

ZAKAY LAW GROUP, APLC
SHANI O. ZAKAY (STATE BAR #277924)
JACKLAND K. HOM (STATE BAR #327243)
5440 MOREHOUSE DRIVE, SUITE 3600
SAN DIEGO, CA 92121
TELEPHONE: (619)255-9047
FACSIMILE: (858) 404-9203
SHANI@ZAKAYLAW.COM
JACKLAND@ZAKAYLAW.COM

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
NORMAN B. BLUMENTHAL (STATE BAR #068687)
2255 CALLE CLARA
LA JOLLA, CA 92037
TELEPHONE: (858) 551-1223
FACSIMILE: (858) 551-1232
WEBSITE: WWW.BAMLAWCA.COM

ATTORNEYS FOR PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

TRACI POLLINGER, an individual, on
behalf of the State of California,

Plaintiffs,

vs.

HOEHN MOTORS, INC., a California
Corporation, and DOES 1 through 50,
Inclusive;

Defendants.

Case No. 37-2021-00003888-CU-OE-CTL

**STIPULATION OF SETTLEMENT OF
PAGA CLAIMS AND RELEASE OF
PAGA CLAIMS**

Judge: Hon. James A Mangione
Dept.: C-75

STIPULATION OF SETTLEMENT OF PAGA ACTION AND RELEASE OF CLAIMS

1 This Stipulation of Settlement of PAGA Claims and Release of PAGA Claims is entered into
2 by and between Plaintiff TRACI POLLINGER (hereinafter "Plaintiff"), in her representative
3 capacity on behalf of the State of California and fellow Aggrieved Employees and Defendants Hoehn
4 Motors, Inc. (hereinafter "Defendant"):

5 **I. DEFINITIONS**

- 6 A. "Action" shall mean the following *Pollinger v. Hoehn Motors, Inc.*, San Diego
7 County Superior Court, Case No. 37-2021-00003888-CU-OE-CTL, filed January 27,
8 2021, including any amended complaints filed thereto.
9
- 10 B. "Aggrieved Employees" shall mean all non-exempt employees who worked for
11 Defendant Hoehn Motors, Inc. from November 10, 2019 to March 24, 2022.
12
- 13 C. "Agreement" or "Settlement Agreement" means this Stipulation of Settlement of
14 PAGA Action and Release of PAGA Claims.
15
- 16 D. "Employee Data" means information regarding the Aggrieved Employees that
17 Defendant will in good faith compile from its records and provide to the Settlement
18 Administrator. It shall be formatted in the manner requested by the Settlement
19 Administrator and shall include sufficient information to effectuate this settlement,
20 including but not limited to: each Aggrieved Employee's full name; last known
21 address; Social Security Number; and the number of Pay Periods worked during the
22 PAGA Period.
23
- 24 E. "Court" means the Superior Court for the State of California, County of San Diego
25 presiding over the Action.
26
27

- 1 F. "Defendant" shall mean, Hoehn Motors, Inc. Hoehn Buick GMC Cadillac Inc., Hoehn
2 JRL, Inc. Hoehn of Temecula, Inc. and The Hoehn Company, Inc.
3
- 4 G. "Effective Date" means the date of entry by the Court of an order and judgment finally
5 approving this Settlement.
6
- 7 H. "LWDA" means the California Labor and Workforce Development Agency.
8
- 9 I. "Funding Date" shall mean sixty-five (65) calendar days after the Effective Date and
10 is the date Defendant transfers the Gross Settlement Amount into the QSF in accord
11 with the terms of this Agreement.
- 12 J. "Net Settlement Amount" or "NSA" means the amount remaining from the Gross
13 Settlement Amount deducting the Settlement Administration Cost and the Plaintiff's
14 Counsel Award. The NSA shall be used to satisfy the PAGA Representative's claims
15 for civil penalties arising under PAGA asserted on behalf of the Aggrieved
16 Employees and the LWDA. Twenty-five percent (25%) of the NSA shall be allocated
17 to the Aggrieved Employees ("Aggrieved Employee Payment") and distributed based
18 on the pro rata number of Pay Periods worked by each Aggrieved Employee during
19 the PAGA Period. Seventy-five percent (75%) of the NSA shall be paid to the LWDA
20 ("LWDA Payment").
21
- 22 K. "Notice of PAGA Settlement" means the notice to be provided to the Aggrieved
23 Employees by the Settlement Administrator in the form set forth as Exhibit A to this
24 Agreement.
25
26
27

