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16 IN ARBITRATION BEFORE JUDICATE WEST

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18 RAFFE CHAMOUN, on behalf of himself and
19 others similarly situated,

20 Claimants,

21 v.

22 JONES ONTARIO ACQUISITION, LLC, a
23 California limited liability company, doing
business as MERCEDES-BENZ OF
24 ONTARIO; and DOES 1 to 50, inclusive,

25 Respondents.

Case No.: S277006
Arbitrator: Hon. Herbert B. Hoffman

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STIPULATION OF RESOLUTION

STIPULATION OF RESOLUTION

1 This Stipulation of Resolution is made by and between Raffé Chamoun (“Named
2 Claimant”), on behalf of himself and others similarly situated, on the one hand, and Jones Ontario
3 Acquisition, LLC, a California limited liability company, doing business as Mercedes-Benz of
4 Ontario (“Respondent”), on the other hand, (together, the “Parties”), in the arbitration entitled
5 *Chamoun, et al. v. Jones Ontario Acquisition, LLC*, submitted in arbitration before Judicate West,
6 Case No. S277006 (“Arbitration”).

7 **I. DEFINITIONS**

8 **A. Administrative Costs.** All administrative costs of settlement, including cost of
9 notice to the Settlement Class, claims administration, and any fees and costs incurred or charged
10 by the Settlement Administrator in connection with the execution of its duties under this
11 Stipulation of Resolution.

12 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
13 synonymously herein to mean this Stipulation of Resolution.

14 **C. Arbitration.** The term “Arbitration” as used herein means the arbitration entitled
15 *Chamoun, et al. v. Jones Ontario Acquisition, LLC*, submitted in arbitration before Judicate West,
16 Case No. S277006.

17 **D. Arbitrator.** The term “Arbitrator” as used herein means the Honorable Herbert
18 B. Hoffman of Judicate West.

19 **E. Class Counsel.** The term “Class Counsel” as used herein means CounselOne,
20 P.C., counsel for and acting on behalf of Named Claimant and the Settlement Class.

21 **F. Employer Taxes.** The term “Employer Taxes” as used herein means employer-
22 funded taxes and contributions imposed on the wage portions of the Net Settlement Payments
23 under the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and any
24 similar state taxes and contributions required of employers, such as for unemployment insurance.
25 The Settlement Amount does not include Employer Taxes.

26 **G. Named Claimant.** The term “Named Claimant” as used herein means Raffé
27 Chamoun.

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1 **H. Net Settlement Amount.** The term “Net Settlement Amount” as used herein
2 means the Settlement Amount minus any award of attorneys’ fees and costs, Administrative
3 Costs, enhancement payment to the Named Claimant, and penalties recoverable pursuant to
4 California’s Private Attorneys General Act (“PAGA”) (“PAGA Settlement”).

5 **I. Net Settlement Payments.** The term “Net Settlement Payment(s)” shall include
6 payments made to the Settlement Class as part of the Resolution, including wages, penalties and
7 interest.

8 **J. Resolution.** The term “Resolution” as used herein means this Agreement to
9 resolve the Arbitration.

10 **K. Respondent.** The term “Respondent” as used herein means Jones Ontario
11 Acquisition, LLC, a California limited liability company, doing business as Mercedes-Benz of
12 Ontario.

13 **L. Settlement Administrator.** The term “Settlement Administrator” as used herein
14 means CPT Group, Inc., which will be responsible for claims administration.

15 **M. Settlement Agreement.** The terms “Settlement Agreement” or “Agreement” are
16 used synonymously herein to mean this Stipulation of Resolution.

17 **N. Settlement Amount.** The term “Settlement Amount” as used herein means the
18 non-reversionary sum of \$275,000.00, which shall be paid by Respondent, and from which all of
19 the following shall be paid, except as provided herein: Net Settlement Payments, Arbitrator-
20 approved attorneys’ fees and costs pursuant to Section XII, Administrative Costs pursuant to
21 Section VII, enhancement payment to the Named Claimant pursuant to Section XIII, statutory
22 penalties, interest, and payment to the State of California Labor Workforce and Development
23 Agency (“LWDA”) under the Labor Code Private Attorneys General Act (“PAGA”) pursuant to
24 Section XV. This is a non-reversionary common fund settlement; Respondent will not recoup
25 any portion of the Settlement Amount. Respondent’s aggregate liability shall not exceed the
26 Settlement Amount with the exception of (1) the amount for employer’s share of payroll taxes as
27 provided in Section I.F above, and (2) as provided in Section I.Q below.

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1 **O. Settlement Class.** For settlement purposes only, the Parties agree to the
2 certification of a class pursuant to California Code of Civil Procedure section 382 defined as:

3 All persons who are or were employed by Respondent in the State of California as service
4 advisors at any time from March 13, 2016, and continuing through December 31, 2020
5 (the "Settlement Class").

6 **P. Settlement Period.** The term "Settlement Period" as used herein means the
7 period from March 13, 2016, and continuing through December 31, 2020.

