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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

DAVID EZELL, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

DIAB LEASING, INC., a California
Corporation; and DOES 1-50, Inclusive;

Defendants.

Case No. 34-2021-00305329

[Action Filed: July 30, 2021]

**FIRST AMENDED STIPULATION OF
SETTLEMENT OF CLASS ACTION
CLAIMS AND RELEASE OF CLAIMS**

Judge: Honorable Lauri A. Damrell
Dept.: 28

1 This First Amended Stipulation of Class Action Settlement and Release of Claims is entered
2 into by and between plaintiff DAVID EZELL (hereinafter "Plaintiff"), individually and on behalf of
3 the putative class and the State of California as a private attorney general, and Defendants DIAB
4 LEASING, INC. and FAROUK DIAB (hereinafter, collectively "Defendants");

5 **I. DEFINITIONS**

- 6 A. "Action" shall mean the putative class action lawsuit designated *David Ezell v. Diab*
7 *Leasing, Inc., et al.*, Sacramento County Superior Court Case No. 34-2021-00305329,
8 filed July 30, 2021 (hereinafter "the Action").
- 9 B. "Aggrieved Employees" shall mean each of the Class Members who was employed
10 by Defendants at any time during the PAGA Period.
- 11 C. "Agreement" or "Settlement Agreement" means this First Amended Stipulation of
12 Settlement of Class Action and Release of Claims.
- 13 D. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and
14 Shani Zakay of Zakay Law Group, APLC.
- 15 E. "Class Counsel Award" means the award of fees and expenses that the Court
16 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
17 and the Class in the Action, consisting of attorneys' fees currently not to exceed one-
18 third of the Maximum Settlement Amount currently estimated to be Five Hundred
19 Thirty-Three Thousand, Three Hundred Thirty-Three Dollars And Thirty-Three
20 Cents (\$533,333.33) plus costs and expenses in the amount of \$25,000. Class
21 Counsel's award for attorneys' fees will be divided equally between Class Counsel
22 (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC). A reduction of
23 the Class Counsel Award shall not be grounds to nullify this Agreement.
- 24 F. "Class Data" means information regarding Class Members that Diab Leasing, Inc.
25 will in good faith compile from its records and provide to the Settlement
26 Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall
27 include: each Class Member's full name; last known address; Social Security
28 Number; and start dates and end dates (if applicable) of employment.

- 1 G. "Class Members" or the "Class" means all individuals who are or previously were
2 employed by Defendants in California and classified as a non-exempt employee at
3 any time during the Class Period.
- 4 H. "Class Period" means the period from July 30, 2017, up to and including December
5 2, 2022.
- 6 I. "Class Representative's Payment" means the amount that the Court authorizes to be
7 paid to the Class Representative, in addition to his Individual Settlement Payment and
8 his pro-rata share of the PAGA Payment, in recognition of his efforts and risks in
9 assisting with the prosecution of the Action and in exchange for executing a general
10 release of all known and unknown claims he may have against Defendants and
11 Released Parties, based on his employment with any one or more of the Released
12 Parties. The Class Representative will be issued an IRS Form 1099 and its state and
13 local equivalents for any service payment amount received under the settlement.
14 Should the Class Representative's Payment not be approved or reduced by the Court,
15 any amount not approved and/or reduced by the Court will be returned to the Net
16 Settlement Amount pursuant to the remaining terms herein. A reduction of the Class
17 Representative's Payment shall not be grounds to nullify this Agreement.
- 18 J. "Class Representative" shall mean plaintiff DAVID EZELL.
- 19 K. "Court" shall mean the Superior Court for the State of California, County of
20 Sacramento currently presiding over the Action.
- 21 L. "Effective Date" shall mean the earliest date, following entry by the Court of an order
22 and judgment finally approving this Settlement, upon which one of the following have
23 occurred: (i) if no objection is filed to the settlement and no objector appears at the
24 hearing on final approval, the date of the Court's entry of the order granting final
25 approval, (ii) if an objection is filed to the settlement and/or an objector appears at the
26 hearing on final approval, then the earlier of the following: (a) the expiration of all
27 potential appeal periods without a filing of a notice of appeal of the final approval
28 order or judgment; (b) final affirmance of the final approval order and judgment by

an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all such appeals (including any petition for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review.

M. "Funding Date" shall mean the date that the Maximum Settlement Amount is fully funded by Defendants into the QSF in accordance with the terms of this Agreement. Defendants will fund the Gross Settlement Amount thirty (30) calendar days after the Effective Date.

N. "Individual Settlement Payment" shall mean the amount payable from the Net Settlement Amount to each Settlement Class Member and excludes any amounts distributed to Aggrieved Employees pursuant to PAGA.

O. "LWDA" shall mean the Labor and Workforce Development Agency.

P. "Maximum Settlement Amount" shall mean One Million Six Hundred Thousand Dollars and Zero Cents (\$1,600,000.00) that Defendants must pay into the QSF, inclusive of the sum of the Individual Settlement Payments, the Class Representative's Payment, the Class Counsel Award, PAGA Payment and the Settlement Administration Costs and *exclusive* of the employer's share of payroll tax, if any, triggered by any payment under this Settlement.

Q. "Net Settlement Amount" or "NSA" shall mean the Maximum Settlement Amount, less Class Counsel Award, Class Representative's Payment, PAGA Payment, and Settlement Administration Costs.

R. "Notice Packet" shall mean the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).

S. "PAGA" shall mean the California Labor Code Private Attorneys General Act of 2004, Labor Code § 2698 *et seq.*

T. "PAGA Pay Periods" shall mean, for purposes of calculating the distribution of the Aggrieved Employee Payment, the number of pay periods of employment during the PAGA Period that each Aggrieved Employee worked in California.

- 1 U. "PAGA Payment Ratio" shall mean the respective number of pay periods during the
2 PAGA Period for each Aggrieved Employee divided by the sum total of the pay
3 periods for all Aggrieved Employees during the PAGA Period.
- 4 V. "PAGA Period" shall mean the period between May 25, 2020, and continuing through
5 up to and including December 2, 2022.
- 6 W. "PAGA Payment" shall mean Eighty Thousand Dollars and Zero Cents (\$80,000.00)
7 to be allocated from the Maximum Settlement Amount.
- 8 X. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
9 Plaintiff or Defendants, individually.
- 10 Y. "Payment Ratio" shall mean the respective number of Workweeks for each Class
11 Member divided by the sum total Workweeks for all Class Members.
- 12 Z. "Plaintiff" shall mean DAVID EZELL.
- 13 AA. "QSF" shall mean the qualified settlement fund established, designated, and
14 maintained by the Settlement Administrator to fund the Maximum Settlement
15 Amount. The QSF shall be established in federally insured bank accounts (i.e., FDIC).
- 16 BB. "Released Class Claims" shall mean all claims that were alleged, or reasonably could
17 have been alleged, based on the facts alleged in the complaint, including, but not
18 limited to claims arising under Labor Code sections 200, 201, 201.5, 202, 203, 204,
19 205.5, 206.5, 226, et seq., 226.2, 226.7, 246, 510, et seq., 512, 515, 558, 1194, 1197,
20 1197.1, 1198, 2698, et seq., 2802, California Code of Civil Procedure sections 382,
21 395, 395.5, 410, 474, Business and Professions Code section 17200, et seq., 17203,
22 and the requirement for the Industrial Welfare Commission Wage Order, as well as
23 claims for failure to pay minimum wages in violation of Cal. Labor Code §§ 1194,
24 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510,
25 et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7
26 & 512 and the applicable IWC Wage Order; failure to provide required rest periods
27 in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order;
28 failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226,

226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to timely pay wages in violation of Cal. Lab. Code § 204; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802; and claims involving any alleged unfair competition in violation of Cal. Bus. & Prof. Code § 17200, et seq. arising from the Labor Code violations released herein, that occurred during the Class Period.

