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Attorneys for Defendants
Underground Construction Co., Inc. and
Underground Electric Construction Co., LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO**

THOMAS ANDERSON DOTY, SOPHIA
COLEMAN on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

UNDERGROUND CONSTRUCTION CO.,
INC., a Delaware Corporation;
UNDERGROUND ELECTRIC
CONSTRUCTION CO., LLC; a Delaware
Limited Liability Company; and DOES 1-50,
inclusive,

Defendants.

Case No.: FCS054576

Assigned to Hon. Alesia F. Jones
Department 22

CLASS ACTION

**STIPULATION FOR CLASS ACTION
SETTLEMENT AND RELEASE OF
CLAIMS**

1 This Stipulated Settlement Agreement and Release of Claims is entered into by and
2 between Plaintiff Thomas Anderson Doty and Plaintiff Sophia Coleman (“Plaintiffs”),
3 individually and on behalf of all others similarly situated, and as private attorneys generals, on
4 the one hand, and Defendant Underground Construction Co., Inc. and Defendant Underground
5 Electric Construction Co., LLC, (“Defendants”) on the other hand, and is approved by their
6 respective counsel of record, subject to the terms and conditions hereof and the Court’s
7 approval.

8 **A. Definitions**

9 1. “Action” or “Lawsuit” means and refers to the case entitled *Doty, et al. v.*
10 *Underground Construction Co., Inc., et al.*, Solano County Superior Court Case No.
11 FCS054576.

12 2. “Agreement,” “Stipulation,” “Stipulation of Settlement,” “Settlement
13 Agreement,” or “Stipulation and Agreement” shall mean this Stipulation for Class Action
14 Settlement and Release of Claims, including any attached Exhibit(s).

15 3. “Class Counsel” refers to Joshua S. Falakassa of Falakassa Law, P.C. and Arash
16 S. Khosrowshahi of Liberty Man Law.

17 4. “Class Data” means a complete list of all Settlement Class Members that
18 Defendants will diligently and in good faith compile from their records and provide to the
19 Settlement Administrator within twenty (20) days after entry of the Preliminary Approval
20 Order. The Class List shall be on one spreadsheet and shall include the Settlement Class
21 Members’ full names; last known addresses; telephone numbers; employee identification
22 numbers; and the start/end dates of active employment during the Class Period for each
Settlement Class Member.

23 5. “Class Periods are as follows:
24 (a) Wage Statement Claims Class Period is the period of March 19, 2019 through March
25 31, 2020; and (b) the Meal & Rest Period Claims Class Period is the period March 19, 2016,
26 through the Preliminary Approval Date, inclusive.

27 6. “Class Representatives” or “Plaintiffs” collectively means and refers to Thomas
28 Anderson Doty and Sophia Coleman.

1 7. “Complaint” refers to the Second Amended Class and Representative PAGA
2 Action Complaint filed in the Solano County Superior Court on September 28, 2020 in the
3 matter of *Doty, et al. v. Underground Construction Co., Inc., et al.*, Solano County Superior
4 Court Case No. FCS054576.

5 8. “Court” (or “Judge”) means the California Superior Court, County of Solano.

6 9. “Defendants” collectively means and refers to Underground Construction Co.,
7 Inc. and Underground Electric Construction Co., LLC.

8 10. “Defendants’ Counsel” or “Defense Counsel” means and refers to Paul V.
9 Simpson and Matthew Mallet from Simpson, Garrity, Innes & Jacuzzi PC.

10 11. “Effective Date” means the later of the following: (a) if no objections to the
11 Settlement are submitted, the date on which the Court issues the Final Approval Order and
12 Judgment; (b) if any objections to the Settlement are submitted, the date which is sixty (60)
13 calendar days after notice of entry of the Final Approval Order and Judgment if no notice is
14 filed within that time seeking appeal of the Final Approval Order and Judgment and if no
15 motion for extension to appeal is filed; or (c) if a notice of appeal is filed, the date upon which
16 all appellate and/or other proceedings resulting from the notice of appeal have been terminated
17 in such a manner as to permit the Final Approval Order and Judgment to take effect in
18 substantially the form described herein.

