) violation of Labor Code sections 510 and 1198 (unpaid overtime); (2) violation of Labor Code sections 226.7 and 512(a) (unpaid meal period premiums); (3) violation of Labor Code section 226.7 (unpaid rest period premiums); (4) violation of Labor Code sections 1194 and 1197 (unpaid minimum wages); (5) violation of Labor Code sections 201 and 202 (final wages not timely paid); (6) violation of Labor Code section 226(a) (noncompliant wage statements); (7) violation of Labor Code sections 2800 and 2802 (unreimbursed business expenses); (8) violation of Labor Code sections 2698, *et seq.* and (9) violation of Business & Professions Code section 17200, *et seq.*
- d. This Agreement is intended to and does effectuate the full, final, and complete resolution of the Action. The Parties believe that continued litigation would be protracted, expensive, and uncertain, and that this Settlement is in the best interests of the Class, PAGA Members, and Defendant. In light of these realities, the Parties believe that this Settlement is the best way to resolve the disputes between them.

III. JURISDICTION, ENFORCEMENT, AND INTERPRETATION

The Court has jurisdiction over the Parties and the subject matter of the Action. The Action include claims that, while Defendant denies them in their entirety, would, if proven, authorize the Court to grant relief pursuant to the California laws cited therein. If the Settlement is approved, the Court will retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, pursuant to California Rules of Court 3.769 *et seq.* and California Code of Civil Procedure Section 664.6, and the Parties hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection therewith. The Parties and their counsel agree that a court, upon motion, may enter judgment pursuant to the Agreement and California Code of Civil

Procedure Section 664.6 and the Agreement is admissible in evidence for purposes of enforcement pursuant to California Evidence Code Section 1123. The Agreement will be interpreted and enforced under the laws of the State of California without regard to its conflict of law provisions. Any dispute arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior Court, County of Orange, and the Parties hereby consent to the jurisdiction of the Court over them solely in connection therewith.

IV. NO ADMISSION WITH RESPECT TO LIABILITY

The Parties agree that this Agreement reflects their good faith compromise of the Action, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel. This Agreement does not constitute, is not intended to constitute, and will not be deemed to constitute, an admission of liability or lack of liability by the Parties as to the merits, validity, or accuracy of any of the allegations or claims made against Defendant in the Action or the appropriateness of class certification or group-wide resolution. Defendant denies each of Plaintiff's allegations in their entirety and allege that Plaintiff and all other Class Members were provided compensation and treated in all respects in accordance with California law regarding the claims and facts alleged in the First Amended Complaint.

Nothing in this Agreement, nor any action taken or made in implementation thereof, including, without limitation, any statements, discussions, communications, or any materials prepared, exchanged, issued, or used during the course of the negotiations leading up to the Agreement, is intended by the Parties to or will constitute, be introduced, or be submitted in any way in the Action or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, the Agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the Court entered in connection therewith. Additionally, insofar as any of the foregoing material is required to be filed by any Court by Court order, the Parties will comply with such order but will notify the other Party of such an order at least ten (10) days prior to filing of the documents.

The Parties agree that Plaintiff's forthcoming motion for preliminary approval of the Settlement, which will, among other things, seek certification of the Class, is for purposes of the Settlement only. If, for any reason, the Settlement is not approved, the stipulation to certification will have no force or effect. The Parties agree that certification for purposes of the Settlement is in no way an admission that class certification is proper under the standard applied to contested certification motions and that this Agreement will not be submitted in this or any other proceeding as evidence that (i) the Class should be certified, or (ii) Defendant is liable to Plaintiff or the Class Members. Further, neither this Agreement nor the Court's actions regarding this Agreement will be submitted in any court or other tribunal regarding the propriety of class certification or collective treatment for purposes other than the settlement of the Action. If this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Defendant will not be deemed to have waived, limited, or affected in any way, any of its objections or defenses in the Action, including, but not limited to, its defenses in opposition to class certification.