CC. “Released PAGA Claims” means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint and PAGA notice provided to the LWDA pursuant to Labor Code section 2699.3, subd. (a), including but not limited to, claims arising under Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 206.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2699.5, 2802, 2804, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims involving failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802, that occurred during the PAGA Period.

DD. “Released Parties” shall mean Defendants, DIAB AND ABED, INC.; FAROUK DIAB AND ZAHER ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC.; FAROUK DIAB AND FRAIDOUN AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL

ASPIRAS; DIAB AND BAWAB, INC; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB, and all of their respective current and former partners, parents, subsidiaries, franchisors, Galardi Group Franchise Corp., Galardi Group Franchise & Leasing, LLC, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

EE. “Response Deadline” shall mean the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

FF. “Settlement” means the disposition of the Action pursuant to this Agreement.

GG. “Settlement Administrator” shall mean ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. *All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payment.*

HH. “Settlement Class Members” or “Settlement Class” shall mean all Class Members who have not submitted a timely and valid request for exclusion as provided in this Agreement.

1 II. "Workweeks" shall mean, for purposes of calculating the distribution of the Net
2 Settlement Amount, the number of weeks of employment during the Class Period that
3 each Class Member was employed by Defendants in California.

4 **II. RECITALS**

5 A. On May 25, 2021, Plaintiff submitted a notice of violations to the LWDA and Diab
6 Leasing, Inc.

7 B. On July 30, 2021, Plaintiff filed the Action alleging causes of action for:

8 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

9 2. Failure to Pay Minimum Wages in Violation of California Labor Code
10 sections 1194, 1197, and 1197.1;

11 3. Failure to Pay Overtime Wages in Violation of California Labor Code sections
12 510, *et seq*;

13 4. Failure to Provide Required Meal Periods in Violation of California Labor
14 Code sections 226.7 & 512 and the applicable IWC Wage Order;

15 5. Failure to Provide Required Rest Periods in Violation of California Labor
16 Code sections 226.7 & 512 and the applicable IWC Wage Order;

17 6. Failure to Provide Accurate Itemized Wage Statements in Violation of
18 California Labor Code sections 226 and 226.2;

19 7. Failure to Reimburse for Required Expenses in Violation of California Labor
20 Code section 2802;

21 8. Failure to Provide Wages When Due in Violation of California Labor Code
22 sections 201, 202 and 203;

23 9. Violation of the Private Attorneys General Act [Labor Code section 2698]
24 ("PAGA").

25 C. The Class Representative believes he has meritorious claims based on alleged
26 violations of the California Labor Code, and the Industrial Welfare Commission
27 Wage Orders, and that class certification is appropriate because the prerequisites for
28

1 class certification can be satisfied in the Action, and this action is manageable as a
2 PAGA representative action.

3 D. Defendants deny any liability or wrongdoing of any kind associated with the claims
4 alleged in the Action, dispute any wages, damages and penalties claimed by the Class
5 Representative are owed, and further contend that, for any purpose other than
6 settlement, the Action is not appropriate for class or representative action treatment.
7 Defendants contend, among other things, that at all times they complied with the
8 California Labor Code and the Industrial Welfare Commission Wage Orders.

9 E. The Class Representative is represented by Class Counsel. Class Counsel conducted
10 an investigation into the facts relevant to the Action, including conducting an
11 independent investigation as to the allegations, reviewing documents and information
12 exchanged through informal discovery, and reviewing documents and information
13 provided by Defendants pursuant to informal requests for information to prepare for
14 mediation. Defendants produced for the purpose of settlement negotiations certain
15 employment data concerning the Settlement Class, which Class Counsel reviewed
16 and analyzed. Based on their own independent investigation and evaluation, Class
17 Counsel is of the opinion that the Settlement with Defendants is fair, reasonable, and
18 adequate, and is in the best interest of the Settlement Class in light of all known facts
19 and circumstances, including the risks of significant delay, defenses asserted by
20 Defendants, uncertainties regarding class certification, and numerous potential
21 appellate issues. Although they deny any liability, Defendants are agreeing to this
22 Settlement solely to avoid the inconveniences and cost of further litigation. The
23 Parties have agreed to settle the claims on the terms set forth in this Agreement.

24 F. On July 18, 2022, the Parties participated in mediation presided over by Tripper
25 Ortman, an experienced mediator of wage and hour class actions. The Parties and
26 Mediator Ortman subsequently requested the assistance of Judge Mitchell Goldberg
27 (Ret.), a retired Federal Bankruptcy Judge after Defendant raised an inability to pay
28 defense. As a part of the mediation, Judge Goldberg reviewed Defendant's financial

documents, evaluated Defendant's financial standing, and conferred with Mediator Ortman. Subsequently, Mediator Ortman made a mediator's proposal based on Judge Goldberg's evaluation. The Parties agreed to the mediator's proposal which was subsequently memorialized in the form of a Memorandum of Understanding ("MOU").

G. This Agreement replaces and supersedes the MOU, the Stipulation of Class Action Settlement and Release of Claims, and any other agreements, understandings, or representations between the Parties. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants or Released Parties that the claims in the Action of Plaintiff or the Class Members have merit or that Defendants bear any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the Action have merit.

H. The Parties believe that the Settlement is fair, reasonable and adequate. The Settlement was arrived at through arm's-length negotiations and with the assistance of Mediator Ortman and Judge Goldberg, taking into account all relevant factors. The Parties recognize the uncertainty, risk, expense and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Action. In addition, mediator Tripper Ortman, may, at the Parties' discretion, execute a declaration supporting the settlement, and the Court may, in its discretion, contact Tripper Ortman to discuss the settlement, and whether the settlement is fair and reasonable.

I. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action.

J. Plaintiff represents and warrants that he is younger than 40 years old as of the date that he signs this Settlement Agreement.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendants will pay the Maximum Settlement Amount of One Million Six Hundred Thousand Dollars and Zero Cents (\$1,600,000.00). The Parties agree that this is a non-reversionary Settlement and that no portion of the Maximum Settlement Amount shall revert to Defendants. Other than the Defendants' share of employer payroll taxes, Defendants shall not be required to pay more than the Maximum Settlement Amount, except as provided for hereinbelow. Defendants are jointly and severally liable for payment of the Maximum Settlement Amount.
2. Class Size. Defendants estimate the number of work weeks during the Class Period to be approximately 56,669. If the actual number of work weeks during the Class Period exceeds 56,669 by more than 10%, Defendants at their exclusive discretion shall either increase the Maximum Settlement Amount proportionately for any excess increase beyond 62,335 in the total number of work weeks during the Class Period, or in the alternative, Defendants shall have the exclusive option to modify the end date of the applicable Class Period to a date to avoid incurring the pro rata increase. Under the second option, no additional payment is necessary. For example, if the number of work weeks during the Class Period increases by 12%, the Maximum Settlement Amount will increase by 2% (actual increase minus the 10% tolerated increase).