- 1 L. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
2 Labor Code § 2698 *et seq.*
3
- 4 M. "PAGA Payment Ratio" means the respective Pay Periods worked during the PAGA
5 Period for each Aggrieved Employee divided by the total of the Pay Periods for all
6 Aggrieved Employees during the PAGA Period.
7
- 8 N. "PAGA Period" means the period between November 10, 2019 to March 24, 2022.
9
- 10 O. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
11 Plaintiff or Defendant, individually.
- 12 P. "Pay Period" for purposes of calculating the distribution of the Aggrieved Employee
13 Payment, as defined herein, means any biweekly period in which Aggrieved
14 Employees received wages during his/her employment with Defendant during the
15 PAGA Period.
16
- 17 Q. "Plaintiff" or "PAGA Representative" shall mean Traci Pollinger.
18
- 19 R. "Plaintiff's Counsel" shall mean Norman B. Blumenthal, Esq. of Blumenthal
20 Nordrehaug Bhowmik De Blouw LLP ("BNBD") and Shani O. Zakay, Esq. of Zakay
21 Law Group, APLC ("ZLG").
22
- 23 S. "Plaintiff's Counsel Award" means the award of attorneys' fees and reimbursement
24 of litigation expenses that the Court authorizes to be paid to Plaintiff's Counsel for
25 the services they have rendered to Plaintiff, the State of California and the Aggrieved
26 Employees consisting of attorneys' fees not to exceed one-third of the Gross
27

1 Settlement Amount *plus* actually incurred litigation costs up to \$20,000.00 as
2 documented by Plaintiff Counsel's billing records. Plaintiff Counsel's application for
3 the Plaintiff's Counsel Award is subject to Court approval, and a reduction in
4 attorneys' fees, costs, awarded by the Court is not a basis for Plaintiff to void, rescind,
5 or terminate this Agreement.
6

7 T. "QSF" means the Qualified Settlement Fund established, designated and maintained
8 by the Settlement Administrator to fund the Gross Settlement Amount.
9

10 U. "Released PAGA Claims" means all PAGA claims alleged in the Action that occurred
11 during the PAGA Period. The release shall be limited to violations of PAGA and shall
12 not release any of the Aggrieved Employees' claims for the underlying Labor Code
13 violations, if any.
14

15 V. "Released Parties" shall mean Defendant, each of its affiliates, parents and
16 subsidiaries, and all of its and their predecessors, successors, assigns, owners,
17 shareholders, members, officers, directors, employees, agents, insurers and attorneys.
18

19 W. "Settlement" means the disposition of the Action pursuant to this Agreement.
20

21 X. "Settlement Administrator" means ILYM Group. The Settlement Administrator
22 establishes, designates and maintains, as a QSF under Internal Revenue Code section
23 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross
24 Settlement Amount is deposited for the purpose of resolving the claims in the Action
25 on behalf of the LWDA and the Aggrieved Employees. The Settlement Administrator
26 shall maintain the funds until distribution in an account(s) segregated from the assets
27

1 of Defendant and any person related to Defendant. *All accrued interest shall be paid*
2 *and distributed to the Aggrieved Employees as part of their respective share of the*
3 *Aggrieved Employee Payment.*
4

5 Y. "Settlement Administration Costs" means the amount be paid for the costs of
6 administration of the Settlement from the Gross Settlement Amount not to exceed
7 \$7,700.
8

9 Z. "Gross Settlement Amount" means One Hundred Seventy Thousand Dollars
10 (\$170,000.00) that Defendant must pay into the QSF in connection with this
11 Settlement, inclusive of the Aggrieved Employee Payment, LWDA Payment,
12 Plaintiff's Counsel Award and the Settlement Administration Costs.
13

14 **II. RECITALS**
15

16 A. On November 10, 2020, Plaintiff filed a Notice of Violations with the Labor and
17 Workforce Development Agency (LWDA) and served the same on Defendant.
18

19 B. On January 27, 2021, Plaintiff filed a Class and Representative Action against
20 Defendants alleging causes of action for various violations of the California Labor
21 Code, as well as a cause of action for violations of PAGA. On May 5, 2021 Plaintiff
22 dismissed, without prejudice, the class claims, and filed a first amended complaint
23 alleging a single cause of action for violations of PAGA for, *inter alia*, the following:
24

- 25 1. Failure to provide complaint meal and rest periods;
- 26 2. Failure to provide accurate itemized wage statements;
- 27

- C. On January 24, 2022, the Parties participated in mediation presided over by Judge Carl West (Ret.), a respected jurist and wage and hour class and PAGA action mediator. The mediation concluded with a settlement which was memorialized in the form of a Memorandum of Understanding.
- D. This Agreement replaces and supersedes the Memorandum of Understanding 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 Defendant that the claims in the Action of Plaintiff or the Aggrieved Employees have merit or that Defendant bears any liability to Plaintiff or the Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit.