19 12. “Final Approval” refers to the order of the Court granting final approval of this
20 Stipulation of Settlement and entering a judgment approving this Agreement on substantially
21 the terms provided herein or as the same may be modified by subsequent agreement of the
22 Parties.

23 13. “Final Settlement Class” means, collectively, all Participating Class Members
24 who have not submitted timely Requests for Exclusion.

25 14. “Individual Settlement Amount” shall have the meaning ascribed to it in
26 Paragraph 43(c) below.

27 15. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph
28 43(b) below.

 16. “Notice” or “Notice Packet” means the Notice of Proposed Class Action
Settlement, attached hereto as **Exhibit A**, which shall be sent to all Class Members. Among

1 other issues, it will advise each Class Member of the Settlement and his or her estimated
2 “Individual Settlement Amount.”

3 17. “Notice Response Deadline” is 45 calendar days from the date the Notice Packet
4 is mailed to the Settlement Class Members.

5 18. “Objecting Settlement Class Member” means a Settlement Class Member, other
6 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement,
7 pursuant to Paragraph 62(c) below.

8 19. “Participating Class Member” means any and all Settlement Class Members who
9 are deemed to participate and receive an Individual Settlement Amount and do not opt-out by
10 submitting timely valid Requests for Exclusion.

11 20. “Parties” or “Settling Parties” mean Plaintiffs, the Settlement Class, and
12 Defendants, collectively.

13 21. “Preliminary Approval Date” means the date the Court approves the Stipulation
14 of Settlement, and the exhibits thereto, and enters the Preliminary Approval Order.

15 22. “Preliminary Approval Order” means the judicial Order to be entered by the
16 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
17 and providing for the issuance of the Notice Packet to the Settlement Class, an opportunity to
18 opt out of the Settlement, an opportunity to submit timely objections to the Settlement, and
19 setting a hearing on the fairness of the terms of Settlement, including approval of attorneys’
20 fees and costs. Defendants will not object to Plaintiff’s motion for preliminary approval as
long as it is consistent with this Agreement.

21 23. “Qualified Settlement Fund” or “QSF” means an account to be set up by the
22 Settlement Administrator for the benefit of the Settlement Class, and into which the Gross
23 Settlement Amount is to be deposited, and from which Settlement Payments shall be made in a
24 manner consistent with the terms of this Settlement.

25 24. There are two types of released claims: “Released Claims” and “Released PAGA
26 Claims.”

- 27 a. “Released Claims” means any and all claims, debts, liabilities, demands,
28 obligations, penalties, guarantees, costs, expenses, attorney’s fees, damages, actions
or causes of action of whatever kind or nature, whether known or unknown,

1 contingent or accrued, that were alleged or that reasonably could have been alleged
2 based on the facts alleged in the Complaint, on behalf of the Wage Statement Sub-
3 class and that arose during the Wage Statement Claims Class Period, including, but
4 not limited to, claims for (a) failure to furnish and maintain accurate wage
5 statements in accordance with Labor Code Section 226 *et seq.*, and any and all
6 claims, debts, liabilities, demands, obligations, penalties, guarantees, costs,
7 expenses, attorney's fees, damages, actions or causes of action of whatever kind or
8 nature, whether known or unknown, contingent or accrued, that were alleged or that
9 reasonably could have been alleged based on the facts alleged in the Complaint on
10 behalf of the Meal & Rest Period Subclass that arose during the Meal & Rest
11 Period Claims Class Period, including (a) failure to provide statutorily required
12 meal periods and associated premium payments, (b) failure to provide statutorily
13 required rest periods and associated premium payments, (c) failure to reimburse
14 employee expenses, (d) Labor Code Section 203 waiting time penalties, (e)
15 unlawful and unfair competition pursuant to Business and Professions Code section
16 17200 *et seq.*,

- 17 b. "Released PAGA Claims" means any and all claims for civil penalties that were
18 alleged or that reasonably could have been alleged based on the facts alleged in the
19 Complaint, pursuant to Labor Code sections 2699 *et seq.*, including but not limited
20 to sections 201-203, 226(a), 226.7, 512, 516, and 2802-2804, 226.3, 210(a), 204,
21 and 558.