- 1 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
2 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members,
3 on behalf of themselves and their respective former and present representatives,
4 agents, attorneys, heirs, administrators, successors, and assigns, release and discharge
5 the Released Parties from the Released Class Claims for the Class Period.
- 6 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
7 consideration set forth in this Agreement, each of the Aggrieved Employees, the
8 Plaintiff, the LWDA and the State of California, on behalf of themselves and their
9 respective former and present representatives, agents, attorneys, heirs, administrators,
10 successors, and assigns, release and discharge the Released Parties from the Released
11 PAGA Claims for the PAGA Period.
- 12 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
13 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
14 Released Parties from any and all claims, including but not limited to: Any and all
15 wage-and-hour claims arising under the laws of the State of California, including,
16 without limitation, statutory, constitutional, contractual, and/or common law claims
17 for wages, damages, restitution, unreimbursed expenses, equitable relief, penalties,
18 liquidated damages, interest, and/or punitive damages (including, without limitation,
19 claims under any applicable Industrial Welfare Commission Wage Order, the
20 California Private Attorneys General Act, or any other provision of the California
21 Labor Code); Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 1981; the
22 Americans With Disabilities Act; Sections 503 and 504 of the Rehabilitation Act of
23 1973; the Family Medical Leave Act; the Fair Labor Standards Act; the Employee
24 Retirement Income Security Act; the Occupational Safety and Health Act; the Worker
25 Adjustment and Retraining Notification Act, as amended; the California Unfair
26 Competition Law (Cal. Bus. & Prof. Code § 17200 *et seq.*); the California Fair
27 Employment and Housing Act; any state, civil, or statutory laws, including any and all
28 human rights laws and laws against discrimination; any claims that could have been

1 alleged in the Lawsuit; and any other federal, state, or local statutes, codes, or
2 ordinances; any common law, contract law, or tort law cause of action; and any claims
3 for interest, attorneys' fees, and/or costs. This release does not extend to claims that
4 cannot be released as a matter of law, such as workers' compensation claims. Further,
5 in exchange for his Class Representative's Payment Plaintiff expressly waives the
6 protections of California Civil Code section 1542, and it is his intention in executing
7 this Agreement that the same shall be effective as a bar to each and every claim,
8 complaint, action, debts, promises, demand, cause of action, obligation, damage,
9 liability, charge, attorneys' fees and costs herein above released. Plaintiff also waives
10 and relinquishes any and all claims, rights or benefits, if any, arising under California
11 Civil Code § 1542, which provides as follows:

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

18 Thus, notwithstanding the provisions of section 1542, and to implement a full and
19 complete release and discharge of the Released Parties, Plaintiff expressly acknowledges
20 this Settlement Agreement is intended to include in its effect, without limitation, all
21 claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of
22 signing this Settlement Agreement, and that this Settlement Agreement contemplates the
23 extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this
24 Settlement Agreement, including this waiver of California Civil Code section 1542, and
25 that Plaintiff has consulted with or had the opportunity to consult with counsel of
26 Plaintiff's choosing about this Settlement Agreement and specifically about the waiver
27 of section 1542, and that Plaintiff understands this Settlement Agreement and the section
28 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement

1 Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts
2 different from or in addition to those Plaintiff now knows or believes to be true regarding
3 the matters released or described in this Settlement Agreement, and even so Plaintiff
4 agrees that the releases and agreements contained in this Settlement Agreement shall
5 remain effective in all respects notwithstanding any later discovery of any different or
6 additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection
7 with the true facts involved in the matters, disputes, or controversies released or
8 described in this Settlement Agreement or with regard to any facts now unknown to
9 Plaintiff relating thereto.

10 Plaintiff expressly acknowledges Medicare's statutory right to recovery of conditional
11 payments for medical treatment and medical service rendered in connection with any
12 illness or injury suffered by Plaintiff in the course of Plaintiff's employment with
13 Defendants, and guarantees that Plaintiff is not a Medicare Beneficiary, and there are
14 no outstanding Medicare or Medicaid claims or rights of recovery of conditional
15 payments based on Plaintiff's application for, or receipt of, Medicare or Medicaid
16 benefits. This specifically includes benefits arising out of or in any way connected
17 with, directly or indirectly, the facts and/or allegations that form the basis of the
18 Action, the occurrences described herein, and any consequences thereof. Additionally,
19 Plaintiff warrants, represents, and guarantees that Plaintiff has no medical expenses
20 arising out of or in any way connected with, directly or indirectly, the facts and/or
21 allegations that form the basis of the Action, the occurrences described herein, and any
22 consequences thereof, including any of Plaintiff's released claims, nor does Plaintiff
23 anticipate any medical expenses arising out of or in any way connected with, directly
24 or indirectly, the facts and/or allegations that form the basis of the Action, the
25 occurrences described herein, and any consequences thereof, including any released
26 claims. In the event Medicare asserts such a claim or right of reimbursement now, or
27 at any point in the future, all such claims or rights of reimbursement shall be satisfied
28 from among the proceeds of this settlement, and no additional monies shall ever be

1 requested from or paid by the Released Parties. This settlement is based upon a good
2 faith determination of the Parties to resolve disputed claims. The Parties have not
3 shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C.
4 § 1395y(b). The Parties resolved this matter in compliance with both state and federal
5 law. The Parties made every effort to adequately protect Medicare's interest and
6 incorporate such into the settlement terms. The Parties acknowledge and understand
7 that any present or future action or decision by the Centers for Medicare & Medicaid
8 Services ("CMS") or Medicare on this Agreement, or Plaintiff's eligibility or
9 entitlement to Medicare or Medicare payments, will not render this release void or
10 ineffective, or in any way affect the finality of this Agreement.

11 E. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
12 not preliminarily or finally approved by the Court, or is reversed, withdrawn or
13 modified by the Court, or in any way prevents or prohibits Defendants from obtaining
14 a complete resolution of the Released Class Claims and Released PAGA Claims, or if
15 Defendants fail to fully fund the Maximum Settlement Amount:

- 16 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
17 and shall not be admissible in any judicial, administrative or arbitral
18 proceeding for any purpose or with respect to any issue, substantive or
19 procedural;
- 20 2. The conditional class certification (obtained for any purpose) shall be void *ab*
21 *initio* and of no force or effect, and shall not be admissible in any judicial,
22 administrative or arbitral proceeding for any purpose or with respect to any
23 issue, substantive or procedural; and
- 24 3. None of the Parties to this Settlement will be deemed to have waived any
25 claims, objections, defenses or arguments in the Action, including with respect
26 to the issue of class certification.
- 27 4. If Defendants fail to fully fund the Maximum Settlement Amount, Defendants
28 shall bear the sole responsibility for any cost to issue or reissue any curative

1 notice to the Settlement Class Members and all Settlement Administration
2 Costs incurred to the date of nullification.

3 F. Certification of the Settlement Class. The Parties stipulate to conditional class
4 certification of the Class for the Class Period for purposes of settlement only. In the
5 event that this Settlement is not approved by the Court, fails to become effective, or is
6 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
7 Defendants from obtaining a complete resolution of the Released Claims, the
8 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
9 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
10 proceeding for any purpose or with respect to any issue, substantive or procedural.