V. **SETTLEMENT TERMS AND CONDITIONS**

- A. **Gross Settlement Amount.** The Gross Settlement Amount has been agreed to by the Parties. It is expressly understood that if the Court awards less than the total amounts requested to be awarded for the Attorney Fee Award, Cost Award, Administration Costs, Class Representative Enhancement Payment, and PAGA Payment, or as otherwise provided herein, the difference in any such amounts will be added to the Net Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason. The Gross Settlement Amount excludes any pro-rata overages that may be required as set forth in Section V(L)(22).
- B. **Notice to the LWDA.** On August 31, 2020, then-plaintiff Todd Martin filed with the LWDA and served Defendant with his Notice of Labor Code Violations Pursuant to Labor Code section 2699.3. On January 6, 2022, an amended notice was filed with the LWDA on behalf of Plaintiff and served on Defendant. Thus, Plaintiff has satisfied his notice obligations under PAGA.
- C. **Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the Class. The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. If the Settlement does not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to certification as part of the Settlement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Action or in any other lawsuit. Defendant reserves the right to oppose class certification and/or to proactively move to deny class certification should this Settlement be materially modified, reversed on appeal, or otherwise not become final.
- D. **Appointment of the Class Representative.** Solely for the purposes of this Settlement, the Parties stipulate and agree that Plaintiff shall be appointed as the representative for the Class.
- E. **Appointment of Class Counsel.** Solely for the purposes of this Settlement, the Parties stipulate and agree that Class Counsel, Justice Law Corporation, shall be appointed to represent the Class.
- F. **Settlement Disbursement.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:
1. **Class Representative Enhancement Payment To Plaintiff.** Plaintiff will apply to the Court for a Class Representative Enhancement Payment to Plaintiff up to Seven Thousand Five Hundred Dollars And Zero Cents (\$7,500.00), to be paid out of the Gross Settlement Amount. Defendant will not oppose such an application, so long as it is consistent with the provisions of this Agreement. Any amounts awarded for

the Class Representative Enhancement Payment to Plaintiff that are less than the amount listed above will result in the non-awarded funds being part of the Net Settlement Amount available for distribution to the Participating Class Members. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payment and shall hold harmless the Released Parties, and each of them, from any claim or liability for taxes, penalties or interest arising as a result of the payment. Plaintiff is solely responsible for providing a completed IRS W-9 form to the Settlement Administrator prior to distribution. The Settlement Administrator will issue to Plaintiff an IRS Form 1099 reflecting his Class Representative Enhancement Payment. Plaintiff agrees that, upon signing this Settlement Agreement, he will not submit an Exclusion Form to the Settlement Administrator, or any other request to be excluded from the Settlement, and that any such Exclusion Form or other request for exclusion by such Plaintiff will be void and of no force or effect.

- 2. To Class Counsel.** Class Counsel shall be entitled to apply to the Court for, and Defendant agrees not to oppose, the Attorney Fee Award not to exceed thirty-five percent (35%) of the Gross Settlement Amount, or \$165,375.00 and a Cost Award not to exceed \$20,000.00. The Settlement Administrator will pay the Court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the awarded Attorney Fee Award and Cost Award. In the event Plaintiff and/or Class Counsel do not request, or the Court does not approve, the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount(s) the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amounts requested and the amount(s) awarded. If the amount(s) requested and/or awarded is less than the amounts requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members. Class Counsel will not be permitted to petition the Court for, or accept, any additional payments from Defendant for attorneys' fees, costs, or expenses in connection with the Action. Plaintiff, Class Counsel, and Class Members shall assume full responsibility and liability for the payment of taxes due on such awards.

Defendant's payment of the Attorney Fee Award and Cost Award awarded to Class Counsel shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, costs, or expenses in the Action incurred by any attorney on behalf of the Plaintiff and the Class Members, and shall relieve Defendant, the Settlement Administrator, and Counsel for Defendant of any other claims or liability to any other attorney or law firm for any attorneys' fees, costs, and expenses to which any of them may claim to be entitled on behalf of Plaintiff and/or the Class Members.

- 3. To the Settlement Administrator.** The Settlement Administrator will pay to itself the Administration Costs, as approved by the Court, out of the Gross Settlement Amount and from the Qualified Settlement Fund. If the Settlement Administrator's actual costs are lower than, or the Court awards less than, the total amount allocated for Administration Costs, the difference in any such amounts will be a part of the Net Settlement Amount.
- 4. Participating Class Members Individual Settlement Share.** The Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member in accordance with the following procedure.

 - a. Individual Settlement Share Calculation.** Individual Settlement Shares will be calculated/determined as follows: Defendant will provide the Settlement Administrator with the number of Workweeks credited to each Participating Class Member during the Class Period. The Settlement Administrator will then calculate the total number of Workweeks worked by all Participating Class Members during the Class Period ("Total Workweeks"). To determine the Individual Settlement Share for each Participating Class Member, the Settlement Administrator will (1) divide each Participating Class Member's respective Workweeks by the Total Workweeks, and (2) multiply the resulting figure by the Net Settlement Amount. The Individual Settlement Share will be reduced by any required legal deductions for each Participating Class Member, provided that such legal deductions will not include the employer's share of any payroll taxes. Any residual amounts of the Gross Settlement Amount that are not distributed in full as contemplated by this Agreement shall be distributed pro rata to Participating Class Members. All Class Members will be entitled to payment for at least one workweek.
 - b. Tax Treatment for Individual Settlement Share.** Each Participating Class Member's Individual Settlement Share will be apportioned as follows: twenty percent (20%) as wages ("wage portion") and eighty percent (80%) as penalties and interest. The wage portion of each Individual Settlement Share shall be subject to W-2 reporting and, therefore, normal employee's share of payroll taxes and withholdings will be deducted by the Settlement Administrator pursuant to applicable state and federal law. Defendant shall be responsible for paying employer-side taxes separately from the Gross Settlement Amount. Participating Class Members will be issued an IRS Form 1099 for the portion of their Individual Settlement Share that is treated as interest and penalties and any other non-taxable items and will assume full responsibility and liability for the payment of taxes due on such awards, if any. The Parties make no representations about the tax consequences to the portion of the Individual Settlement Share representing interest and penalties.