22 25. "Released Parties" means Defendants and their present and former officers,
23 directors, members, managers, shareholders, agents, subsidiaries, parent companies and related
24 corporate entities, insurers, joint employers, successors and assignees.

25 26. "Release Periods" shall be the Wage Statement Claims Class Period and the
26 Meal & Rest Period Claims Class Period.

27 27. "Release" shall mean the release and discharge of the Released Claims and the
28 PAGA Released Claims by Plaintiffs and all of the Participating Class Members, and their
successors and assignees.

1 28. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 62(a)
2 below.

3 29. “Service Payment” or “Service Award” means the amount approved by the
4 Court to be paid to the Class Representatives, Thomas Anderson Doty and Sophia Coleman, in
5 addition to their Individual Settlement Amounts as Participating Class Members.

6 30. “Settlement Administrator” means and refers to Phoenix Administration
7 Services, the third-party class action settlement administrator agreed to by the Parties, who
8 will provide the Notice Packet to the Class Members and distribute the settlement amounts as
9 described in this Stipulation.

10 31. “Settlement Administration Costs” means the costs payable from the Settlement
11 Amount to the Settlement Administrator for administering this Settlement, including, but not
12 limited to, printing, distributing, and tracking documents for this Settlement, tax reporting,
13 distributing the Settlement Amount, and providing necessary reports and declarations, as
14 requested by the Parties. The Settlement Administration Costs shall be paid from the
15 Settlement Amount, including, if necessary, any such costs in excess of the amount
16 represented by the Settlement Administrator as being the maximum costs necessary to
administer the Settlement.

17 32. “Settlement Amount” shall have the meaning ascribed to it in Paragraph 43(a)
18 below.

19 33. “Settlement Class” or “Covered Position” is defined as all current and former
20 employees employed by Defendants in the following sub-classes:

21 a. “Wage Statement Subclass” means all exempt and non-exempt employees who are
22 or were employed by Defendants in California and who received at least one wage
23 statement from Defendants from March 19, 2019 until March 31, 2020.

24 b. “Meal Break Subclass” means all non-exempt employees who are not subject to
25 any Collective Bargaining Agreement (“CBA”), who are or were employed by
26 Defendants in California, and who worked at least one shift greater than 5.0 hours,
27 from March 19, 2016 until the Preliminary Approval Date, inclusive.

28 c. “Rest Break Subclass” means all non-exempt employees who are not subject any
CBA and non-exempt employees subject to the California Outside Line

1 Construction Agreement Between Western Line Constructors Chapter of NECA
2 and Local Unions No. 47 and 1245, who are or were employed by Defendants in
3 California, and who worked at least one shift greater than 3.5 hours, from March
4 19, 2016 until the Preliminary Approval Date, inclusive.

5 d. “Unreimbursed Subclass” means all non-exempt employees who were not subject
6 to any collective bargaining agreement and non-exempt employees subject to the
7 California Outside Line Construction Agreement Between Western Line
8 Constructors Chapter of NECA and Local Unions No. 47 and 1245, who are or
9 were employed by Defendants in California, who incurred unreimbursed expenses
10 on behalf of Defendants from March 19, 2016 until the Preliminary Approval Date,
11 inclusive.

12 e. “Waiting Time Penalty Subclass” means all non-exempt non-union employees and
13 employees subject to the California Outside Line Construction Agreement Between
14 Western Line Constructors Chapter of NECA and Local Unions No. 47, who were
15 employed by Defendants in California, and whose employment with Defendants
16 was terminated, from March 19, 2016 until the Preliminary Approval Date,
17 inclusive.

18 f. The individual subclasses referenced in Sections 33b. thru 33e. are collectively
19 referenced herein as the Meal & Rest Break Subclasses.

20 34. “Settlement Class Member” or “Class Members” refers to individual members of
21 the Wage Statement Subclass and Meal & Rest Period Subclass, collectively referenced herein
22 as the Settlement Class.

23 35. “Weeks Worked” means any week in which a Participating Class Member
24 worked at least one (1) shift during the Class Periods.