8 **Q. Workweeks.** Respondent has represented that the Settlement Class worked a
9 total of approximately 3,223 workweeks, and Claimant is entering into this agreement based on
10 that representation. In the event it is determined that the actual number of workweeks during the
11 Settlement Period exceeds 3,223 workweeks by more than 10% (i.e. 3,545 workweeks), the
12 Settlement Amount shall be increased by the same number of percentage points above 10% by
13 which the actual number of workweeks exceed 3,223. For example, if the actual number of
14 workweeks is determined to be 12% higher than 3,223, the Settlement Amount shall be increased
15 by 2%. Alternative to paying an increased Settlement Amount, Respondent may select an earlier
16 end date to the Settlement Period which brings the total workweeks below 3,545 workweeks.

17 **II. BACKGROUND**

18 A. Named Claimant submitted a demand for arbitration, on behalf of himself and
19 similarly-situated persons, alleging the following claims: (1) failure to pay wages, including
20 overtime; (2) meal and rest break liability under Labor Code sections 226.7, 512, and applicable
21 Industrial Welfare Commission (IWC) Wage Order(s); (3) inaccurate wage statements under
22 Labor Code sections 226; (4) failure to reimburse business expenses under Labor Code section
23 2802; (5) untimely paid wages and waiting time penalties under Labor Code sections 201-203,
24 204 and 210; (6) unfair competition in violation of Business and Professions Code sections
25 17200, *et seq.*; and (7) penalties pursuant to California's Private Attorneys General Act (Labor
26 Code § 2698, *et seq.*).

27 B. Class Counsel conducted discovery that yielded information and documentation
28 concerning the claims set forth in the Arbitration, such as Respondent's policies and procedures

1 regarding the payment of wages, the provision of meal and rest breaks, reimbursement for
2 business expenses, time keeping policies, including recording hours, issuance of wage
3 statements, and providing all wages at separation, as well as information regarding the number
4 of Settlement Class Members and the mix of current versus former employees, the average
5 number of hours worked, the wage rates in effect, and length of employment for the average
6 putative class member.

7 C. Respondent produced a substantial amount of documentation for members of the
8 Settlement Class, including time and pay records for members of the Settlement Class and the
9 employee handbooks, as well as composite data for the Settlement Class. The Parties met and
10 conferred at length regarding the information and documents produced. Class Counsel analyzed
11 the documents produced by Respondent in conjunction with Settlement Class member interviews
12 to determine Respondent's degree of liability and amounts due in damages.

13 D. Named Claimant and Class Counsel have engaged in good faith, arms-length
14 negotiations with Respondent concerning possible resolution of the claims asserted in the
15 Arbitration. The Parties participated in a mediation with neutral Jill R. Sperber, Esquire, an
16 experienced mediator in wage and hour class and representative actions. The Parties accepted
17 Ms. Sperber's mediator's proposal, resulting in a tentative settlement. The Parties have since
18 engaged in extensive negotiations about the terms and conditions of the settlement and now enter
19 into a more detailed, formalized settlement agreement for submission to the Arbitrator for
20 approval.

21 E. Class Counsel have conducted an investigation of the law and facts relating to the
22 claims asserted in the Arbitration and have concluded, taking into account the sharply contested
23 issues involved, the expense and time necessary to pursue the matter through trial, the risks and
24 costs of further prosecution, the risk of an adverse outcome, the uncertainties of complex
25 litigation, and the substantial benefits to be received by the Named Claimant and the members of
26 the Settlement Class pursuant to this Agreement, that a settlement with Respondent on the terms
27 and conditions set forth herein is fair, reasonable, adequate, and in the best interests of the
28 Settlement Class.

1 F. Respondent has concluded that, because of the substantial expense of defending
2 this action, the length of time necessary to resolve the issues presented herein, the inconvenience
3 involved, and the concomitant disruption to its business operations, it is in its best interests to
4 accept the terms of this Stipulation of Resolution. Respondent denies each of the allegations and
5 claims asserted against it in the Arbitration. However, Respondent nevertheless desires to settle
6 the Arbitration for the purpose of avoiding the burden, expense and uncertainty of continuing to
7 defend the action and for the purpose of putting to rest the controversies engendered by the
8 Arbitration of this matter.

9 G. This Stipulation of Resolution is intended to and does effectuate the full, final and
10 complete resolution of all allegations and claims that were asserted, or could have been asserted
11 based on the facts alleged in the Arbitration, of the Named Claimant and members of the
12 Settlement Class as set forth in Section II.A.

13 **III. STIPULATION OF CLASS CERTIFICATION**

14 The Parties stipulate to the certification of the Settlement Class for settlement purposes
15 only. This Stipulation of Resolution is contingent upon the preliminary and final approval and
16 certification of the Settlement Class only for purposes of Resolution. Should the Resolution not
17 become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally
18 to class certification as part of the Resolution shall have no bearing on, and shall not be admissible
19 in connection with, the issue of whether a class should be certified in a non-settlement context.
20 Respondent expressly reserves the right to oppose class certification and/or proactively move to
21 deny certification should this Resolution be modified or reversed on appeal or otherwise not
22 become final.

23 **IV. MOTION FOR PRELIMINARY APPROVAL**

24 Named Claimant will move, unopposed before the Arbitrator, for an order preliminarily
25 approving the Resolution including the Notice of Proposed Class & Representative Action
26 Resolution ("Notice") and Claim Form, which are attached hereto as **Exhibits "A" and "B,"**
27 respectively, and including conditional certification of the Settlement Class for settlement
28 purposes only. Class Counsel will prepare the motion for preliminary approval.