5. PAGA Members Individual Settlement Share. The Settlement Administrator will pay an Individual PAGA Payment from the portion of the PAGA Payment allocated to the PAGA Members in accordance with the following procedure.

a. Individual PAGA Payment Calculation. Individual PAGA Payments to each PAGA Member will be calculated as follows:

1. The \$6,250.00 allocated to the PAGA Members from the Gross Settlement Amount will be divided by the aggregate number of pay periods worked by all PAGA Members during the PAGA Period, based on the Class Data provided by Defendant, resulting in the Pay Period Value. Each Individual PAGA Payment will then be calculated by multiplying the total number of pay periods the PAGA Member was employed by Defendant as a non-exempt employee in California during the PAGA Period by the Pay Period Value. All PAGA Members will be entitled to payment for at least one pay period.

b. Tax Treatment for Individual PAGA Payment. Each Individual PAGA Payment will be apportioned as one hundred percent (100%) penalties and Individual PAGA Members will be issued an IRS Form 1099 for their respective Individual PAGA Payment, and each Individual PAGA Member will assume full responsibility and liability for the payment of taxes due on such awards, if any. The Parties make no representations about the tax consequences of the Individual PAGA Payment.

6. PAGA Payment To LWDA. Seventy-five percent (75%) of the PAGA Payment, or \$18,750.00, shall be paid to the LWDA. It is expressly understood that if the Court awards less than the total amounts requested to be awarded for the PAGA Payment, the difference in any such amount will be a part of the Net Settlement Amount. If the Court finds the Parties' allocation of proceeds from the Gross Settlement Amount to PAGA to be insufficient, the Parties expressly reserve the right to amend this Agreement to increase the allocated amount to a level that satisfies the Court's discretion, without increasing the Settlement Amount.

G. Appointment of Settlement Administrator. The Settlement Administrator shall be responsible for: (a) preparing, translating into Spanish, printing, and mailing the Notice Packet to the Class Members; (b) creating a static settlement website that will go live on the same date the Notice Packet is first mailed to the Class Members and that will include, among other things, the Complaints, standalone generic copies of the Notice and Exclusion Form, all papers filed in connection with the Preliminary Approval Hearing (including all orders filed by the Court), all papers filed in connection with the Final Approval Hearing (including the fee motion and final approval motion), and, if the Settlement is approved, the Final Approval Order and Judgment; (c) keeping track of any objections to the Settlement or Exclusion Forms from Class Members; (d) performing skip traces and remailing Notice Packets, Individual Settlement Shares, and Individual PAGA Payments

to Class Members and PAGA Members, as applicable; (e) calculating any and all payroll tax deductions as required by law; (f) calculating each Participating Class Member's Individual Settlement Share and each Individual PAGA Member's Individual PAGA Payment in accordance with this Agreement; (g) mailing Individual Settlement Shares to Participating Class Members and Individual PAGA Payments to PAGA Members; (h) resolving any disputes regarding the Workweeks credited to each Class Member or PAGA Member; (i) remitting the LWDA's portion of the PAGA Payment to the LWDA; (j) distributing the Attorney Fee Award and the Cost Award to Class Counsel; (k) printing and providing Participating Class Members, PAGA Members, and Plaintiff with IRS Forms W-2 and 1099 as required under this Agreement and applicable law; (l) providing a due diligence declaration for submission to the Court upon completion of the Settlement and prior to the Final Approval Hearing, providing, among other things, the number of Notice Packets it mailed to Class members, the number of Notice Packets it re-mailed, the number of Notice Packets that were ultimately undeliverable, the number of Exclusion Forms and objections that it received, the number of defective Exclusion Forms and objections it received, the total of its charges for services rendered, and the anticipated future charges contemplated in order to bring the administration of the Settlement and distribution of payments to completion; (m) distributing over any funds remaining in the Qualified Settlement Fund at the close of the 180-day period as a result of uncashed checks to the California State Controller's Office in accordance with California's Unclaimed Property Law; and (n) performing other tasks as the Parties mutually agree; and (o) providing weekly status reports to Counsel for Defendant and Class Counsel, which are to include updates on any objections or Exclusion Forms that have been received. The Settlement Administrator shall regularly report to the Parties, in written form, the substance of the work performed. The Parties represent they do not have any financial interest in the Settlement Administrator or have a relationship with the Settlement Administrator that could create a conflict of interest. Any disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court.