11 G. Tax Liability. The Parties make no representations as to the tax treatment or legal
12 effect of the payments called for, and Class Members and/or Aggrieved Employees
13 are not relying on any statement or representation by the Parties in this regard.
14 Class Members and/or Aggrieved Employees understand and agree that they will be
15 responsible for the payment of any taxes and penalties assessed on the Individual
16 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
17 Payment described and will be solely responsible for any penalties or other
18 obligations resulting from their personal tax reporting of Individual Settlement
19 Payments and/or Aggrieved Employees' individual shares of the PAGA Payment.
20 Plaintiff shall be solely and legally responsible for paying any and all applicable
21 taxes on these Class Representative's Payment and shall hold Defendants harmless
22 from any claim or liability for taxes, penalties or interest arising as a result of the
23 payment. Defendants made no representations as to the tax treatment or legal effect
24 of the payment called for herein, and Plaintiff is not relying on any statement or
25 representation by Defendants or Defendants' counsel in this regard. Neither
26 Defendants, nor its counsel shall have any liability for any tax implications related
27 to the receipt of settlement funds herein, including by the third-party settlement
28 administrator; any and all such liability and/or obligations shall be borne solely by

1 the recipients of any funds to be paid by Defendants herein. The Parties
2 acknowledge neither Defendants nor Plaintiffs' counsel have provided any tax-
3 related advice whatsoever. The Settlement Administrator shall have and use its own
4 Employer Identification Number for purposes of calculating payroll tax
5 withholdings and providing reports to state and federal tax authorities.

6 H. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
7 the "acknowledging party" and each Party to this Agreement other than the
8 acknowledging party, an "other party") acknowledges and agrees that: (1) no
9 provision of this Agreement, and no written communication or disclosure between or
10 among the Parties or their attorneys and other advisers, is or was intended to be, nor
11 shall any such communication or disclosure constitute or be construed or be relied
12 upon as, tax advice within the meaning of United States Treasury Department circular
13 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied
14 exclusively upon his, her or its own, independent legal and tax counsel for advice
15 (including tax advice) in connection with this Agreement, (b) has not entered into this
16 Agreement based upon the recommendation of any other Party or any attorney or
17 advisor to any other Party, and (c) is not entitled to rely upon any communication or
18 disclosure by any attorney or adviser to any other party to avoid any tax penalty that
19 may be imposed on the acknowledging party, and (3) no attorney or adviser to any
20 other Party has imposed any limitation that protects the confidentiality of any such
21 attorney's or adviser's tax strategies (regardless of whether such limitation is legally
22 binding) upon disclosure by the acknowledging party of the tax treatment or tax
23 structure of any transaction, including any transaction contemplated by this
24 Agreement.

25 I. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
26 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
27 which shall include this Settlement Agreement. Plaintiff will provide Defendants
28 with a draft of the Motion at least three (3) business days prior to the filing of the

1 Motion to give Defendants an opportunity to propose changes or additions to the
2 Motion.

3 J. Settlement Administrator. The Settlement Administrator shall be responsible for:
4 establishing and administering the QSF; calculating, processing and mailing
5 payments to the Class Representative, Class Counsel, LWDA and Class Members;
6 printing and mailing the Notice Packets to the Class Members as directed by the
7 Court; receiving and reporting the objections and requests for exclusion; calculating,
8 deducting and remitting all legally required taxes from Individual Settlement
9 Payments and distributing tax forms for the Wage Portion and Non-Wage Portion of
10 the Individual Settlement Payments and/or Aggrieved Employees' individual shares
11 of the PAGA Payment; processing and mailing tax payments to the appropriate state
12 and federal taxing authorities; providing declaration(s) as necessary in support of
13 preliminary and/or final approval of this Settlement; and other tasks as the Parties
14 mutually agree or the Court orders the Settlement Administrator to perform. The
15 Settlement Administrator shall keep the Parties timely apprised of the performance of
16 all Settlement Administrator responsibilities by among other things, sending a weekly
17 status report to the Parties' counsel stating the date of the mailing, the of number of
18 Requests for Exclusion from the Settlement it receives (including the numbers of
19 valid and deficient), the full names of the Class Members who requested exclusion
20 from the Settlement, and number of objections received.

21 K. Notice Procedure.

22 1. Class Data. No later than ten (10) business days after the Preliminary
23 Approval Date, Defendants shall provide the Settlement Administrator with
24 the Class Data for purposes of preparing and mailing Notice Packets to the
25 Class Members. To protect Class Members' privacy rights, the Settlement
26 Administrator must maintain the Class Data in confidence, use the Class Data
27 only for purposes of this Settlement and for no other purpose, and restrict
28

1 access to the Class Data to Settlement Administrator employees who need
2 access to the Class Data to effect and perform under this Agreement.

3 2. Notice Packets.

4 a) The Notice Packet shall contain the Notice of Class Action Settlement
5 in a form substantially similar to the form attached as Exhibit A. The
6 Notice of Class Action Settlement shall inform Class Members and
7 Aggrieved Employees that they need not do anything in order to
8 receive an Individual Settlement Payment and/or Aggrieved
9 Employees' individual shares of the PAGA Payment and to keep the
10 Settlement Administrator apprised of their current mailing address, to
11 which the Individual Settlement Payments and/or Aggrieved
12 Employees' individual shares of the PAGA Payment will be mailed
13 following the Funding Date. The Notice of Class Action Settlement
14 shall set forth the release to be given by all members of the Class who
15 do not request to be excluded from the Settlement Class and/or
16 Aggrieved Employees' in exchange for an Individual Settlement
17 Payment and/or Aggrieved Employees' individual shares of the PAGA
18 Payment, the number of Workweeks worked by each Class Member
19 during the Class Period and PAGA Period, if any, and the estimated
20 amount of their Individual Settlement Payment if they do not request
21 to be excluded from the Settlement and each Aggrieved Employee's
22 share of the PAGA Payment, if any. The Settlement Administrator
23 shall use the Class Data to determine Class Members' Workweeks and
24 PAGA Workweeks. The Notice will also advise the Aggrieved
25 Employees that they will release the Released PAGA Claims and will
26 receive their share of the PAGA Payment regardless of whether they
27 request to be excluded from the Settlement.
28

1 b) The Notice Packet's mailing envelope shall include the following
2 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
3 ENTITLED TO PARTICIPATE IN A CLASS ACTION
4 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
5 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
6 NOTICE."

7 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
8 Settlement Administrator will perform a search based on the National Change
9 of Address Database to update and correct any known or identifiable address
10 changes. No later than fourteen (14) calendar days after receiving the Class
11 Data from Defendants, the Settlement Administrator shall mail copies of the
12 Notice Packet to all Class Members via regular First-Class U.S. Mail. The
13 Settlement Administrator shall exercise its best judgment to determine the
14 current mailing address for each Class Member. The address identified by the
15 Settlement Administrator as the current mailing address shall be presumed to
16 be the best mailing address for each Class Member.

17 4. Undeliverable Notices. Not later than three (3) business days after the
18 Settlement Administrator's receipt of any Class Notice returned by the United
19 States Postal Service ("USPS") as undelivered, the Settlement Administrator
20 shall remail the Class Notice using any forwarding address provided by the
21 USPS. If the USPS does not provide a forwarding address, the Settlement
22 Administrator shall conduct a Class Member Address Search, and re-mail the
23 Class Notice to the most current address obtained. The Settlement
24 Administrator has no obligation to make further attempts to locate or send
25 Class Notice to Class Members whose Class Notice is returned by the USPS
26 a second time. Class Members who received a re-mailed Notice Packet shall
27 have their Response Deadline extended fifteen (15) days from the original
28 Response Deadline.