1 **V. STATEMENT OF NO ADMISSION**

2 A. Respondent denies liability to Named Claimant and to the Settlement Class upon
3 any claim or cause of action. This Agreement does not constitute, and is not intended to
4 constitute, an admission by Respondent as to the merits, validity, or accuracy of any of the
5 allegations or claims made against it in the Arbitration.

6 B. Nothing in this Agreement, nor any action taken in implementation thereof, nor
7 any statements, discussions or communications, nor any materials prepared, exchanged, issued
8 or used during the course of the negotiations leading to this Agreement or the Resolution, is
9 intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be
10 used or be admissible in any way in this case or any other judicial, arbitral, administrative,
11 investigative or other forum or proceeding as evidence of any violation of any federal, state, or
12 local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law
13 or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly
14 or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other
15 forum or proceeding, as purported evidence of any violation of any federal, state, or local law,
16 statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in
17 equity. Notwithstanding the foregoing, this Agreement may be used in any proceeding before
18 the Arbitrator that has as its purpose the interpretation, implementation, or enforcement of this
19 Agreement or any orders the Arbitrator entered in connection with the Resolution.

20 C. None of the documents produced or created by Named Claimant or the Settlement
21 Class in connection with the claims procedures or claims resolution procedures constitute, and
22 they are not intended to constitute, an admission by Respondent of any violation of any federal,
23 state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or
24 duty at law or in equity.

25 D. The Parties agree that class certification pursuant to California Code of Civil
26 Procedure section 382 under the terms of this Agreement is for settlement purposes only.

27 E. Nothing in this Agreement nor the Arbitrator's actions with regard to this
28 Agreement will be construed as an admission or acknowledgement of any kind by Respondent

1 that arbitration, certification, consolidation or joinder of other claims or controversies, class
2 action, collective action, representative action, private attorney general action, or any other
3 similar action are appropriate in any other action or proceeding.

4 F. Notwithstanding any agreement to the contrary, the Parties hereto stipulate to
5 arbitrate the instant dispute on a class and representative basis and to seek approval of the
6 settlement in arbitration. This agreement to arbitrate and/or settle on a class and representative
7 basis shall not be construed to allow or permit the consolidation or joinder of other claims or
8 controversies, or permit such claims or controversies to proceed as a class action, collective
9 action, private attorney general action, or any other similar action. Released Parties expressly
10 reserve the right to enforce any class action waivers and any provisions disallowing or prohibiting
11 the consolidation or joinder of other claims or controversies, preventing claims or controversies
12 to proceed as a class action, collective action, private attorney general action, or any other similar
13 action.

14 **VI. RELEASE**

15 **A. Release as to Settlement Class Members.**

16 Upon the date the Arbitrator makes the award granting final approval of the settlement,
17 for the period from March 13, 2016, and continuing through December 31, 2020, Named
18 Claimant and all members of the Settlement Class, except those that make a valid and timely
19 request to be excluded from the Settlement Class, waive, release, discharge, and promise never
20 to assert in any forum any and all wage-related claims against Respondent, its respective
21 subsidiaries, affiliates, predecessors or successors in interest, or the officers, directors,
22 shareholders, employees, attorneys, agents, assigns, insurers, re-insurers, of any of them,
23 (collectively, "Released Parties"), based on the factual allegations made in the Arbitration or
24 which could have been made based on the factual allegations in the Arbitration, for: (1) failure
25 to pay wages, including overtime wages; (2) meal and rest break liability under Labor Code
26 sections 226.7, 512, and applicable Industrial Welfare Commission Wage Order(s); (3)
27 inaccurate wage statements under Labor Code sections 226; (4) failure to reimburse business
28 expenses under Labor Code section 2802; (5) untimely paid wages and waiting time penalties

1 under Labor Code sections 201-203, 204 and 210; (6) unfair competition in violation of Business
2 and Professions Code sections 17200, *et seq.*; and (7) penalties pursuant to PAGA (Labor Code
3 § 2698, *et seq.*).

4 **B. General Release by Named Claimant Only.**

5 In addition to the release made in Section VI.A, Named Claimant makes the additional
6 following general release of all claims, known or unknown.

7 Named Claimant releases Respondent, and each of its subsidiaries, affiliates,
8 predecessors or successors in interest, or the officers, directors, shareholders, employees,
9 attorneys, agents, assigns, insurers, re-insurers, of any of them, for the period from March 13,
10 2016, and continuing through December 31, 2020, 2020, from all claims, demands, rights,
11 liabilities and causes of action of every nature and description whatsoever, known or unknown,
12 asserted or that might have been asserted, whether in tort, contract, or for violation of any state
13 or federal statute, rule or regulation arising out of, relating to, or in connection with any act or
14 omission by or on the part of any of the Respondent. (The release set forth in this Paragraph B
15 shall be referred to hereinafter as the "General Release.")

16 With respect to the General Release, for the period from March 13, 2016, and continuing
17 through December 31, 2020, Named Claimant stipulates and agrees that upon the date the
18 Arbitrator makes the award granting final approval Named Claimant shall be deemed to have,
19 expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights
20 and benefits of Section 1542 of the California Civil Code, or any other similar provision under
21 federal or state law, which provides:

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

26 Accordingly, if the facts relating in any manner to this Resolution are found hereafter to be other
27 than or different from the facts now believed to be true, the release of claims contained herein
28 shall be effective as to all unknown claims.