H. Procedure for Approving Settlement.

1. Court Approval.

- a.** Plaintiff will move for an order conditionally certifying the Class for purposes of the Settlement only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Notice and Exclusion Form.
- b.** Following the Preliminary Approval Order, if Defendant does not exercise its right to cancel the Settlement solely as provided for herein, a motion for final approval of the Settlement will be filed by Class Counsel, which, if not separately filed by Class Counsel, will include a request for the Attorney Fees Award, Costs Award, and Class Representative Enhancement Payment to Plaintiff as provided for herein, which Defendant will not oppose. The Parties agree to take all steps as may be reasonably necessary to secure final approval of the Settlement as quickly

as possible, to the extent not inconsistent with the terms of this Agreement and will not take any action adverse to each other in obtaining Court approval, and, if necessary, appellate approval, of the Agreement in all respects.

- c. If the Court does not grant preliminary approval and/or final approval of the Settlement, or if the Court's Final Approval Order and Final Judgment are reversed or materially modified on appeal, then this Settlement will become null and void.
- d. In the event the Court declines to enter the Final Approval Order and Final Judgment, this Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this Agreement shall be treated as void. In such a case, the Parties and any funds to be awarded under this Settlement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed, except that any fees and expenses already reasonably incurred by the Settlement Administrator shall be paid by Defendant.
- e. The Parties agree that, in the event the Settlement is not approved by the Court, or if the Settlement is terminated by either Party under the provisions of this Agreement, the Parties will request that the Court reopen proceedings within fourteen (14) calendar days. However, the Parties will first work to effectuate the intent of the Memorandum of Understanding, executed on January 19, 2022.

2. Notice to Class Members. The Parties submit the Notice Packet, in the form hereto as **Exhibit 1**, to the Court for approval. The Notice Packet will include, nonexclusively, information regarding the nature of the Action; a summary of the substance of the Settlement; the definition of the Class; the formula used to determine the Individual Settlement Shares and Individual PAGA Payment; the number of Workweeks credited to each Class Member and his or her estimated Individual Settlement Share and Individual PAGA Payment, if any; the procedures and deadlines for objecting to the Settlement, seeking exclusion from the Settlement, and/or disputing the number of Workweeks credited to him or her; and the date for the Final Approval Hearing. After the Court enters its Preliminary Approval Order and approves the Notice Packet, every Class Member and PAGA Member will be provided with the Notice Packet in accordance with the following procedure:

- a. Within twenty-one (21) calendar days following notice by Plaintiff or the Court of the Court's Preliminary Approval Order, Defendant will provide to the Settlement Administrator a list in Microsoft Excel format containing each Class Member's: (1) full name; (2) last known mailing address; (3) Social Security number; and (4) dates worked for Defendant

in California during the Class Period as a non-exempt employee (“Class Data”). In no event will the Class Data ever be shared with or provided to Class Counsel. The Settlement Administrator shall maintain the Class Data and all information contained within the Class Data as private and confidential and shall not use the Class Data or any information contained therein for any purpose other than to administer the Settlement.

- b. Within twenty one (21) calendar days of the Settlement Administrator’s receipt of the Class Data, the Settlement Administrator shall run all addresses contained in the Class Data through the United States Postal Service’s National Change of Address (“NCOA”) Database to obtain current address information and shall mail the Notice Packet to the Class Members via first-class regular U.S. Mail using the most current mailing address information available.
- c. If, within thirty (30) calendar days of the mailing of the Notice Packet, a Notice Packet is returned with a forwarding address, then within five (5) calendar days of receiving the undeliverable Notice Packet, the Settlement Administrator shall forward the original Notice Packet to the updated address via first-class regular U.S. mail indicating on the Notice Packet the date of such re-mailing. If, within thirty (30) calendar days of the mailing of the Notice Packet, a Notice Packet is returned as undeliverable without a forwarding address, then within five (5) calendar days of receiving the undeliverable Notice Packet, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace search, and will perform a single re-mailing to any addresses located indicating the date of the re-mailing on the Class Notice. Those Class Members who receive a re-mailed Notice Packet, whether by skip trace or forwarded mail, will have an additional ten (10) calendar days from the original Response Deadline to submit an Exclusion Form or objection to the Settlement or to dispute the information provide in the Notice Packet. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a re-mailed packet and shall provide on the envelope the Class Member’s new deadline to respond.
- d. Class Members will have the opportunity, should they disagree with the number of eligible Workweeks and/or pay periods with which they have been credited, as provided in their Notices, to dispute such information. All such disputes must be in writing, postmarked by the Response Deadline, and sent via first-class regular U.S. mail to the Settlement Administrator, explaining the basis for the dispute and including any supporting documentation showing that the Workweeks credited to him or her is inaccurate. Defendant’s records will be presumed determinative, absent credible evidence to rebut the accuracy of the Workweeks credited to a Class Member based thereon. The Settlement Administrator will evaluate the evidence submitted by the Class Member and make a

recommendation to the Parties as to which figures should be applied. If the Parties disagree with the Settlement Administrator's recommendation, the dispute will be presented to the Court for determination.