- 1 5. Disputes Regarding Individual Settlement Payments. Class Members will
2 have the opportunity, should they disagree with Defendants' records regarding
3 the start and end dates of employment to provide documentation and/or an
4 explanation to show contrary dates. If there is a dispute, Defendants' records
5 will be presumed determinative. The Settlement Administrator shall
6 determine the eligibility for, and the amounts of, any Individual Settlement
7 Payments under the terms of this Agreement. The Settlement Administrator's
8 determination of the eligibility for and amount of any Individual Settlement
9 Payment shall be binding upon the Class Member and the Parties.
- 10 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
11 by the Settlement Administrator concerning the administration of the
12 Settlement will be resolved by the Court under the laws of the State of
13 California. Before any such involvement of the Court, counsel for the Parties
14 will confer in good faith to resolve the disputes without the necessity of
15 involving the Court.
- 16 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
17 Packet shall state that Class Members who wish to exclude themselves from
18 the Settlement must submit a written request for exclusion by the Response
19 Deadline. The written request for exclusion must state that the Class Member
20 wishes to exclude himself or herself from the Settlement and (1) must contain
21 the name, address, and the last four digits of the Social Security number of the
22 person requesting exclusion; (2) must be signed by the Class Member; (3)
23 must be postmarked or fax stamped by the Response Deadline and returned to
24 the Settlement Administrator at the specified address or fax telephone number;
25 and (4) contain a typewritten or handwritten notice stating in substance: "I
26 wish to opt out of the settlement of the class action lawsuit entitled *David Ezell*
27 *v. Diab Leasing, Inc., et al.*, currently pending in the Superior Court for the
28 County of Sacramento, Case No. 34-2021-00305329. I understand that by

1 requesting to be excluded from the settlement, I will receive no money from
2 the Settlement described in this Notice.” The request for exclusion will not
3 be valid if it is not timely submitted, if it is not signed by the Class Member,
4 or if it does not contain the name and address and last four digits of the Social
5 Security number of the Class Member. The date of the postmark on the
6 mailing envelope or fax stamp on the request for exclusion shall be the
7 exclusive means used to determine whether the request for exclusion was
8 timely submitted. Any Class Member who requests to be excluded from the
9 Settlement Class will not be entitled to an Individual Settlement Payment and
10 will not be otherwise bound by the terms of the Settlement or have any right
11 to object, appeal or comment thereon. However, any Class Member that
12 submits a timely request for exclusion that is also a member of the Aggrieved
13 Employees will still receive his/her pro rata share of the PAGA Payment, as
14 specified below, and in consideration, will be bound by the Release by the
15 Aggrieved Employees as set forth herein. Settlement Class Members who fail
16 to submit a valid and timely written request for exclusion on or before the
17 Response Deadline shall be bound by all terms of the Settlement and any final
18 judgment entered in this Action if the Settlement is approved by the Court.
19 No later than fourteen (14) calendar days after the Response Deadline, the
20 Settlement Administrator shall provide counsel for the Parties with a final list
21 of the Class Members who have timely submitted written requests for
22 exclusion. At no time shall any of the Parties or their counsel seek to solicit
23 or otherwise encourage members of the Class to submit requests for exclusion
24 from the Settlement. If more than 10% of the Class Members request
25 exclusion from the Settlement, Defendants may rescind the Settlement within
26 ten (10) business days of learning this information. The Parties agree that, if
27 either Defendants rescinds, the Settlement shall be void *ab initio*, have no
28

1 force or effect whatsoever, and that neither Party will have any further
2 obligation to perform under this Agreement.

3 8. Objections. The Notice of Class Action Settlement contained in the Notice
4 Packet shall state that Class Members who wish to object to the Settlement
5 may submit to the Settlement Administrator a written statement of objection
6 (“Notice of Objection”) by the Response Deadline. The postmark date of
7 mailing shall be deemed the exclusive means for determining that a Notice of
8 Objection was served timely. The Notice of Objection must be signed by the
9 Settlement Class Member and state: (1) the case name and number; (2) the
10 name of the Settlement Class Member; (3) the address of the Settlement Class
11 Member; (4) the last four digits of the Settlement Class Member’s Social
12 Security number; (4) the basis for the objection; and (5) if the Settlement Class
13 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
14 Class Members who fail to make objections in writing in the manner specified
15 above may still make their objections orally at the Final Approval/Settlement
16 Fairness Hearing with the Court’s permission. Settlement Class Members will
17 have a right to appear at the Final Approval/Settlement Fairness Hearing to
18 have their objections heard by the Court. At no time shall any of the Parties
19 or their counsel seek to solicit or otherwise encourage Class Members to file
20 or serve written objections to the Settlement or appeal from the Order and
21 Final Judgment. Class Members who submit a written request for exclusion
22 may not object to the Settlement. Class Members may not object to the PAGA
23 Payment or Released PAGA Claims.

24 L. Funding and Allocation of the Maximum Settlement Amount. Defendant is required
25 to pay the Maximum Settlement Amount, plus any employer’s share of payroll taxes
26 as mandated by law on or before the Funding Date. The Settlement Administrator
27 shall deposit the Maximum Settlement Amount into federally insured bank accounts
28 (i.e., FDIC) so that all money held by the Settlement Administrator is federally insured.

1 To the extent that any payment required by this paragraph is due on a Saturday,
2 Sunday, or legal holiday, the due date shall be continued to the following business day.

3 1. Individual Settlement Payments. Individual Settlement Payments shall be
4 paid from the Net Settlement Amount and shall be paid pursuant to the
5 formula set forth herein. Using the Class Data, the Settlement Administrator
6 shall add up the total number of Workweeks for all Class Members. The
7 respective Workweeks for each Class Member will be divided by the total
8 Workweeks for all Class Members, resulting in the Payment Ratio for each
9 Class Member. Each Class Member's Payment Ratio will then be multiplied
10 by the Net Settlement Amount to calculate each Class Member's estimated
11 Individual Settlement Payments. Each Individual Settlement Payment will be
12 reduced by any legally mandated employee tax withholdings (e.g., employee
13 payroll taxes, etc.). Individual Settlement Payments for Class Members who
14 submit valid and timely requests for exclusion will be redistributed to
15 Settlement Class Members who do not submit valid and timely requests for
16 exclusion on a pro rata basis based on their respective Payment Ratios.

17 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
18 Class Data, the Settlement Administrator shall add up the total number of
19 PAGA pay periods for all Aggrieved Employees during the PAGA Period.
20 The respective PAGA pay periods for each Aggrieved Employee will be
21 divided by the total PAGA pay periods for all Aggrieved Employees, resulting
22 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
23 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
24 Aggrieved Employee Payment to calculate each Aggrieved Employee's
25 estimated share of the PAGA Payment.

26 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
27 Settlement Payments shall be allocated and treated as follows: 10% as wages
28 ("Wage Portion"); 90% as penalties and interest ("Non-Wage Portion"). The

1 Wage Portion is subject to wage withholdings and shall be reported on IRS
2 Form W-2 and its state and local equivalents. The Non-Wage Portion shall not
3 be subject to wage withholdings and shall be reported on IRS Form 1099 and
4 its state and local equivalents.

5 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
6 Employee Settlement Payments shall be allocated and treated as 100%
7 penalties and shall be reported on IRS Form 1099 and its state and local
8 equivalents.

9 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
10 individual shares of the PAGA Payment made to Settlement Class Members
11 and/or Aggrieved Employees under this Settlement Agreement, as well as any
12 other payments made pursuant to this Settlement Agreement, will not be
13 utilized to calculate any additional benefits under any benefit plans to which
14 any Class Members may be eligible, including, but not limited to profit-
15 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
16 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
17 Parties' intention that this Settlement Agreement will not affect any rights,
18 contributions, or amounts to which any Class Members may be entitled under
19 any benefit plans.