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

A. Settlement Consideration and Settlement Payments by Defendant.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendant and the Released

1 Parties will pay the Gross Settlement Amount of One Hundred Seventy
2 Thousand Dollars (\$170,000.00). The Parties agree that this is a non-
3 reversionary Settlement and that no portion of the Gross Settlement Amount
4 shall revert to Defendant. The Gross Settlement Amount is exclusive of and
5 separate from any individual settlement by and between Defendants and
6 Plaintiff intended to resolve Plaintiff's individual claims. Except as provided
7 for in Section III(A)(2) and pursuant to any individual settlement with
8 Plaintiff, Defendant shall not be required to pay more or less than the Gross
9 Settlement Amount.
10
11

12 2. Number of Aggrieved Employees and Pay Periods. At the time of mediation,
13 Defendant estimated that there were 423 Aggrieved Employees that
14 collectively worked approximately 11.099 Pay Periods ("Projected Pay
15 Periods") during the PAGA Period. In regard hereto, Defendant will provide
16 a declaration under penalty of perjury confirming the number of Aggrieved
17 Employees and Pay Periods worked by the Aggrieved Employees during the
18 PAGA Period, prior to filing of the motion for PAGA Approval. The PAGA
19 Settlement Amount will increase proportionally with added pay periods if the
20 declaration states that the actual number of pay periods during the PAGA
21 period are more than 10% of the estimate stated herein.
22

23
24 3. Settlement Payment. Defendant shall pay, via wire transfer, the Gross
25 Settlement Amount to the Settlement Administrator on the Funding Date.
26
27

1 B. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
2 consideration set forth in this Agreement, the Plaintiff, the Aggrieved Employees and
3 the State of California release the Released Parties from the PAGA Released Claims
4 for the PAGA Period. This includes the claims alleged in the Action arising during
5 the PAGA Period for civil penalties under PAGA that were asserted or could have
6 been asserted based on the facts alleged in the operative Complaint, including claims
7 that Defendant is liable for PAGA penalties for failure to pay minimum wages, failure
8 to pay overtime wages, failure to provide meal periods, failure to provide rest periods,
9 failure to pay an additional hour of premium pay for alleged meal period or rest period
10 violations at employees' regular rates of compensation, failure to provide accurate
11 wage statements, failure to maintain accurate records, failure to pay all wages owed
12 during and at the end of employment, failure to provide the amount of sick leave
13 available, or paid time off leave provided in lieu of sick leave and failure to accurately
14 include such information on itemized wage statements, where the foregoing claims
15 arise under Labor Code § 2698, *et seq.*, for the alleged violations of the California
16 Labor Code, including but not limited to sections 201, 202, 203, 204, 210, 218.5,
17 218.6, 226, 226.3, 226.7, 246, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1194.2,
18 1197, 1197.1, 1198, 1199, and 2804, and all applicable Wage Orders, ("Released
19 Claims"), against Defendant and its past, present, and future owners, parents,
20 subsidiaries, and all of its current, former, and future officers, directors, members,
21 managers, employees, consultants, partners, shareholders, joint venturers, successors,
22 assigns, accountants, insurers, or legal representatives ("Released Parties"). Upon
23 entry of the order approving this Agreement and judgment entered thereon, and upon
24
25
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1 funding in full of the Gross Settlement Amount by Defendant, Plaintiff and all
2 Aggrieved Employees will be forever barred from pursuing any and all of the Released
3 Claims that arose during the PAGA Period.
4

5 C. Conditions Precedent: This Settlement will become final and effective only upon (1)
6 the Court entering an order approving the Settlement, and (2) Defendant fully funds
7 the Gross Settlement Amount.
8

9 D. Nullification of Settlement Agreement. If this Settlement Agreement is not approved
10 by the Court, fails to become effective, or is reversed, withdrawn, or in any way
11 prevents or prohibits Defendant from obtaining a complete resolution of the Released
12 PAGA Claims, or if Defendant fails to fully fund the Total Settlement Amount:
13