- e. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration shall also include the estimated high and low amounts for Individual Settlement Shares and Individual PAGA Payments, as well as Plaintiff's individual payout. The declaration from the Settlement Administrator shall be filed with the Court by Class Counsel in conjunction with Plaintiff's Motion for Final Approval. If any material changes occur before the Final Fairness and Approval Hearing but after the Settlement Administrator's declaration of due diligence has been filed, the Settlement Administrator will supplement its declaration.

- 3. Objections to Settlement.** The Notice Packet will provide that Class Members who wish to object to the Settlement may do so by mailing a written objection to the Settlement Administrator, postmarked no later than the Response Deadline. The date of the postmark will be the exclusive means for determining whether an objection has been timely submitted.

All objections must be in writing, which includes: (1) the objector's full name, address, last four digits of his or her Social Security number, and signature; (2) the case name and number; (3) the factual and legal basis, with supporting documents, if any, on which the objection is based; (4) whether the objector is represented by an attorney and providing the contact information of any such attorney; and (5) whether the objector plans to appear at the Final Approval Hearing. The Parties agree that the Settlement Administrator shall not disclose the last four digits of any Class Member's Social Security number to anyone but the Parties, that such information will be securely held, and that the disclosure of those last four digits to the Parties shall not be used for any purpose except to ascertain the identity of the objector for administration of this Settlement. Any person who fails to timely submit their written objections in the manner specified above may still appear and object at the Final Approval Hearing. Participating Class Members who fail to object in the manners specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. If a Participating Class Member objects to this Settlement, the Participating Class Member will remain a member of the Class, and if the Court grants final approval of the Settlement, he or she will be bound by the terms of the Settlement and any Final Approval Order and Final Judgment. Within three (3) business days of receipt of an objection, the Settlement Administrator shall provide counsel for the Parties with a copy of the objection. No later than thirty (30) calendar days before the Final Approval Hearing, the Settlement Administrator shall provide counsel for the Parties with a complete list of Participating Class Members who have submitted an objection. Prior to the Final Approval Hearing,

the Settlement Administrator shall submit copies of the objections that it has received, to the Court by way of declaration.

- 4. Request for Exclusion from the Settlement (“Opt-Out”).** Class Members who wish to exclude themselves from the Settlement must submit a valid and timely Exclusion Form to the Settlement Administrator by mail, postmarked on or before the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive means for determining whether an Exclusion Form has been timely submitted.

An Exclusion Form must be in writing which contains: (1) the Class Member’s full name, current address, last four digits of his/her Social Security number; (2) the case name and number; (3) a clear statement that the Class Member wishes to be excluded from the Settlement; (4) the Class Member’s signature and the date of signature. The Parties agree that the Settlement Administrator shall not disclose the last four digits of any Class Member’s Social Security number to anyone but the Parties, that such information will be securely held, and that the disclosure of those last four digits to the Parties shall not be used for any purpose except to ascertain the identity of the individual who wishes to exclude himself or herself from the Settlement for administration of this Settlement. The name and last four digits of the Social Security number provided by the Class Member on the Exclusion Form must match Defendant’s records as provided to the Settlement Administrator, or match Defendant’s records for that particular Class Member. The name and Social Security number provided by the Class Member will be deemed to match Defendant’s records only if: (1) both the first name and the last name and the last four digits of the Social Security number provided by the Class Member match Defendant’s records; (2) the first name and the last four digits of the Social Security number provided by the Class Member match Defendant’s records and it appears the last name has been changed as a result of a change in marital status or is a shortened or lengthened version of the name that appears in Defendant’s records; or (3) the last four digits of the Social Security number and last name match Defendant’s records and the first name provided is either a nickname or a shortened or lengthened version of the name that appears in Defendant’s records. Each Class Member who does not submit an Exclusion Form in compliance with this paragraph will be deemed to be a Participating Class Member. Participating Class Members will be bound by all terms of the Settlement Agreement and the Final Approval Order and Final Judgment. Any Class Member who submits a timely, valid Exclusion Form will not be a Participating Class Member, will not be entitled to receive any Individual Settlement Share, and will not be bound by this Agreement or have any right to object, appeal, or comment thereon. No later than thirty (30) calendar days before the Final Approval Hearing, the Settlement Administrator shall provide counsel for the Parties with a complete list of all Class Members who have submitted a valid and timely Exclusion Form.