25 **B. General Terms**

26 36. The Second Amended Complaint was filed on September 28, 2020 with the
27 Court and alleges class action and representative PAGA claims, including: (a) wage statement
28 violations (Labor Code §226 (a)); (b) meal period violations (Labor Code §§226.7 and 512); ;
(c) rest period violations (Labor Code §§226.7 and 516); (d) failure to reimburse necessary
business expenses (Labor Code §§2802-2804); (e) unlawful deductions (Labor Code §§221,

224 and 204); (f) waiting time penalties (Labor Code §§201-203); (g) unfair competition (Bus. & Prof. Code §§ 17200 *et seq.*); and (h) related claims under PAGA (Labor Code §§2698 *et seq.*). Plaintiffs filed a Dismissal without prejudice with respect to the fifth cause of action for unlawful deductions on or about March 24, 2021.

37. Defendants deny Plaintiffs' claims and allegations and contend that the Action is not suitable for class certification.

38. Plaintiffs believe they can proceed with their representative and class claims, that the Action is meritorious, and that class certification is appropriate.

39. The Parties have conducted a thorough investigation into the facts and analysis of the law pertinent to the claims asserted in the Action. This includes conducting an extensive exchange of informal discovery, including Defendants' written policies and practices and the production of a sampling of payroll and timekeeping records for Settlement Class Members. Class Counsel is both knowledgeable about and has done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Class. Class Counsel has diligently pursued an investigation of the Class Members' claims against Defendants. Based on the foregoing data and on their own independent investigation and evaluation and uncertainties associated with the litigation of the claims Class Counsel is of the opinion that settlement with Defendants for the consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, the defenses asserted by Defendants, and numerous potential appellate issues.

40. On February 17, 2021, Plaintiffs and Defendants participated in a mediation via Zoom video conferencing before Tripper Ortman, Esq., a full-time mediator with extensive experience in California wage and hour class action lawsuits. After a full-day mediation, the parties did not come to a resolution of the claims. However, after further exchange of information and negotiations, with the aid of the mediator, the Parties reached a settlement.

41. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts to be performed or judgments to be entered pursuant to the terms of the Settlement and

1 Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation
2 of any statute or law or liability on the claims or allegations in the Action.

3 42. Stipulation for Class Certification. For settlement purposes only, Defendants
4 will stipulate that the Settlement Class Members described herein who do not Request
5 Exclusion from the Settlement Classes may be conditionally certified as Settlement Classes.
6 This stipulation to certification is in no way an admission that class action certification is
7 proper and shall not be admissible in this or in any other action except for the sole purposes of
8 enforcing this Agreement. Should, for whatever reason, the Court fail to issue Final Approval,
9 the Parties' stipulation to class certification as part of the Settlement shall become null and
10 void *ab initio* and shall have no bearing on and shall not be admissible in connection with the
11 issue of whether or not certification would be appropriate in a non-settlement context.
12 Defendants expressly reserve their rights and declare that they would continue to oppose class
13 certification and the substantive merits of Plaintiffs' claims should the Court fail to issue Final
14 Approval. Plaintiffs expressly reserve their rights and declare that they will continue to pursue
15 class certification and a trial should the Court fail to issue Final Approval.

16 **C. Terms of Settlement**

17 43. The financial terms of the Settlement are as follows:

18 (a) Gross Settlement Amount: The Parties agree to settle this Action for One
19 Million Four Hundred Fifty Thousand Dollars and Zero Cents (\$1,450,000.00) ("the
20 Settlement Amount"). The Settlement Amount is the maximum amount that will be paid, and
21 includes Individual Settlement Amounts, attorneys' fees of Class Counsel, costs and expenses,
22 the Service Payments to the Plaintiffs, all Settlement Administration Costs, and payment to the
LWDA for PAGA penalties.

23 (b) Net Settlement Amount: The "Net Settlement Amount" is defined as the
24 Settlement Amount less attorneys' fees and litigation costs as approved and awarded by the
25 Court, the Service Payments to the Plaintiffs as awarded by the Court, the Settlement
26 Administration Costs, and payment to the LWDA for PAGA penalties. In the event that the
27 Court reduces the attorneys' fees, costs, expenses or Service Payments, the difference shall be
28 placed in the Net Settlement Amount and allocated to the Settlement Class.