1 **C. Publicity.**

2 Named Claimant agrees that he will not discuss, disclose, communicate, or publish the
3 Resolution. Named Claimant, in response to inquiries, will state that that “the matter was
4 resolved.” Class Counsel shall not report the Resolution in any medium or in any publication,
5 shall not post or report anything regarding the Arbitration or the Resolution on their website, and
6 shall not contact the press, reporters or general media regarding the Resolution. As used herein,
7 “press, reporters, or general media” shall refer to and include newspapers, periodicals,
8 magazines, online publications, and television and radio stations and programs, and any
9 representative of the foregoing. Upon receipt of an inquiry from the press, reporters, or general
10 media, Class Counsel shall respond with words to the effect “we have no comment.” Nothing
11 herein shall prevent Class Counsel from communicating with Named Claimant and members of
12 the Settlement Class regarding the terms of this Resolution.

13 **VII. SETTLEMENT ADMINISTRATOR**

14 Named Claimant and Respondent, through their respective counsel, have selected CPT
15 Group, Inc. as the Settlement Administrator to administer the Resolution, which includes, but is
16 not limited to, distributing and responding to inquiries about the Notice and Claim Form,
17 determining the validity of the Claim Forms and opt-outs and calculating all amounts to be paid
18 from the Settlement Amount. Any charges and expenses of the Settlement Administrator, not to
19 exceed \$7,500.00, will be paid from the Settlement Amount.

20 **VIII. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

21 **A. Notice.**

22 Named Claimant and Respondent, through their respective attorneys, have jointly
23 prepared a Notice and a Claim Form, which in substance will be provided to the members of the
24 Settlement Class as follows:

25 As soon as practicable following preliminary approval of the Resolution, but no later than
26 fifteen (15) calendar days after the Arbitrator’s preliminary approval award, Respondent will
27 provide to the Settlement Administrator the following information about each member of the
28 Settlement Class (“Class List”): (1) name; (2) last known mailing address; (3) number of

workweeks as a Settlement Class member during the Settlement Period; (4) Social Security number; and (5) last known telephone number. Respondent further agrees to consult with the Settlement Administrator prior to the production date to ensure that the format will be acceptable to the Settlement Administrator.

The Settlement Administrator shall run all the addresses provided through the United States Postal Service National Change of Address (NCOA) database (which provides updated addresses for any individual who has moved in the previous four years and who has notified the U.S. Postal Service of a forwarding address) to obtain current address information, and shall mail the Notice and Claim Form to the members of the Settlement Class via first-class U.S. Mail using the most current mailing address information available within twenty (20) calendar days of the preliminary approval date. The Notice shall provide the members of the Settlement Class forty-five (45) calendar days' notice of all applicable dates and deadlines.

The Notice will include information regarding the nature of the Arbitration, a summary of the terms of the Resolution, the definition of the Settlement Class, a statement that the Arbitrator has preliminarily approved the Resolution, the procedure and time period for objecting to the Resolution, information regarding the opt-out procedure, and the date and location of the final approval hearing. The Notice shall enclose the Claim Form which will state Respondent's calculation of the number of workweeks that the Settlement Class member worked during the Settlement Period.

If a Notice is returned from the initial notice mailing, the Settlement Administrator will submit the applicable and available information, including name, Social Security number, and original mailing address, to a company that specializes in address skip tracing to attempt to locate a more current address. If the Settlement Administrator is successful in locating a new address, it will re-mail the Notice and Claim Form to the Settlement Class member. Further, any Notices returned with a forwarding address to the Settlement Administrator, as non-deliverable before the deadline date, shall be sent to the forwarding address affixed thereto. Upon completion of these steps by the Settlement Administrator, the Parties and the Settlement Administrator shall be deemed to have satisfied their obligations to provide the Notice to the Settlement Class.

Specifically, for a Settlement Class member to receive an individual settlement payment from the Net Settlement Amount, his or her Claim Form must be signed by the Settlement Class member or his or her authorized representative and the Claim Form must be returned by mail to the Settlement Administrator no later than forty-five (45) calendar days after the date the Settlement Administrator initially mails the Claim Forms to the Settlement Class. If a member of the Settlement Class fails to submit a Claim Form, then he or she will not receive an individual settlement payment from the Net Settlement Amount and will have extinguished the right to pursue any of the claims asserted in the Arbitration or which could have been asserted based on the facts alleged in the Arbitration, for: (1) failure to pay wages, including overtime wages; (2) meal and rest break liability under Labor Code sections 226.7, 512, and applicable Industrial Welfare Commission Wage Order(s); (3) inaccurate wage statements under Labor Code sections 226; (4) failure to reimburse business expenses under Labor Code section 2802; (5) untimely paid wages and waiting time penalties under Labor Code sections 201-203, 204 and 210; (6) unfair competition in violation of Business and Professions Code sections 17200, *et seq.*; and (7) penalties pursuant to PAGA (Labor Code § 2698, *et seq.*).

Should any member of the Settlement Class timely submit a Claim Form with a deficiency, the Settlement Administrator shall, within five (5) calendar days of receipt by the Settlement Administrator of each timely submitted Claim Form, send a deficiency notice. The deficiency notice will provide the member of the Settlement Class no more than ten (10) calendar days from the mailing of the deficiency notice to postmark a written response to cure all deficiencies. The failure of a member of the Settlement Class to timely submit a Claim Form or timely respond to a notice of deficiency shall invalidate that claim, unless all Parties' counsel agree to allow the claim.