- a. PAGA Members May Not Opt Out of PAGA Settlement.**
Notwithstanding the foregoing, the Parties agree that there is no statutory

or other right for any PAGA Member to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement, which releases the claims enumerated in Section I(DD) above (“PAGA Released Claims”). An Individual PAGA Member who submits a timely and valid Exclusion Form as to the Class shall still be entitled to his or her Individual PAGA Payment and shall release the PAGA Released Claims.

- 5. No Solicitation of Objection or Requests for Exclusion.** The Parties agree to use their best efforts to carry out the terms of this Agreement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit Exclusion Forms, objections to the Settlement, or appeal from or seek review of the Court’s Preliminary Approval Order, Final Approval Order, or Final Judgment, provided, however, that Class Counsel may respond to any questions received from Class Members regarding the Settlement and the Settlement Agreement.
- 6. Defendant’s Right To Rescind.** If either (i) 10% or more of the Class Members, or, (ii) a number of Class Members whose Individual Settlement Payments in the aggregate are 15% or more of the Settlement Amount, either opt out of and/or object to the Settlement, Defendant may, at its election, rescind the Settlement and all actions taken in its furtherance of it will be thereby null and void. If Defendant exercise this right of recession, it must do so in writing within 10 days of being notified by the Settlement Administrator of this section of the Agreement having been triggered, that is sent to Class Counsel by email to dhan@justicelawcorp.com and jrothman@justicelawcorp.com and overnight mail, addressed to: Douglas Han and Jason Rothman of Justice Law Corp., 751 N. Fair Oaks Ave., Suite 101, Pasadena, CA 91103. If the option to rescind is exercised, then Defendant shall be solely responsible for all Settlement Administration Costs accrued to that point. If such provision is exercised, the Action will return to its pre-settlement litigation posture.
- 7. Motion for Final Approval.**

 - a.** Following the Preliminary Approval Order, if Defendant does not exercise its right to cancel the Settlement solely as provided for herein, a motion for final approval of the Settlement will be filed by Class Counsel, which, if not separately filed by Class Counsel, will include a request for the (1) Attorney Fee Award; (2) Cost Award; (3) Administration Costs; (4) Class Representative Enhancement Payment; and (5) PAGA Payment, which Defendant will not oppose. The Parties agree to take all steps as may be reasonably necessary to secure final approval of the Settlement as quickly as possible, to the extent not inconsistent with the terms of this Agreement and will not take any action adverse to each other in obtaining Court approval, and, if necessary, appellate approval, of the Agreement in all respects. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment), releasing and barring the

Released Claims of the Participating Class Members and the PAGA Released Claims of the PAGA Members.

- 8. Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order and Judgment. The Gross Settlement Amount has been agreed to by the Parties, based on analysis and assessment of the value of the claims in the Action. The Settlement Administrator shall respond to questions from Counsel for Defendant and Class Counsel. No person shall have any claim against Defendant, Counsel for Defendant, Plaintiff, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.
- a. **Funding the Settlement:** Prior to the Effective Date, Defendant will not be required to fund the Settlement, in whole or in part, through the Settlement Administrator or any third party. Within thirty (30) calendar days of the Effective Date, Defendant shall provide the Administrator with sufficient funds to make all the payments required under this Settlement.
 - b. **Disbursement:** Within thirty (30) calendar days after receipt of the Settlement Amount from Defendant, the Settlement Administrator shall make the following payments as approved by the Court: (1) Individual Settlement Shares, (2) the Attorney Fee Award, (3) the Cost Award, (4) the Class Representative Enhancement Payment, (5) the PAGA Payment, including the payment to the LWDA and all Individual PAGA Payments, and (6) the Administration Costs.
 - c. **Qualified Settlement Fund:** The Parties and Settlement Administrator shall treat the Qualified Settlement Fund as coming into existence on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.
- 9. Uncashed Checks.** Participating Class Members and PAGA Members must cash or deposit their Individual Settlement Share and Individual PAGA Payment checks, as applicable, within one hundred eighty (180) calendar days after the checks are mailed to them. The void date of each Individual Settlement Share and Individual PAGA Payment check shall be stated on each check. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-negotiable, and offering to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are initially mailed, cancel the

check(s), and pay the amount of the Individual Settlement Share(s) and/or Individual PAGA Payment(s) to the California State Controller's Office in accordance with California Unclaimed Property Law, California Civil Code section 1500, *et seq.*, so that the Participating Class Member(s) and/or Individual PAGA members will have their Individual Settlement Share(s) and/or Individual PAGA Payment(s) available to them per the applicable claim procedure to request that money from the State of California.