20 6. All monies received by Settlement Class Members under the Settlement which
21 are attributable to wages shall constitute income to such Settlement Class
22 Members solely in the year in which such monies actually are received by the
23 Settlement Class Members. It is the intent of the Parties that Individual
24 Settlement Payments and individual shares of the PAGA Payment provided for
25 in this Settlement agreement are the sole payments to be made by Defendants to
26 Settlement Class Members and/or Aggrieved Employees in connection with this
27 Settlement Agreement, with the exception of Plaintiff, and that the Settlement
28 Class Members and/or Aggrieved Employees are not entitled to any new or

1 additional compensation or benefits as a result of having received the Individual
2 Settlement Payments and/or their shares of the PAGA Payment.

3 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
4 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
5 and/or Aggrieved Employees last known mailing address no later than fifteen
6 (15) calendar days after the Maximum Settlement Amount is funded.

7 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
8 Employees shall remain valid and negotiable for one hundred and eighty (180)
9 days from the date of their issuance. If a Settlement Class Member and/or
10 Aggrieved Employee does not cash his or her settlement check within ninety
11 (90) days, the Settlement Administrator will send a letter to such persons,
12 advising that the check will expire after the 180th day, and invite that
13 Settlement Class Member and/or Aggrieved Employee to request reissuance
14 in the event the check was destroyed, lost or misplaced. In the event an
15 Individual Settlement Payment and/or Aggrieved Employee's individual
16 share of the PAGA Payment check has not been cashed within one hundred
17 and eighty (180) days, all funds represented by such uncashed checks, plus
18 any interest accrued thereon, shall be distributed consistent with California
19 Code of Civil Procedure Section 384 as follows: to Bet Tzedek. Class
20 Counsel, Defendants' counsel, nor any of the Parties, have any interest,
21 pecuniary or otherwise, in Bet Tzedek.

22 9. Class Representative's Payment. In addition to the Individual Settlement
23 Payment and his individual share of the PAGA Payment to be paid to Plaintiff,
24 Plaintiff will apply to the Court for an award of not more than Ten Thousand
25 Dollars and Zero Cents (\$10,000.00), as the Class Representative's Payment.
26 Defendants do not presently intend to oppose a Class Representative's
27 Payment of not more than \$10,000.00 for Plaintiff. The Settlement
28 Administrator shall pay the Class Representative's Payment, either in the

1 amount stated herein if approved by the Court or some other amount as
2 approved by the Court, to Plaintiff from the Maximum Settlement Amount no
3 later than ten (10) calendar days after the Funding Date. Any portion of the
4 requested Class Representative's Payment that are not awarded to the Class
5 Representative shall be part of the Net Settlement Amount and shall be
6 distributed to Settlement Class Members as provided in this Agreement. The
7 Settlement Administrator shall issue an IRS Form 1099 — MISC and its state
8 and local equivalents to Plaintiff for his Class Representative's Payment.
9 Plaintiff shall be solely and legally responsible to pay any and all applicable
10 taxes on his Class Representative's Payment and shall hold harmless the
11 Released Parties from any claim or liability for taxes, penalties, or interest
12 arising as a result of the Class Representative's Payment. The Class
13 Representative's Payment shall be in addition to Plaintiff's Individual
14 Settlement Payment as a Settlement Class Member. Approval of this
15 Settlement shall not be conditioned on Court approval of the requested amount
16 of the Class Representative's Payment. In the event that the Court reduces or
17 does not approve the requested Class Representative's Payment, Plaintiff shall
18 not have the right to revoke the Settlement, and it will remain binding.

- 19 10. Class Counsel Award. Defendants do not presently oppose or intend to object
20 to an application for attorneys' fees not to exceed one-third of the Maximum
21 Settlement Amount currently estimated to be Five Hundred Thirty-Three
22 Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents
23 (\$533,333.33) plus costs and expenses supported by declaration not to exceed
24 Twenty-Five Thousand Dollars (\$25,000.00), from the Maximum Settlement
25 Amount. Any portion of the requested Class Counsel Award that is not
26 awarded to Class Counsel shall be part of the Net Settlement Amount and shall
27 be distributed to Settlement Class Members as provided in this Agreement.
28 The Settlement Administrator shall allocate and pay the Class Counsel Award

1 to Class Counsel from the Maximum Settlement Amount no later than five (5)
2 calendar days after the Maximum Settlement Amount is funded in full. Class
3 Counsel shall be solely and legally responsible to pay all applicable taxes on
4 the payment made pursuant to this paragraph. The Settlement Administrator
5 shall issue an IRS Form 1099 — MISC and its state and local equivalents to
6 Class Counsel for the payments made pursuant to this paragraph. In the event
7 that the Court reduces or does not approve the requested Class Counsel
8 Award, Plaintiff and Class Counsel shall not have the right to revoke the
9 Settlement, or to appeal such order, and the Settlement will remain binding.

10 11. PAGA Payment. Eighty Thousand Dollars (\$80,000.00) shall be allocated
11 from the Maximum Settlement Amount for settlement of claims for civil
12 penalties under the Private Attorneys General Act of 2004 (“PAGA
13 Payment”). The Settlement Administrator shall pay seventy-five percent
14 (75%) of the PAGA Payment (\$60,000.00) to the California Labor and
15 Workforce Development Agency no later than twenty-five (25) calendar days
16 after the Maximum Settlement Amount is funded (hereinafter “LWDA
17 Payment”). Twenty-five percent (25%) of the PAGA Payment (\$20,000.00)
18 will be distributed to the Aggrieved Employees as described in this Agreement
19 (hereinafter “Aggrieved Employee Payment”). For purposes of distributing
20 the PAGA Payment to the Aggrieved Employees, each Aggrieved Employee
21 shall receive their pro-rata share of the Aggrieved Employee Payment using
22 the PAGA Payment Ratio as defined above.

23 12. Settlement Administration Costs. The Settlement Administrator shall be paid
24 for the costs of administration of the Settlement from the Maximum
25 Settlement Amount. The estimate of the Settlement Administration Costs is
26 \$25,000.00. The Settlement Administrator shall be paid the Settlement
27 Administration Costs no later than twenty-five (25) calendar days after the
28 Maximum Settlement Amount is funded in full. If the actual Settlement

Administration Costs incurred is less than the estimate provided herein, the difference between the actual and estimated costs shall be returned to the Net Settlement Amount.

M. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative's Payment, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs. Plaintiff will provide Defendants with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than twenty (20) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment, highest Individual Settlement Payment, and lowest Individual Settlement Payment, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity for Counsel for Defendants to review the Motions for Preliminary and

1 Final Approval, including the Order Granting Final Approval of Class Action
2 Settlement, and Judgment before filing with the Court. The Parties and their counsel
3 will cooperate with each other and use their best efforts to affect the Court's approval
4 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
5 Judgment.

6 O. Cooperation. The Parties and their counsel will cooperate with each other and use
7 their best efforts to implement the Settlement.

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

11 Q. Amendment or Modification. This Agreement may be amended or modified only by
12 a written instrument signed by all Parties or their successors-in-interest.

13 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
14 Agreement among these Parties, and no oral or written representations, warranties or
15 inducements have been made to any Party concerning this Agreement or its Exhibit
16 other than the representations, warranties and covenants contained and memorialized
17 in this Agreement and its Exhibit. This Agreement replaces and supersedes the MOU,
18 the Stipulation of Class Action Settlement and Release of Claims, and any other
19 agreements, understandings, or representations between the Parties.

20 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
21 represent they are expressly authorized by the Parties whom they represent to negotiate
22 this Agreement and to take all appropriate Action required or permitted to be taken by
23 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
24 documents required to effectuate the terms of this Agreement. The persons signing
25 this Agreement on behalf of Defendants represent and warrant that he/she is authorized
26 to sign this Agreement on behalf of Defendants. Plaintiff represents and warrants that
27 he is authorized to sign this Agreement and that he has not assigned any claim, or part
28 of a claim, covered by this Settlement to a third-party.