(c) Individual Settlement Amounts for the Settlement Class: Ninety percent

(90%) of the Net Settlement Amount will be allocated to Individual Class Members in the Wage Statement Subclass (“Wage Statement Net Settlement Amount”), and ten percent (10%) of the Net Settlement Amount will be allocated to Individual Class Members in Meal & Rest Period Subclass (“Remaining Net Settlement Amount”)

(d) The Individual Settlement Amount for each Participating Class Member will be calculated by the Settlement Administrator using the Class Data provided by Defendants as follows: Compensable workweeks will be all Weeks Worked by the Participating Class Members during the respective Class Periods. The dollars per compensable workweek for the Wage Statement Subclass will be calculated by dividing the Wage Statement Net Settlement Amount by the Participating Class Members’ total Weeks Worked during the Wage Statement Claims Class Period (“Workweek Value”). The Workweek Value will be multiplied by the number of Weeks Worked by each Participating Class Member during the Class Period to determine the distribution for each Participating Class Member.

(e) The dollars per compensable workweek for the Meal & Rest Period Subclass will be calculated by dividing the Remaining Net Settlement Amount by the Participating Class Members’ total Weeks Worked during the Rest and Meal Period Claims Class Period. (“Workweek Value”). The Workweek Value will be multiplied by the number of Weeks Worked by each Participating Class Member during the respective Class Period to determine the distribution, prior to legal deductions, for each Participating Class Member. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Amounts for each Participating Class Member so that the total amount distributed to Participating Class Members equals 100% of the Net Settlement Amount.

(f) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts will be allocated based on the assessment of the likely recovery of the claims in the Action as follows: Ninety percent (90%) of the Individual Settlement Amount will be allocable to Individual Class Members in the Wage Statement Subclass form which no deductions or withholdings shall be taken, and ten percent (10%) allocable to Individual Class Members in the remaining subclasses of which 15% will be paid as wages subject to withholding of all applicable local, state and federal taxes; and 85% will be paid as interest

1 and non-wage damages, including, but not limited to, waiting time penalties, from which no
2 taxes will be withheld. The Settlement Administrator will issue to each Participating Class
3 Member an Internal Revenue Service Form W-2 and comparable state forms with respect to
4 the wage allocation and a Form 1099 with respect to the Individual Settlement Amounts .

5 (g) Service Payment to Plaintiffs: The amount, if any, awarded to the
6 Plaintiffs as Service Payments will be set by the Court in its discretion, not to exceed \$10,000
7 for each Plaintiff. Defendants agree not to oppose this request. The Service Payments to
8 Plaintiffs will be paid out of the Settlement Amount. Plaintiffs will be bound by a General
9 Release, set forth below, in exchange for these payments and will each be issued IRS Form
10 1099 in connection with these payments. Plaintiffs shall be solely and legally responsible to
11 pay any and all applicable taxes on this payment. The Parties agree that any amount awarded
12 as the Service Payments to Plaintiffs less than the requested amount shall not be a basis for
13 Class Counsel to void this Stipulation. Should the Court approve a lesser amount for the
14 Service Payments, the difference shall be added to the Net Settlement Amount to be
15 distributed to the Participating Class Members.

16 (h) Attorneys' Fees and Costs: Defendants agree to not oppose a request by
17 Class Counsel to the Court for an award of attorneys' fees not to exceed thirty-five percent
18 (35.00%) of the Gross Settlement Amount, plus reasonable litigation costs not to exceed
19 \$15,000. Defendants agree not to oppose any contention by Class Counsel that attorneys' fees
20 should be based on the common fund theory. Should the Court approve a lesser amount than
21 what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount
22 to be distributed to the Participating Class Members. Any Court order awarding less than the
23 amount sought by Class Counsel shall not be grounds to rescind the Settlement Agreement or
24 otherwise void the Settlement. The Settlement Administrator shall issue to Class Counsel an
25 IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by the Court.

26 (i) Settlement Administration Costs: The fees and other charges of the
27 Settlement Administrator will be paid from the Settlement Amount. Settlement
28 Administration Costs are not to exceed \$12,500. Should Settlement Administration Costs be
less than \$12,500, the difference shall be added to the Net Settlement Amount to be distributed
to the Participating Class Members.