14 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
15 and shall not be admissible in any judicial, administrative or arbitral
16 proceeding for any purpose or with respect to any issue, substantive or
17 procedural; and
18

19 2. None of the Parties to this Settlement will be deemed to have waived any
20 claims, objections, defenses or arguments in the Action.
21

22 E. Tax Liability. The Parties make no representations as to the tax treatment or legal
23 effect of the payments called for in this Agreement. The Aggrieved Employees are
24 not relying on any statement or representation by the Parties in this regard. Aggrieved
25 Employees understand and agree that they will be responsible for the payment of any
26 taxes and penalties assessed on their respective share of the Aggrieved Employee
27

1 Payments and will be solely responsible for any penalties or other obligations resulting
2 from their personal tax reporting of the Aggrieved Employees Payments.

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

25 G. Settlement Administrator. The Settlement Administrator shall be responsible for:
26 establishing and administering the QSF; calculating, processing and mailing payments
27

1 to Plaintiff's Counsel, LWDA and Aggrieved Employees; printing and mailing the
2 Notice of PAGA Settlement to the Aggrieved Employees as directed by the Court;
3 calculating, and distributing tax forms for the Aggrieved Employee Payments;
4 providing declaration(s) as necessary in support of approval of this Settlement; and
5 other tasks as the Parties mutually agree or the Court orders the Settlement
6 Administrator to perform. The Settlement Administrator shall keep the Parties timely
7 apprised of the performance of all Settlement Administrator responsibilities.
8

9
10 H. Employee Data. No later than twenty (20) calendar days after the Effective Date,
11 Defendant shall provide the Settlement Administrator with the Employee Data. The
12 Settlement Administrator shall maintain the Employee Data as private and
13 confidential except to carry out its duties to administer the Settlement. In no event
14 will this information ever be shared with or provided to Plaintiff or Plaintiff's Counsel
15 unless necessary to ensure Plaintiff's Counsel's ability to fulfill any obligations
16 associated with this Settlement.
17

18 I. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
19 the Gross Settlement Amount on or before the Funding Date.
20

21 1. Calculation of Individual Payments to the Aggrieved Employees. Using the
22 Employee Data, the Settlement Administrator shall add up the total number of
23 Pay Periods for all Aggrieved Employees during the PAGA Period. The
24 respective Pay Periods for each Aggrieved Employee will be divided by the
25 total Pay Periods for all Aggrieved Employees, resulting in the "PAGA
26 Payment Ratio" for each Aggrieved Employee. Each Aggrieved Employee's
27

PAGA Payment Ratio will then be multiplied by the Aggrieved Employee Payment to calculate each Aggrieved Employee's estimated share of the Aggrieved Employee Payment.

2. Allocation of Individual Aggrieved Employee Payments. For tax purposes, individual Aggrieved Employee Payments shall be allocated and treated 100% as penalties. The individual Aggrieved Employee Payments shall not be subject to wage withholdings and shall be reported on IRS Form 1099s.

3. No Credit Toward Benefit Plans. The individual Aggrieved Employee Payments made to the Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

4. Mailing. Individual Aggrieved Employee Payments shall be mailed by regular First-Class U.S. Mail to the Aggrieved Employees' last known mailing address no later than fifteen (15) calendar days after the Funding Date.

- 1 5. Expiration. Any checks issued the Aggrieved Employees shall remain valid
2 and negotiable for one hundred and eighty (180) days from the date of their
3 issuance. If an Aggrieved Employee does not cash his or her settlement check
4 within 90 days, the Settlement Administrator will send a letter to such persons,
5 advising that the check will expire after the 180th day, and invite that
6 Aggrieved Employee to request reissuance in the event the check was
7 destroyed, lost or misplaced. In the event an individual Aggrieved Employee
8 Payment check has not been cashed within one hundred and eighty (180) days,
9 all funds represented by such uncashed checks, plus any interest accrued
10 thereon, shall be transmitted to the Controller of the State of California to be
11 held pursuant to the Unclaimed Property Law, California Civil Code § 1500
12 *et seq.*, in the names and corresponding amounts associated with each
13 Aggrieved Employee whose check(s) are cancelled.
14
15
16 6. LWDA Payment. The Settlement Administrator shall transmit the LWDA
17 Payment to the LWDA as one lump sum payment, if by check, certified mail
18 return receipt requested to Plaintiff's Counsel, within fifteen (15) calendar
19 days of the Funding Date.
20
21
22 7. Plaintiff's Counsel Award. Defendant understands a motion by Plaintiff's
23 Counsel for attorneys' fees not to exceed one-third of the Gross Settlement
24 Amount currently estimated to be Fifty Six Thousand Six Hundred Sixty-Six
25 Dollars and Sixty-Seven Cents (\$56,666.67) plus costs and expenses
26 supported by declaration not to exceed Twenty Thousand Dollars
27