- 1 T. No Public Comment: The Parties and their counsel agree that they will not issue any
2 press releases, initiate any contact with the press, respond to any press inquiry, or have
3 any communication with the press about the fact, amount or terms of the Settlement
4 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
5 of its terms for any marketing or promotional purposes. Nothing herein will restrict
6 Class Counsel from including publicly available information regarding this settlement
7 in future judicial submissions regarding Class Counsel's qualifications and experience.
8 Further, Class Counsel will not include, reference or use the Settlement Agreement for
9 any marketing or promotional purposes, either before or after the Motion for
10 Preliminary Approval is filed.
- 11 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
12 to the benefit of, the successors or assigns of the Parties, as previously defined.
- 13 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
14 shall be governed by and interpreted according to the laws of the State of California.
- 15 W. Counterparts. This Agreement may be executed in one or more counterparts. All
16 executed counterparts and each of them shall be deemed to be one and the same
17 instrument provided that counsel for the Parties to this Agreement shall exchange
18 among themselves copies or originals of the signed counterparts. A facsimile signature
19 or electronic signature (including but not limited to PDF or DocuSign) shall be treated
20 as an original signature for all purposes.
- 21 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
22 is a fair, adequate and reasonable settlement of this Action and have arrived at this
23 Settlement after extensive arms-length negotiations, taking into account all relevant
24 factors, present and potential.
- 25 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
26 respect to the interpretation, implementation and enforcement of the terms of this
27 Agreement and all orders and judgments entered in connection therewith, and the
28 Parties and their counsel submit to the jurisdiction of the Court for purposes of

1 interpreting, implementing and enforcing the settlement and all orders and judgments
2 entered in connection with this Agreement.

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

7 AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
8 intend to pursue any claims against the Released Parties, including, but not limited to,
9 any and all claims relating to or arising from Plaintiff's employment with Defendants,
10 regardless of whether Class Counsel is currently aware of any facts or legal theories
11 upon which any claims or causes of action could be brought against Released Parties,
12 including those facts or legal theories alleged in the operative complaint in this Action.
13 The Parties further acknowledge, understand and agree that this representation is
14 essential to the Agreement and that this Agreement would not have been entered into
15 were it not for this representation.

16 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
17 certification for purposes of this Settlement only.

18 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
19 Released Claims have merit and give rise to liability on the part of Defendants.
20 Defendants claim that the Released Claims have no merit and do not give rise to
21 liability. This Agreement is a compromise of disputed claims. Nothing contained in
22 this Agreement and no documents referred to and no action taken to carry out this
23 Agreement may be construed or used as an admission by or against the Defendants,
24 Released Parties, Plaintiff, or Class Counsel as to the merits or lack thereof of the
25 claims asserted. Other than as may be specifically set forth herein, each Party shall be
26 responsible for and shall bear its/his own attorney's fees and costs.

27 DD. Confidentiality. Class Counsel and the Class Representative agree that they will not
28 issue any press releases, initiate any contact with the press, respond to any press

1 inquiry, post on any internet websites, or have any communication with the press about
2 the Lawsuit, and/or the fact, amount or terms of the settlement. Before the date of the
3 filing of the motion for preliminary approval of the settlement, the Class
4 Representative and settlement class counsel will not initiate any contact with Class
5 Members or anyone else about the settlement, except that: (a) settlement class counsel,
6 if contacted by a Class Member, may respond that a settlement has been reached and
7 that the details will be communicated in a forthcoming Court-approved notice; and (b)
8 the Class Representative, if contacted by a Class Member, may respond only that the
9 Class Member should contact settlement class counsel.

10 EE. Headings. The section and paragraph headings contained in this Settlement
11 Agreement are for reference purposes only and shall not affect in any way the meaning
12 or interpretation of this Settlement Agreement.

13 FF. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
14 of this Agreement. This Agreement will not be construed against any Party on the basis
15 that the Party was the drafter or participated in the drafting.

16 GG. Waiver. No waiver of any condition or covenant contained in this Settlement
17 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be
18 considered to imply or constitute a further waiver by such party of the same or any
19 other condition, covenant, right or remedy.

20
21 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

22
23 DATED: May 24, 2023


David Ezell (May 24, 2023 19:04 PDT)

24 DAVID EZELL

1 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

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DATED: 6/16/2023

Farouk Diab
DIAB LEASING INC.

Farouk Diab
Printed Name

PRESIDENT
Title

DATED: 6/16/2023

Farouk Diab
FAROUK DIAB

Farouk Diab
Printed Name

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED:

JCL LAW FIRM, A.P.C.

By:

Attorneys for Plaintiff and the Settlement Class Members

DATED:

ZAKAY LAW GROUP, APLC

By:

Attorneys for Plaintiff and the Settlement Class Members

1 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

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3 DATED: _____

DIAB LEASING INC.

4
5 _____
Printed Name

6
7 _____
Title

8
9
10 DATED: _____

FAROUK DIAB

11
12 _____
Printed Name

13
14 IT IS SO AGREED AS TO FORM BY COUNSEL:

15
16 DATED: May 25, 2023

JCL LAW FIRM, A.P.C.

17 By:  _____

18 Attorneys for Plaintiff and the Settlement Class
19 Members

20
21 DATED: May 25, 2023

ZAKAY LAW GROUP, APLC

22 By:  _____

23 Attorneys for Plaintiff and the Settlement Class
24 Members

Exhibit A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(David Ezell v. Diab Leasing, Inc., et al., Sacramento County Superior Court Case No. 34-2021-00305329)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Released Parties as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement, except a portion of the PAGA payment, if applicable, in the estimated amount of \$<<[REDACTED]>>. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of Sacramento (the “Court”) has been reached between Plaintiff David Ezell (“Plaintiff”), on the one hand, and Defendant Diab Leasing Inc. and Farouk Diab (collectively “Defendants”), on the other hand. The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who are or previously were employed by Defendants in California and classified as a non-exempt employee at any time during the Class Period. The “Class Period” is the period from July 30, 2017, up to and including December 2, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On July 30, 2021, Plaintiff filed a Complaint against Defendant Diab Leasing, Inc. in the Superior Court of the State of California, County of Sacramento. Plaintiff alleged claims that Defendant Diab Leasing, Inc. (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (c) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to reimburse Plaintiff for required expenses in violation of California Labor Code § 2802; (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (i) Violated the Private Attorney General Act at Labor Code Section 2698, *et seq.* Plaintiff subsequently amended the Complaint to name the following as defendants: Farouk Diab; DIAB AND ABED, INC.; FAROUK DIAB AND ZAHAR ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC.; FAROUK DIAB AND FRAIDOOON AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL ASPIRAS; DIAB AND BAWAB, INC.; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC.; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB (collectively “Doe Defendants”).

Defendants deny and dispute all claims alleged in the Action. Specifically, Defendants contended (and continue to contend) that the Action could not properly be maintained as a class action; members of the class were properly paid all wages and overtime that were due; members of the class were provided all legally required meal breaks and rest breaks; members of the class were paid all wages due them at the time of their terminations; members of the class were provided accurate, itemized wage statements; Defendants did not violate California Business and Professions Code section 17200 *et seq.*; class members were reimbursed for required business expenses, if any; and that Defendants are not liable for any of the penalties claimed or that could be claimed in the Action. Further, Doe Defendants contend that they did not employ members of the class.