10. Final Report by Settlement Administrator. Within ten (10) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.

I. Release of Claims by Participating Class Members. Participating Class Members, and their successors, assigns, and/or agents, and each and all of them, upon the Effective Date and by operation of the Final Approval Order, shall fully and finally release and discharge the Released Parties, and each and all of them (as defined in Section I(FF)), from the Released Claims, as defined in Section I(EE) of this Agreement.

J. Release of PAGA Claims. As of and subject to the occurrence of the Effective Date, and in consideration for the Gross Settlement Amount, Plaintiff, the LWDA, and any Individual PAGA Member, and each and all of them, fully release and forever discharge the Released Parties, and each of them (as defined in Section I(FF)), from the PAGA Released Claims (as defined in Section I(AA)).

K. Interest. The Gross Settlement Amount includes any and all interest accruals and no additional interest shall be due under any circumstances.

L. Miscellaneous Terms.

1. No Effect on Regular Rate or Overtime Compensation. Participating Class Members will receive payment under the Settlement, as determined by the Settlement Administrator in accordance with this Agreement. The Parties agree that this payment is not viewed as additional compensation for purposes of calculating a "regular rate" of pay under California or federal law for the period during which it is received, and no additional overtime compensation is required because of such payment; further, any claim to entitlement to any additional overtime compensation is expressly waived under the terms of this Agreement. No person or entity shall have any claim against Defendant, Defendant's Counsel, Plaintiff, any Class Members, Class Counsel, or the Settlement Administrator based upon distributions and payments made in accordance with this Agreement.

2. No Effect on Employee Benefits. The amounts paid under this Agreement to Plaintiff and Participating Class Members and the Class Representative Enhancement Payment, shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of Plaintiff or any

Participating Class Members. Such payments do not represent any modification of Plaintiff's and Participating Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Individual Settlement Share or Class Representative Payment shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

- 3. Publicity.** The Class Representative and Class Counsel, and each of them, will not make any public disclosures of any kind regarding the Settlement, including, but not limited to, postings on Class Counsel's website and postings on any social media sites/outlets. Class Counsel will take all steps necessary to ensure the Class Representative is aware of and will encourage him to adhere to, the restriction against any public disclosures regarding the Settlement. Class Counsel will not include or use the Settlement for any marketing or promotional purposes, or for attempting to influence Defendant's business relationships, either before or after the Motion for Preliminary Approval is filed. Following Preliminary Approval of the Settlement, the Class Representative and Class Counsel will not initiate any communications with the media or third parties. If contacted by the media or third parties, Class Counsel will only discuss information publicly available. Class Counsel will take all steps necessary to ensure the Class Representative is aware of and will encourage him to adhere to, the restriction against initiating any media comment. Class Counsel further agrees not to use the Settlement or any of its terms for any marketing or promotional purposes. Nothing herein will restrict Class Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Class Counsel's qualifications and experience. Class Counsel may refer to the settlement in adequacy of counsel declarations, and following Preliminary Approval, may state on their websites that they settled a wage-and-hour class action in the Superior Court for \$472,500.00, and generally describe the claims at issue, provided that they describe Defendant only as a "Defendant Employer." Further, the Parties understand and agree that Class Counsel may disclose this Settlement if ordered to do so by the Court, e.g., post any settlement documents/orders on their respective websites and/or provide information to Class Members about this Settlement.
- 4. Integrated Agreement.** This Agreement constitutes the exclusive and final understanding and expression of all agreements between the Parties with respect to the resolution of the Action and supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof. Plaintiff, on behalf of themselves and on behalf of the Class Members and PAGA Members, and Defendant enter into this Agreement based solely upon its terms and not in reliance upon any representations or promises other than those contained in this Agreement.
- 5. Review of Motions for Preliminary and Final Approval.** The preliminary approval order and the final approval order are to be mutually agreed upon by the

Parties prior to Plaintiff presenting the orders to the Court. Plaintiff will also provide Defendant with an opportunity to review and comment upon drafts of pleadings to be filed in connection with his Motion for Preliminary Approval and Motion for Final Approval (notice of motion and memorandum of points and authorities) at least three (3) business days prior to filing such motions with the Court.