1 (\$20,000.00), from the Gross Settlement Amount will be filed. Any portion
2 of the requested Plaintiff's Counsel Award that is not awarded to Plaintiff's
3 Counsel shall be part of the Net Settlement Amount and shall be distributed
4 to the LWDA and the Aggrieved Employees as provided in this Agreement.
5 The Settlement Administrator shall distribute and pay the Plaintiff's Counsel
6 Award to Plaintiff's Counsel from the Gross Settlement Amount no later than
7 fifteen (15) calendar days after the Funding Date. Plaintiff's Counsel shall be
8 solely and legally responsible to pay all applicable taxes on the payment made
9 pursuant to this paragraph. The Settlement Administrator shall issue an IRS
10 Form 1099 — MISC to Plaintiff's Counsel for the payments made pursuant
11 to this paragraph. In the event that the Court reduces or does not approve the
12 requested Plaintiff's Counsel Award, Plaintiff and Plaintiff's Counsel shall
13 not have the right to revoke the Settlement, or to appeal such order, and the
14 Settlement will remain binding.
15
16

17 8. Settlement Administration Costs. The Settlement Administrator shall be paid
18 for the costs of administration of the Settlement from the Gross Settlement
19 Amount. The estimate of the Settlement Administration Costs is \$7,700.00.
20 The Settlement Administrator shall be paid the Settlement Administration
21 Costs no later than fifteen (15) calendar days after the Funding Date.
22
23

24 9. Net Settlement Amount. Deducted from the Gross Settlement Amount are the
25 following: (1) \$56,666.67 for Plaintiff's Counsel's attorneys' fees, (2) up to
26 \$20,000 for Plaintiff's Counsel's reasonable litigation costs, and (3) \$7,700
27

1 for settlement administration fees and costs. The Net Settlement Amount of
2 \$85,633.33 will be allocated pursuant to Labor Code Section 2699 as follows;
3 75% to the LWDA (\$64,225), and 25% to the Aggrieved Employees
4 (\$21,408.33).
5

6 J. Approval Motion. Plaintiff's Counsel and Plaintiff shall use best efforts to file with
7 the Court a Motion for Settlement Approval and Entering Judgment Approving
8 Settlement, within forty-five (45) days following the execution of this Agreement.
9

10 K. Notice of Settlement to LWDA. In connection with the Motion for Settlement
11 Approval, Plaintiff's Counsel shall submit this Agreement to the LWDA pursuant to
12 California Labor Code section 2699(1)(2) at the same time it is submitted in
13 connection with Plaintiff's Motion for Settlement Approval. Plaintiff's Counsel shall
14 within ten (10) days after the entry of the judgment or order approving this Settlement,
15 submit the order approving the Settlement to the LWDA pursuant to California Labor
16 Code section 2699(1)(3).
17

18 N. Review of Motion for Settlement Approval. Plaintiff's Counsel will provide an
19 opportunity for Counsel for Defendant to review the Motion for Settlement Approval,
20 including the Order Granting Approval of the Settlement, and Judgment Finally
21 Approving Settlement before filing with the Court. The Parties and their counsel will
22 cooperate with each other and use their best efforts to affect the Court's approval of
23 the Motion for Approval of the Settlement, and entry of Judgment.
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- 1 O. Cooperation. The Parties and their counsel will cooperate with each other and use
2 their best efforts to implement the Settlement.
3
- 4 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
5 except such proceedings necessary to implement and complete the Settlement.
6
- 7 Q. Amendment or Modification. This Agreement may be amended or modified only by
8 a written instrument signed by counsel for all Parties or their successors-in-interest.
9
- 10 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
11 Agreement among these Parties, and no oral or written representations, warranties or
12 inducements have been made to any Party concerning this Agreement or its Exhibit
13 other than the representations, warranties and covenants contained and memorialized
14 in this Agreement and its Exhibit.
15
- 16 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
17 represent they are expressly authorized by the Parties whom they represent to negotiate
18 this Agreement and to take all appropriate Action required or permitted to be taken by
19 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
20 documents required to effectuate the terms of this Agreement. The persons signing
21 this Agreement on behalf of Defendant represent and warrants that he/she is authorized
22 to sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that
23 she is authorized to sign this Agreement and that she has not assigned any claim, or
24 part of a claim, covered by this Settlement to a third-party.
25
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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. Plaintiff's Counsel further agrees not to use the Settlement Agreement or
5 any of its terms for any marketing or promotional purposes. Nothing herein will restrict
6 Plaintiff's Counsel from including publicly available information regarding this
7 settlement in future judicial submissions regarding Plaintiff Counsel's qualifications
8 and experience. Further, Plaintiff Counsel will not include, reference or use the
9 Settlement Agreement for any marketing or promotional purposes, either before or
10 after the Motion for Settlement Approval is filed.
11