No later than twenty (20) business days prior to the final approval hearing, the Settlement Administrator shall provide counsel for Respondent and Class Counsel with a declaration attesting to the completion of the notice process, including the number of attempts to obtain valid mailing addresses for and re-sending of any returned Notices, as well as the number of valid Claim Forms, opt-outs and deficiencies which the Settlement Administrator received.

1 The Settlement Administrator will not provide information by which a participating
2 member of the Settlement Class might be identified; except for good cause shown (such as
3 enforcement of a release), the identity of participating members of the Settlement Class receiving
4 settlement payments will not be disclosed to the Respondent.

5 **B. Objections.**

6 In order for any Settlement Class member to object to this Resolution, or any term of it,
7 the person making the objection must not submit a request for exclusion (i.e., must not opt out)
8 and must, by no later than forty-five (45) calendar days after the Notice was initially mailed to
9 the Settlement Class, submit with the Settlement Administrator and serve on Class Counsel and
10 counsel for Respondent a written statement of the grounds of objection, signed by the objecting
11 member of the Settlement Class or his or her attorney, along with all supporting papers. All such
12 objections and written notices of intention to appear must be signed and must contain the
13 Settlement Class member's current address and the address of counsel, if any. The objection
14 should clearly explain why the Settlement Class member objects to the Resolution and state
15 whether the Settlement Class member (or someone on his or her behalf) intends to appear at the
16 final approval hearing. If a member of the Settlement Class submits a timely and complete
17 objection and written notice of intention to appear, he or she may appear personally or through
18 an attorney, at his or her own expense, at the final approval hearing to present his or her objection
19 directly to the Arbitrator. Any attorney who will represent an individual objecting to this
20 Resolution must file a notice of appearance with the Arbitrator and serve Class Counsel and
21 Respondent's Counsel no later than forty-five (45) calendar days after the Notice was initially
22 mailed to the Settlement Class. If a member of the Settlement Class objects to this Resolution,
23 he or she will remain a member of the Settlement Class and if the Arbitrator approves this
24 Agreement, the Settlement Class member will be bound by the terms of the Resolution and final
25 approval in the same way and to the same extent as a Settlement Class member who does not
26 object. The date of mailing of the Notice to the objecting Settlement Class member shall be
27 conclusively determined according to the records of the Settlement Administrator. The
28 Arbitrator retains final authority with respect to the consideration and admissibility of any

1 Settlement Class member objections. Any member of the Settlement Class who submits an
2 objection may also submit a Claim Form but must do so on a timely basis in order for it to be
3 valid. Provided the Settlement Administrator mailed the Notice to a member of the Settlement
4 Class as set forth in Section VIII.A., this deadline to file an objection shall apply notwithstanding
5 assertion by any member of the Settlement Class of non-receipt of the Notice.

6 Named Claimant and Respondent will be permitted to respond in writing to such
7 objections no later than seven (7) calendar days before the final approval hearing. Named
8 Claimant waives any right to object to the Resolution, and hereby endorses the Resolution as fair,
9 reasonable and adequate and in the best interests of the Settlement Class.

10 **C. Opportunity to be Excluded.**

11 In order for any member of the Settlement Class to validly exclude himself or herself
12 from the Settlement Class and this Resolution (i.e., to validly opt out), a written request for
13 exclusion ("Request to be Excluded") must be signed by the Settlement Class member or his or
14 her authorized representative and must be sent to the Settlement Administrator, postmarked by
15 no later than forty-five (45) calendar days after the date the Settlement Administrator initially
16 mails the Notice to the Settlement Class. The Notice shall contain instructions on how to opt
17 out.

18 The date of the initial mailing of the Notice, and the date the signed Request to be
19 Excluded was postmarked, shall be conclusively determined according to the records of the
20 Settlement Administrator. Any member of the Settlement Class who timely and validly submits
21 a Request to be Excluded from the Settlement Class and this Resolution will not be entitled to
22 any individual settlement payment, will not be bound by the terms and conditions of this
23 Resolution, and will not have any right to object, appeal, or comment thereon.

24 Settlement Class Members who submit valid and timely Requests to be Excluded will not
25 reduce the Settlement Amount nor the Net Settlement Amount; their individual settlement
26 payments will remain a part of the Net Settlement Amount for distribution to participating
27 Settlement Class Members on a pro rata basis.

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1 In the event a member of the Settlement Class returns both a valid and timely Claim Form
2 and a Request to be Excluded, the Request to be Excluded will be deemed void, and of no force
3 and effect, while the Claim Form will be processed pursuant to the terms of the Resolution. Any
4 member of the Settlement Class who does not timely file and mail a Request to be Excluded from
5 the Settlement Class will be deemed included in the Settlement Class in accordance with this
6 Resolution. Named Claimant waives any right to be excluded from the Settlement Class.

7 **D. Right of Respondent to Reject Settlement.**

8 If more than five (5) Settlement Class members who have not separately settled their
9 released claims timely submit valid Requests to be Excluded, Respondent will have the right, but
10 not the obligation, to void the settlement and the Parties will have no further obligations under
11 the settlement, including any obligation by Respondent to pay the Settlement Amount, or any
12 amounts that otherwise would have been owed under this Agreement, except that Respondent
13 will pay the Settlement Administrator's reasonable fees and expenses incurred as of the date that
14 Defendant exercises its right to void the settlement. Respondent will notify Class Counsel and
15 the Arbitrator whether it is exercising this right to void not later than seven (7) days after the
16 Settlement Administrator notifies the Parties of the final number of valid Requests to be
17 Excluded.