1 (j) PAGA Penalties: The Parties agree that \$25,000 is allocated to PAGA
2 Penalties, and is to be paid from the Settlement Amount, subject to Court approval. Of this
3 amount, \$18,750.00 (75%) shall be paid to the LWDA in satisfaction of Plaintiffs' claims for
4 penalties under the Private Attorney General Act of 2004 ("PAGA") and \$6,250.00 (25%) will
5 be included in the Net Settlement Amount, payable to the Settlement Class Members.

6 (k) Tax Liability: Class Counsel and Defendants make no representation as
7 to the tax treatment or legal effect of payments called for hereunder, and Plaintiffs and the
8 Settlement Class Members are not relying on any statement or representation by Class Counsel
9 or Defendants in this regard. Plaintiffs and Participating Class Members understand and agree
10 that they will be solely responsible for the payment of any taxes and penalties assessed on their
11 respective payments described herein. The amount of federal income tax withholding will be
12 based upon a flat withholding rate for supplemental wage payments in accordance with Treas.
13 Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be
14 made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2
15 and/or Forms 1099 will be distributed at the times and in the manner required by the Internal
16 Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the
17 regulations promulgated thereunder, or other applicable tax law, is changed after the date of
18 this Agreement, the processes set forth in this Section may be modified in a manner to comply
19 with any such changes.

20 (l) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS
21 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING
22 PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE
23 ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES
24 THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
25 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
26 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
27 SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
28 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

1 UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR
2 ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT,
3 (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
4 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR
5 TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
6 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
7 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
8 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
9 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE
10 CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
11 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY
12 BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX
13 TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY
14 TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

15 44. No Effect on Employee Benefits. Amounts paid to Plaintiffs or other
16 Participating Class Members pursuant to this Settlement will not count as earnings or
17 compensation for purposes of any benefits (e.g., pensions or retirement plans) sponsored by
18 Defendant. It is expressly understood and agreed that the receipt of Individual Settlement
19 Amount shall not entitle any Participating Class Member to additional compensation or
20 benefits under any collective bargaining agreement or under any bonus, contest or other
21 compensation or benefit plan or agreement in place during the period covered by the
22 Settlement, nor shall it entitle any Participating Class Member to any increased pension and/or
23 retirement, or other deferred compensation benefits. It is the intent of the Parties that
24 Individual Settlement Amounts provided for in this Stipulation are the sole payments to be
25 made by Defendants to Participating Class Members in connection with this Settlement, with
26 the exception of Plaintiffs, and that the Participating Class Members are not entitled to any
27 new or additional compensation or benefits as a result of having received the Individual
28 Settlement Awards. Furthermore, the receipt of Individual Settlement Amounts by
Participating Class Members shall not, and does not, by itself establish any general, special, or
joint employment relationship between and among the Participating Class Member(s) and

Defendants.

45. “Non-Reversionary” Settlement. This is an all-in “non-reversionary” settlement and there shall be no reversion to Defendants.

46. Class Counsel and Plaintiffs believe that the Settlement is fair and reasonable and will so represent same to the Court.

D. Release by the Settlement Class

47. As of the Effective Date, and except as to such rights or claims as may be created by this Stipulation of Settlement, the Participating Class Members forever completely release and discharge the Released Parties from the **Released Claims** for the Release Period. Similarly, as of the Effective Date, and except as to such rights or claims as may be created by this Stipulation of Settlement, Plaintiffs, individually and on behalf of the Labor and Workforce Development Agency and aggrieved employees, forever completely release and discharge the Released Parties from the **Released PAGA Claims**. Participating Class Members will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Claims.

48. Plaintiffs and Defendants intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Claims. The Class Members shall be so notified in the Notice Packet. This paragraph does not apply to any Class Member who timely and validly opts out of the Settlement.

49. Plaintiffs, on behalf of themselves and the Settlement Class, acknowledge and agree that the claims for wage statement violations, meal and rest period violations, failure to reimburse necessary business expenses, and waiting time penalties in the Action, are disputed, and that the payments set forth herein constitute payment of all sums allegedly due to them. Plaintiffs, on behalf of themselves and the Settlement Class, acknowledge and agree that California Labor Code Section 206.5 is not applicable to the Parties hereto. That section provides in pertinent part as follows:

An employer shall not require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages

has been made.