On July 18, 2022, the Plaintiff and Defendants (collectively “Parties”) participated in an all-day mediation with Tripper Ortman, Esq., an experienced mediator of wage and hour class actions. The mediation concluded without a settlement. After months of negotiations, Mediator Ortman made a mediator’s proposal, and the Parties accepted the proposal. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Maximum Settlement Amount. Defendant has agreed to pay an “all in” amount of One Million Six Hundred Thousand Dollars and Zero Cents (\$1,600,000.00) (the “Maximum Settlement Amount”) to fund the settlement. The Maximum Settlement Amount includes the payment of all Settlement Shares to Settlement Class Members,

Class Counsel's attorneys' fees and costs ("Class Counsel Award"), Settlement Administration Costs, the LWDA Payment, Aggrieved Employee Payment, and the Class Representative's Payment to the Plaintiff.

After the Judgment becomes Final, Defendants will pay the Maximum Settlement Amount by depositing the money into a Qualified Settlement Fund. "Final" means the earliest date, following entry by the Court of an order and judgment finally approving this Settlement, upon which one of the following have occurred: (i) if no objection is filed to the settlement and no objector appears at the hearing on final approval, the date of the Court's entry of the order granting final approval, (ii) if an objection is filed to the settlement and/or an objector appears at the hearing on final approval, then the earlier of the following: (a) the expiration of all potential appeal periods without a filing of a notice of appeal of the final approval order or judgment; (b) final affirmance of the final approval order and judgment by an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all such appeals (including any petition for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review ("Effective Date").

Amounts to be Paid from the Maximum Settlement Amount. The Settlement provides for certain payments to be made from the Maximum Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Maximum Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$25,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Class Counsel Award. Payment to Class Counsel of Class Counsel Award consisting of attorneys' fees and litigation costs incurred of no more than 1/3 of the Maximum Settlement Amount (currently \$533,333.33) and litigation expenses of not more than \$25,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of \$80,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$60,000 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$20,000 will be distributed to Aggrieved Employees as part of the Aggrieved Employee Payment.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Class Representative's Payment, the PAGA Payment, and the Settlement Administration Costs are deducted from the Maximum Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period ("Settlement Share"). A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant Diab Leasing Inc.'s records, a member of the class worked at least one-day during any such workweek.

- Calculation of Aggrieved Employee Payments to Aggrieved Employees. The Aggrieved Employee Payments shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The Aggrieved Employee Payments will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective PAGA Employee during the PAGA Period. “Aggrieved Employees” means each of the Class Members who was employed by Defendants at any time during the PAGA Period. The PAGA Period means the period between May 25, 2020, and continuing through up to and including December 2, 2022.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 10% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 90% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each PAGA Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant’s counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Release by Settlement Class Members.

Funding Date shall mean the date that the Maximum Settlement Amount is fully funded by Defendants into the Qualified Settlement Fund. Defendants will fund the Gross Settlement Amount thirty (30) calendar days after the Effective Date.

“Released Parties” shall mean Defendants, DIAB AND ABED, INC.; FAROUK DIAB AND ZAHER ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC; FAROUK DIAB AND FRAIDOOH AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL ASPIRAS; DIAB AND BAWAB, INC; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB, and all of their respective current and former partners, parents, subsidiaries, franchisors, Galardi Group Franchise Corp., Galardi Group Franchise & Leasing, LLC, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

“Released Class Claims” shall mean all claims that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint, including, but not limited to claims arising under Labor Code sections 200, 201, 201.5, 202, 203, 204, 205.5, 206.5, 226, et seq., 226.2, 226.7, 246, 510, et seq., 512, 515, 558, 1194, 1197, 1197.1, 1198, 2698, et seq., 2802, California Code of Civil Procedure sections 382, 395, 395.5, 410, 474, Business and Professions Code section 17200, et seq., 17203, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims for failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to timely pay wages in violation of Cal. Lab. Code § 204; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802; and claims involving any alleged unfair competition in violation of Cal. Bus. & Prof. Code § 17200, et seq. arising from the Labor Code violations released herein, that occurred during the Class Period.

As of the Funding Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge the Released Parties from the Released Class Claims for the Class Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Released Parties about the legal issues resolved by this Settlement. It also means that all of the Court’s orders in this Action will apply to you and legally bind you.

Release by the Aggrieved Employees.

“Released PAGA Claims” means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint and PAGA notice provided to the LWDA pursuant to Labor Code section 2699.3, subd. (a), including but not limited to, claims arising under Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 206.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2699.5, 2802, 2804, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims involving failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802, that occurred during the PAGA Period.

As of the Funding Date, in exchange for the consideration set forth in this Agreement, each of the Aggrieved Employees, the Plaintiff, the LWDA and the State of California, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge the Released Parties from the Released PAGA Claims for the PAGA Period.

5. How much will my payment be?

Defendant Diab Leasing, Inc.’s records reflect that you have << [REDACTED] >> Workweeks worked during the Class Period. Based on this information, your estimated Settlement Share is << _____ >>.

Defendants' records reflect that you have << [REDACTED] >> Pay Periods worked during the PAGA Period. Based on this information, your estimated Aggrieved Employee Payment is << [REDACTED] >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than [REDACTED] [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: [REDACTED] (800) [REDACTED].

The Court will hold a hearing on [REDACTED] to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, Individual Settlement Payments and Aggrieved Employee Payments will be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or Aggrieved Employees last known mailing address no later than fifteen (15) calendar days after the Maximum Settlement Amount is funded. If there are objections or appeals, resolving them can take time. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at [www.\[REDACTED\].com](http://www.[REDACTED].com)

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Aggrieved Employee Payments.

Class Members who wish to exclude themselves from the Settlement must submit a written request for exclusion by the [REDACTED]. The written request for exclusion must state that the Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Class Member; (3) must be postmarked or fax stamped by the Response Deadline and returned to the Settlement Administrator at the specified address or fax telephone number; and (4) contain a typewritten or handwritten notice stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *David Ezell v. Diab Leasing, Inc., et al.*, currently pending in the Superior Court for the County of Sacramento, Case No. 34-2021-00305329. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion will not be valid if it is not timely submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the request for exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection ("Notice of Objection") by [REDACTED]. The postmark date of mailing shall be deemed the exclusive means for determining that a Notice of Objection was served timely. The Notice of

Objection must be signed by the Settlement Class Member and state: (1) the case name and number; (2) the name of the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four digits of the Settlement Class Member's Social Security number; (4) the basis for the objection; and (5) if the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Class Members who fail to make objections in writing in the manner specified above may still make their objections orally at the Final Approval/Settlement Fairness Hearing with the Court's permission. Settlement Class Members will have a right to appear at the Final Approval/Settlement Fairness Hearing to have their objections heard by the Court. Class Members may not object to the PAGA Payment or Released PAGA Claims.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than [REDACTED]. The address for the Settlement Administrator is [REDACTED].

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
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9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on [REDACTED], at the Sacramento County Superior Court, located at 720 Ninth Street Sacramento, CA 958140-1280 before Judge Lauri A. Damrell. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at [REDACTED] or write to **David Ezell v. Diab Leasing, Inc., et al., Case No. 34-2021-00305329**, Settlement Administrator, c/o [REDACTED].

More details are in the First Amended Settlement Agreement. For more information, you may inspect the Court files and the First Amended Settlement Agreement at the Sacramento County Superior Court, located at 720 Ninth Street Sacramento, CA 958140-1280. You may also contact Class Counsel, the Settlement Administrator, and/or Defendants' Counsel for more information.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to Bet Tzedek. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.