18 **E. Cooperation.**

19 The Parties and their respective counsel agree not to encourage members of the
20 Settlement Class to refrain from submitting a Claim Form, to opt out of this settlement, or to
21 object to the settlement, directly or indirectly, through any means. However, if a member of the
22 Settlement Class contacts Class Counsel, Class Counsel may discuss the terms of the Resolution
23 and the Settlement Class member's options.

24 **IX. CLAIMS PROCEDURE**

25 Named Claimant and Respondent have agreed upon the following procedure to resolve
26 claims of the Settlement Class during the Settlement Period. Payments to the Settlement Class
27 will be determined on a claims-made basis and each member of the Settlement Class who submits
28 a timely and valid Claim Form will be paid a percentage of the Net Settlement Amount based

1 upon the number of weeks worked by each member of the Settlement Class during the Settlement
2 Period.

3 Each member of the Settlement Class will be mailed a Claim Form stating the number of
4 workweeks he or she worked during the Settlement Period ("Eligible Workweeks"). The pre-
5 printed information based on Respondent's records shall be presumed to be correct. If the
6 member of the Settlement Class does not dispute the number of Eligible Workweeks set forth in
7 the Claim Form, he or she must submit a signed Claim Form postmarked by no later than forty-
8 five (45) calendar days after the date the Settlement Administrator initially mails the Notice to
9 the Settlement Class. If the member of the Settlement Class disputes the number of Eligible
10 Workweeks set forth in the Claim Form, he or she must follow the directions in the Claim Form
11 and/or Notice. This would include preparing a statement setting forth the number of Eligible
12 Workweeks he or she believes in good faith to be correct, stating that he or she authorizes the
13 Settlement Administrator to review his or her personnel file to determine such information, and
14 attaching any relevant documentation in support thereof. The member of the Settlement Class
15 must mail the signed and completed statement no later than forty-five (45) calendar days after
16 the date of the mailing of the Notice.

17 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation
18 with Class Counsel and counsel for Respondent, will review the information and documentary
19 evidence provided by the Settlement Class member, as well as pertinent payroll records in his or
20 her personnel file.

21 The Settlement Administrator's decision as to the number of Eligible Workweeks shall
22 be final and non-appealable. The Settlement Administrator shall send written notice of the
23 decision on any such claim to the Settlement Class member, to Class Counsel, and counsel for
24 Respondent within ten (10) calendar days of receipt of the dispute.

25 **X. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

26 **A. Distribution Formula.**

27 Net Settlement Payments will be distributed to members of the Settlement Class who
28 submit timely and valid Claim Forms. Net Settlement Payments will be paid out of the Net

1 Settlement Amount. Payments to members of the Settlement Class will be determined on a
2 claims-made basis and each member of the Settlement Class who submits a timely and valid
3 Claim Form will be paid a percentage of the Net Settlement Amount based upon his or her
4 Eligible Workweeks during the Settlement Period. Each Net Settlement Payment will be
5 determined by dividing the Net Settlement Amount by the total number of Eligible Workweeks
6 worked by all members of the Settlement Class during the Settlement Period (the "Weekly
7 Amount") and then multiplying the Weekly Amount by the number of Eligible Workweeks by
8 the individual Settlement Class member as determined by the Settlement Administrator in
9 accordance with Section IX, above, less any applicable withholding taxes based on the Parties'
10 stipulated allocation of the Net Settlement Amount as provided for in Section XIV, below.

11 Any unclaimed portion of the Net Settlement Amount shall be distributed on a pro rata
12 basis to members of the Settlement Class who have submitted timely and valid Claims Forms.

13 **B. Time for Distribution.**

14 Respondent will remit the Settlement Payment to the Settlement Administrator within ten
15 (10) business days of the Arbitrator's final approval award. Within ten (10) business days upon
16 receipt of the Settlement Payment, the Settlement Administrator shall cause the Net Settlement
17 Payments, Arbitrator-approved enhancement payment to Named Claimant, Arbitrator-approved
18 attorney's fees and costs, and PAGA Settlement to be mailed, subject to the provisions,
19 conditions and limitations in Section XVI.

20 **XI. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

21 The amounts paid under this Agreement do not represent a modification of any previously
22 credited hours of service under any employee benefit plan, policy or bonus program sponsored
23 by Respondent. Such amounts will not form the basis for additional contributions to, benefits
24 under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by
25 Respondent, policies or bonus programs. Any payments made under the terms of this Resolution
26 shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages,
27 or any other form of compensation for the purposes of Respondent's benefit plan, policy or bonus
28 program. Respondent retains the right to modify the language of its benefit plans, policies and

1 bonus programs to effect this intent and to make clear that any amounts paid pursuant to this
2 Resolution are not for "hours worked," "hours paid," "hours of service," or any similar measuring
3 term as defined by applicable plans, policies and bonus programs for purpose of eligibility,
4 vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not
5 required by this Resolution.