E. Release by Class Representatives

50. As a material inducement to Defendants to enter into this Settlement Agreement, Plaintiffs do hereby, for themselves and for their spouse, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and assigns forever and completely release and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this Stipulation, whether known or unknown, suspected or unsuspected, including but not limited to all claims arising out of, based upon, or relating to Class Representatives' employment with Defendants or the remuneration for or termination of such employment (collectively, the "Plaintiffs' Claims").

51. Without limiting the generality of the foregoing, Plaintiffs expressly release all claims or rights against Released Parties arising out of or relating to alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith and fair dealing (express or implied); any tort, including any claim for improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and alleged "off the clock" work under federal and state law, including California Labor Code Sections 204, 510, reimbursement of business expenses pursuant to California Labor Code Sections 2802 to 2804, waiting time penalties pursuant to California Labor Code Sections 201 to 203, damages or penalties pursuant to California Labor Code Section 226, meal period and rest break payments and penalties pursuant to California Labor Code Sections 226.7, 512, 516, failure to provide itemized wage statements pursuant to California Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections 210, unfair competition and unfair business practices pursuant to Business and Professions Code Section 17200 *et seq.*, interest and costs pursuant to California Civil Code Section 3287 and California Labor Code Section 218.6, statutory or common law rights to attorneys' fees and

costs, including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged violation or breach of any other state or federal statute, rule and or regulation; including all applicable Industrial Welfare Commission Wage Orders, and all similar causes of action, including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional distress, intentional infliction of emotional distress, and defamation; any "wrongful discharge," "constructive discharge," and "retaliation" claims; any claims relating to any breach of public policy; any legal restrictions on Defendants' right to discharge employees; and any federal, state, or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government Code § 12900 *et seq.* (discrimination or harassment in employment and/or housing, including discrimination or harassment based on race, religious creed, color, national origin, ancestry, disability, marital status, sex (including pregnancy), or age, including retaliation for reporting discrimination or harassment); (7) California Family Rights Act, Cal. Government Code § 12945.1 *et seq.* (family/medical leave); (8) California Labor Code, including Section 1720 *et seq.*, or any Industrial Welfare Commission Wage Order.

52. Plaintiffs agree that there is a risk that any injury that she may have suffered by reason of the Released Parties' relationship with them might not now be known, and there is a further risk that said injuries, whether known or unknown at the date of this Settlement Agreement, might possibly become progressively worse, and that as a result thereof further damages may be sustained. Nevertheless, Plaintiffs agree to forever and fully release and discharge the Released Parties and understand that by the execution of this Settlement Agreement no further claims for any such injuries that existed at the time of the execution of

1 this Settlement Agreement may ever be asserted by Plaintiffs with respect to claims arising in
2 the time period from the beginning of time to the execution of this Settlement Agreement.

3 53. Plaintiffs expressly waive and relinquish all rights and benefits afforded by
4 Section 1542 of the Civil Code of the State of California and do so understanding and
5 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
6 of the State of California states:

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

14 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
15 full and complete release and discharge of all parties, Plaintiffs and Class Counsel expressly
16 acknowledge that this Settlement Agreement is intended to include in its effect, without
17 limitation, all claims that Plaintiffs knew of, as well as all claims that they do not know or
18 suspect to exist in their favor against the Released Parties, or any of them, for the time period
19 from the beginning of time to the execution of this Settlement Agreement, and that this
20 Settlement Agreement contemplates the extinguishment of any such claims.

21 **F. Interim Stay of Proceedings**

22 54. Pending completion of all of the prerequisites necessary to effectuate this
23 Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the
24 Action except such as are necessary to effectuate the Settlement.