12
13 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
14 to the benefit of, the successors or assigns of the Parties, as previously defined.
15

16 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
17 shall be governed by and interpreted according to the laws of the State of California.
18

19 W. Counterparts. This Agreement may be executed in one or more counterparts. All
20 executed counterparts and each of them shall be deemed to be one and the same
21 instrument provided that counsel for the Parties to this Agreement shall exchange
22 among themselves copies or originals of the signed counterparts.
23

24 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
25 is a fair, adequate and reasonable settlement of this Action and have arrived at this
26
27

1 Settlement after extensive, non-collusive arms-length negotiations, taking into account
2 all relevant factors, present and potential.
3

4 Y. Jurisdiction of the Court. Pursuant to California Code of Civil Procedure section
5 664.6, the Parties agree that the Court shall retain jurisdiction with respect to the
6 interpretation, implementation and enforcement of the terms of this Agreement and all
7 orders and judgments entered in connection therewith, and the Parties and their counsel
8 submit to the jurisdiction of the Court for purposes of interpreting, implementing and
9 enforcing the settlement and all orders and judgments entered in connection with this
10 Agreement.
11

12 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
13 the Court shall first attempt to construe the provisions valid to the fullest extent
14 possible consistent with applicable precedents so as to define all provisions of this
15 Agreement valid and enforceable.
16

17 AA. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
18 Released PAGA Claims have merit and give rise to liability on the part of Defendant.
19 Defendant claims that the Released PAGA Claims have no merit and do not give rise
20 to liability. This Agreement is a compromise of disputed claims. Nothing contained
21 in this Agreement and no documents referred to and no action taken to carry out this
22 Agreement may be construed or used as an admission by or against the Defendant or
23 Plaintiff or Plaintiff's Counsel as to the merits or lack thereof of the claims asserted.
24 Other than as may be specifically set forth herein, each Party shall be responsible for
25 and shall bear its/his own attorneys' fees and costs.
26
27

1 BB. Individual Settlement Agreements. The Parties have separately entered into an
2 individual settlement agreement and general release for the individual claims for
3 damages and penalties that are outside the scope of the PAGA Settlement for Plaintiff.
4 Plaintiff shall separately receive payment from Defendant in accordance with a
5 separate individual settlement agreement, which shall be confidential, except to the
6 extent that disclosure of such individual settlement agreement is necessary in order to
7 secure the Court's approval of this Agreement.
8

9
10 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

11
12 DATED: April 23, 2022

13
14 
Traci pollinger (Apr 23, 2022 10:58 PDT)

15 TRACI POLLINGER

16 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

17 DATED: 4/26/22

18 
HOEHN MOTORS, INC.

19 Theodore Hoehn
Printed Name

20 Vice-President
Title

21 IT IS SO AGREED AS TO FORM BY COUNSEL:

22 DATED: 4/25/22

23 BLUMENTHAL NORDREHAUG BHOWMIK DE
24 BLOUW, LLP

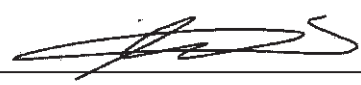
25 By: 

26 Attorneys for the Plaintiff and the Aggrieved
27 Employees

28 DATED: April 24, 2022

ZAKAY LAW GROUP, APLC

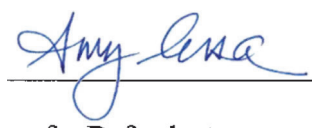
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By: 

Attorneys for the Plaintiff and the Aggrieved Employees

DATED: April 27, 2022

FISHER PHILLIPS LLP

By: 

Attorneys for Defendant