- 6. Authorization to Enter Into Settlement Agreement.** Class Counsel and Counsel for Defendant warrant and represent that they are authorized by the Parties whom they represent to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate fully with each other to accomplish the terms of this Agreement, to use their best efforts to finalize this Agreement, and to use any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement. The person signing on behalf of Defendant represents and warrants that he is authorized to sign this Agreement on its behalf.
- 7. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
- 8. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.
- 9. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument: (1) signed by counsel for all Parties or their successors-in-interest; (2) signed by the Parties or their successors-in-interest; and (3) as may be approved by the Court.
- 10. Notice of Settlement to LWDA.** Plaintiff hereby represents that at the same time he files his Motion for Preliminary Approval, Plaintiff will provide notice of this Agreement and the proposed Settlement to the LWDA as required by Labor Code Section 2699(1)(2).

- 11. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- 12. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that he has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 13. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of California, without giving effect to any conflict of law principles or choice of law principles.
- 14. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arm's-length negotiations, considering all relevant factors, current and potential.
- 15. No Unalleged Claims.** Plaintiff and Class Counsel represent that they, as of the date of execution of this Agreement, have no current intention of pursuing any claims against Defendant in any judicial, administrative, or arbitral forum, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant, and that Class Counsel is not currently aware of any facts or legal theories upon which any claims or causes of action could be brought against Defendant, excepting those facts or legal theories alleged in the First Amended Complaint in this Action. Plaintiff and Class Counsel further represent and agree that they do not currently know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendant. The Parties further acknowledge, understand, and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation. Nothing in this paragraph will be construed as a restraint on the right of any counsel to practice.
- 16. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members and Plaintiff will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, if any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of such taxes. Plaintiff further represents and warrants that he understands that it is his sole obligation to pay appropriate federal, state, and local income taxes on any amounts he received under this Agreement that lawfully qualify as taxable income.

- 17. Jurisdiction of the Superior Court.** Pursuant to Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 18. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.
- 19. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 20. Plaintiff's Waiver of Right To Be Excluded.** By signing this Agreement, Plaintiff is bound by the terms herein stated and further agrees not to submit an Exclusion Form. Any such Exclusion Form shall, therefore, be void and of no force or effect. Plaintiff also agrees to not disparage the Settlement to Class Members or encourage, in any way, Class Members to submit or not to submit an Exclusion Form. In addition, neither Plaintiff nor Class Counsel will initiate any contact with Class Members about the amount or terms of the Settlement.
- 21. Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile, DocuSign, or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 22. Workweek Escalator.** Defendant represents that there are currently 22,100 workweeks worked by the Class Members during the Class Period. If, at the end of the Class Period, the number of workweeks worked by the Class Members during the Class Period is more than fifteen percent (15%) greater than this figure (i.e., if there are 25,416 or more workweeks worked by the Class Members), Defendant will have the option to either (i) increase the Gross Settlement Amount pro rata per additional workweek over the 25,416 workweeks; or (ii) end the Class Period on the date that is one day before the date the number of workweeks hits 25,416. It is in Defendant's sole discretion whether to choose option (i) or (ii) as set forth herein.

23. Defense. To the extent permitted by law, this Settlement may be pleaded as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted with respect to the Released Claims against the Released Parties in breach of or contrary to the Settlement.

24. Final Judgment. The Parties agree that, upon final approval of the Settlement, a Final Judgment will be made and entered, resolving the Action in its entirety.

[SIGNATURES ON NEXT PAGE]

WHEREFORE, Plaintiff, on behalf of himself and the Participating Class Members and PAGA Members, and Defendant, have executed this Agreement as of the dates set forth below.

04/14/2022

Dated: _____, 2022

PLAINTIFF ADRIAN ESCOBEDO



Adrian Escobedo

Dated: _____, 2022

DEFENDANT AMERIPEC, INC.

Ping Wu
President of Ameripec, Inc.

Dated: 4/14/_____, 2022

JUSTICE LAW CORPORATION



Douglas Han, Esq.
Attorneys for Plaintiff Adrian Escobedo, on behalf of himself and all others similarly situated

Dated: April 14_____, 2022

SHEPPARD MULLIN RICHTER & HAMPTON LLP



Greg S. Labate, Esq.
Tyler Z. Bernstein, Esq.
Attorneys for Defendant Ameripec, Inc.

WHEREFORE, Plaintiff, on behalf of himself and the Participating Class Members and PAGA Members, and Defendant, have executed this Agreement as of the dates set forth below.

Dated: _____, 2022

PLAINTIFF ADRIAN ESCOBEDO

Adrian Escobedo

Dated: April 14, 2022

DEFENDANT AMERIPEC, INC.



Ping Wu
President of Ameripec, Inc.

Dated: _____, 2022

JUSTICE LAW CORPORATION

Douglas Han, Esq.
Attorneys for Plaintiff Adrian Escobedo, on behalf of
himself and all others similarly situated

Dated: _____, 2022

SHEPPARD MULLIN RICHTER & HAMPTON LLP

Greg S. Labate, Esq.
Tyler Z. Bernstein, Esq.
Attorneys for Defendant Ameripec, Inc.