6 **XII. ATTORNEYS' FEES AND COSTS**

7 Respondent shall not oppose an application by Class Counsel for, and Class Counsel shall
8 not seek or receive, an amount in excess of 35 percent of the Settlement Amount for all past and
9 future attorneys' fees necessary to prosecute, settle and administer this action. Additionally,
10 Respondent shall not oppose an application by Class Counsel for, and Class Counsel shall not
11 seek or receive, an amount in excess of \$18,000.00, which represents all past and future costs
12 and expenses necessary to prosecute, settle and administer this action. Any attorneys' fees or
13 costs awarded to Class Counsel by the Arbitrator shall be deducted from the Settlement Amount
14 for the purpose of determining the Net Settlement Amount.

15 **XIII. ENHANCEMENT PAYMENT TO NAMED CLAIMANT**

16 Respondent shall not oppose an application by Named Claimant for his participation in
17 and assistance with the Arbitration, and Named Claimant shall not seek or receive an amount in
18 excess of \$6,500.00. Any enhancement awarded to Named Claimant by the Arbitrator shall be
19 deducted from the Settlement Amount for the purpose of determining the Net Settlement
20 Amount, and shall be reported on IRS Form 1099.

21 **XIV. TAXATION AND ALLOCATION**

22 **A. Allocation and Withholdings**

23 The Parties agree that all employment taxes and other legally required withholdings, other
24 than Employer Taxes, will be withheld from payments to the members of the Settlement Class
25 and Named Claimant based on the Parties stipulated allocation of the Net Settlement Amount as
26 provided for in this Section.

27 The amount of federal income tax withholding will be based upon a flat withholding rate
28 for supplemental wage payments in accordance with Treas. Reg. section 31.3402(g)-1(a)(2) as

amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations.

For withholding tax characterization purposes and payment of taxes, the Net Settlement Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"):

- (1) 30% as wages; and
- (2) 70% as penalties and interest.

Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this section may be modified in a manner to bring Respondent into compliance with any such changes.

The Settlement Administrator will calculate and administer the payment of any and all employment taxes (including Employer Taxes) that are triggered based on the payments described herein. The Employer Taxes will be funded separately by Respondent (i.e., outside of the Settlement Amount), while all other taxes will be paid from the Settlement Amount.

B. Circular 230 Disclaimer.

EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR

ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

XV. PRIVATE ATTORNEYS GENERAL ACT ALLOCATION

In order to implement the terms of this Resolution and to settle claims alleged under the Private Attorneys General Act, California Labor Code section 2698, *et seq.*, the Parties agree to allocate Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the penalties portion of the Settlement Amount as the PAGA Settlement. Seventy-five percent (75%), is to be paid by Respondent, through the Settlement Administrator, to the California Labor and Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%) is to be part of the Settlement Fund available to the Settlement Class.

Settlement Administrator shall be responsible for any and all disbursements to the LWDA in connection with this allocation that may be necessary to effect a full and complete release of all claims contemplated by this Agreement.

XVI. ARBITRATOR APPROVAL

This Agreement and the Resolution is contingent upon final approval of the Stipulation of Resolution by the Arbitrator. Named Claimant and Respondent agree to take all steps as may be reasonably necessary to secure both preliminary approval and final approval of the Resolution, to the extent not inconsistent with the terms of this Agreement, and will not take any action adverse to each other in obtaining Arbitrator approval. Named Claimant and Respondent expressly agree that they will not file any objection to the terms of this Stipulation of Resolution or assist or encourage any person or entity to file any such objection.

Respondent shall have the right to seek confirmation of the Arbitrator's award by a court of competent jurisdiction at any time. Named Claimant shall cooperate with Respondent in the Respondent's petition for confirmation of the Arbitrator's award.

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XVII. MISCELLANEOUS PROVISIONS

A. Fair Settlement.

The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the action and have arrived at this Agreement through arms-length negotiations with the assistance of a mediator, and pursuant to a mediator's proposal, taking into account all relevant factors, current and potential.

B. Interpretation of the Agreement.

This Agreement constitutes the entire agreement between the Parties. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State of California, both in its procedural and substantive aspects, without regard to its conflict of laws provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively before the Arbitrator, and Parties hereby consent to the personal jurisdiction of the Arbitrator over them solely in connection therewith. The foregoing is only limited to disputes concerning this Agreement and in no way limits or negates the enforceability and effect of the underlying arbitration agreements signed by employees of Respondent, specifically including but not limited to Named Claimant, obligating them to, *inter alia*, arbitrate any and all claims on an individual basis. Named Claimant, on his own behalf and on behalf of the Settlement Class, and Respondent participated in the negotiation and drafting of this Agreement and had available to them the advice and assistance of independent counsel. As such, neither Named Claimant nor Respondent may claim that any ambiguity in this Agreement should be construed against the other.

The terms and conditions of this Agreement constitute the exclusive and final understanding and expression of all agreements between Named Claimant and Respondent with

1 respect to the Resolution of the Arbitration. The Agreement may be modified only by a writing
2 signed by the original signatories and approved by the Arbitrator.

3 **C. Further Cooperation.**

4 Named Claimant and Respondent and their respective attorneys shall proceed diligently
5 to prepare and execute all documents, to seek the necessary approval from the Arbitrator, and to
6 do all things reasonably necessary or convenient to consummate the Agreement as expeditiously
7 as possible.

8 **D. Enforcement.**

9 In the event that one or more of the Parties to this Agreement institutes any legal action
10 or other proceeding against any other party or parties to enforce the provisions of this Resolution
11 or to declare rights and/or obligations under this Agreement, the successful party or parties shall
12 be entitled to recover from the unsuccessful party or parties reasonable attorneys' fees and costs
13 incurred in connection with any enforcement actions.

14 **E. Counterparts.**

15 The Agreement may be executed in one or more actual or non-original counterparts, all
16 of which will be considered one and the same instrument and all of which will be considered
17 duplicate originals.

18 **F. No Third Party Beneficiaries.**

19 Named Claimant, members of the Settlement Class, and Respondent are direct
20 beneficiaries of this Agreement, but there are no third party beneficiaries.

21 **G. Binding on Assigns.**

22 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and
23 their respective heirs, trustees, executors, administrators, successors, assigns, predecessors,
24 successors, shareholders, officers, directors, employees, agents, trustees, representatives,
25 administrators, fiduciaries, assigns, subrogees, executors, partners, parents, subsidiaries,
26 insurers, affiliates, and privies, and upon Settlement Class members who do not opt out of the
27 settlement agreed to in this Resolution.

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1 **H. *Force Majeure.***

2 The failure of any party to perform any of its obligations hereunder shall not subject such
3 party to any liability or remedy for damages, or otherwise, where such failure is occasioned in
4 whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions,
5 floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages,
6 shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage,
7 terrorist acts, acts or failures to act of any third parties, or any other similar or different
8 circumstances or causes beyond the reasonable control of such party.

9 **I. Other Actions Enjoined.**

10 Respondent shall have the right to request that the Arbitrator enter an order that, pending
11 final approval, Settlement Class members who do not opt out of the settlement are barred from
12 instituting or prosecuting any claims or actions against the Respondent which fall within the
13 scope of the release herein and that any pending actions against the Respondent, whether in court
14 or arbitration, are stayed on an interim basis only as to any claims which fall within the scope of
15 the release herein.

16 **J. Deadlines Falling on Weekends or Holidays.**

17 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
18 or legal holiday, that deadline shall be continued until the following business day.

19 **K. Severability.**

20 In the event that any one or more of the provisions contained in this Agreement shall for
21 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
22 unenforceability shall in no way effect any other provision if Respondent's counsel and Class
23 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed
24 as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

25 **L. Notices to Counsel.**

26 All notices, requests, demands and other communications required or permitted to be
27 given pursuant to this Agreement shall be in writing and shall be delivered personally or mailed,
28

1 postage prepaid, by first-class United States mail, to the undersigned persons at their respective
2 addresses as set forth herein:

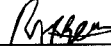
3	4	5
	Class Counsel:	Counsel for Respondent:
6	Anthony J. Orshansky COUNSELONE, PC 9301 Wilshire Boulevard, Suite 650 7 Beverly Hills, California 90210 8 Telephone (310) 277-9945	Spencer W. Waldron FISHER & PHILLIPS LLP 2050 Main Street, Suite 1000 Irvine, California 92614 Telephone (949) 851-2424
9		

10 **M. Authority.**

11 Each individual signing below warrants that he or she has the authority to execute this
12 Agreement on behalf of the party for whom or which that individual signs.

13 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this
14 Stipulation of Resolution as of the date(s) set forth below:

15
16 Date: 04 / 12 / 2021

17 By: 
18 Raffe Chamoun

19
20
21 Date: _____

JONES ONTARIO ACQUISITION, LLC

22
23 By: _____
24 Name:
For Jones Ontario Acquisition, LLC

postage prepaid, by first-class United States mail, to the undersigned persons at their respective addresses as set forth herein:

Class Counsel:	Counsel for Respondent:
Anthony J. Orshansky COUNSELONE, PC 9301 Wilshire Boulevard, Suite 650 Beverly Hills, California 90210 Telephone (310) 277-9945	Spencer W. Waldron FISHER & PHILLIPS LLP 2050 Main Street, Suite 1000 Irvine, California 92614 Telephone (949) 851-2424

M. Authority.

Each individual signing below warrants that he or she has the authority to execute this Agreement on behalf of the party for whom or which that individual signs.

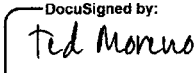
IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Stipulation of Resolution as of the date(s) set forth below:

Date: _____

By: _____
Raffe Chamoun

Date: 4/12/2021

JONES ONTARIO ACQUISITION, LLC

By: 
Name: Ted Moreno
For Jones Ontario Acquisition, LLC

APPROVED AS TO FORM:

Date: 04 / 12 / 2021

COUNSELONE, P.C.

By: Anthony J. Orshansky
Anthony J. Orshansky
Attorneys for Named Claimant and the
Settlement Class

Date: _____

FISHER & PHILLIPS LLP

By: Karl R. Lindegren
Spencer W. Waldron
Attorneys for Respondent
Jones Ontario Acquisition, LLC

1 APPROVED AS TO FORM:

2 Date: _____

COUNSELONE, P.C.

4 By: _____

Anthony J. Orshansky
Attorneys for Named Claimant and the
Settlement Class

6 Date: 4/12/2021

FISHER & PHILLIPS LLP

8 By: _____

DocuSigned by:

Spencer Waldron

Karl R. Lindgren
Spencer W. Waldron
Attorneys for Respondent
Jones Ontario Acquisition, LLC