25 **G. Notice Process**

26 55. Appointment of Settlement Administrator. The Parties have agreed to the
27 appointment of the Settlement Administrator to perform the duties of a settlement
28 administrator, including mailing the Notice Packet, using standard means to obtain forwarding
addresses, independently reviewing and verifying documentation associated with any claims
or opt-out requests, resolving any disputes regarding the calculation or application of the
formula for determining the Individual Settlement Amounts, drafting and mailing the
settlement checks to Participating Class Members, issuing W-2 and 1099 Tax Forms, and

1 performing such other tasks as set forth herein or as the Parties mutually agree or that the
2 Court orders.

3 56. Disputes Regarding Settlement Administration. Any and all disputes relating to
4 administration of the Settlement by the Settlement Administrator (except for disputes
5 regarding Class Data) shall be referred to the Court, if necessary, which will have continuing
6 jurisdiction over the terms and conditions of this Stipulation of Settlement, until Plaintiffs and
7 Defendants notify the Court that all payments and obligations contemplated by this Stipulation
8 of Settlement have been fully carried out. Prior to presenting any issue to the Court, counsel
9 for the Parties will confer in good faith to resolve the dispute without the necessity of Court
10 intervention. The Settlement Administrator shall also be responsible for issuing to Plaintiffs,
11 Settlement Class Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be
12 required by law for all amounts paid pursuant to this Agreement. The Settlement
13 Administrator shall also be responsible for setting up all necessary tax accounts and
14 forwarding all payroll taxes and penalties to the appropriate government authorities.

15 57. Class Data. Within twenty (20) calendar days after entry of the Preliminary
16 Approval Order, Defendants shall provide to the Settlement Administrator on a spreadsheet a
17 list of all Wage Statement Settlement Class Members and a list of all Meal & Rest Period
18 Settlement Class Members, including their full names, last known addresses, telephone
19 numbers, employee identification numbers and the start/end dates of employment by each
20 Class Member during the applicable Class Periods. The Settlement Administrator will run a
21 check of the Class Members' addresses against those on file with the U.S. Postal Service's
22 National Change of Address List. The Class Data provided to the Settlement Administrator
23 will remain confidential and will not be used or disclosed to anyone, except as required by
24 applicable tax authorities, pursuant to Defendants' express written consent, or by order of the
25 Court.

26 58. Notice Packet. The Notice Packet, as approved by the Court, shall be sent by the
27 Settlement Administrator to the Settlement Class Members, by first class mail, in English,
28 within ten (10) calendar days following the Settlement Administrator's receipt of the Class
Data. The Settlement Administrator shall use standard devices, including a skip trace, to
obtain forwarding addresses of Settlement Class Members if any envelopes are returned.

1 59. Returned Notice Packets. The Settlement Administrator will take steps to ensure
2 that the Notice Packet is received by all Settlement Class Members, including utilization of the
3 National Change of Address Database maintained by the United States Postal Service to
4 review the accuracy of and, if possible, update a mailing address. A Notice Packet will be re-
5 mailed to each Class Member for whom an updated address is located within ten (10) calendar
6 days following the Settlement Administrator's receipt of the updated address. The Notice
7 shall be identical to the original Notice, except that it shall notify the Class Member that the
8 exclusion (opt-out) request or objection must be returned by the later of the Notice Response
9 Deadline or fifteen (15) days after the re-mailing of the Notice Packet.

10 60. Presumption Regarding Receipt of Notice Packet. It will be conclusively
11 presumed that if an envelope has not been returned within thirty (30) days of the mailing that
12 the Settlement Class Member received the Notice Packet.

13 61. Disputes Regarding Class Data. Class Members are deemed to participate in the
14 Settlement, unless they opt-out. The Notice will inform each Class Member of his/her
15 estimated Individual Settlement Amount and the number of weeks he/she worked during the
16 applicable Class Period. Class Members may dispute their Weeks Worked if they feel they
17 worked more weeks in the applicable Class Period in California than Defendants' records
18 show, by timely submitting evidence to the Settlement Administrator. Defendants' records
19 will be presumed determinative absent reliable evidence to rebut Defendants' records, but the
20 Settlement Administrator will evaluate the evidence submitted by the Class Member and
21 provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and
22 confer in good faith about the evidence to determine the Class Member's actual number of
23 workweeks and estimated Individual Settlement Amount. If Class Counsel and Defense
24 Counsel are unable to agree, they will submit the dispute to the Settlement Administrator to
25 render a final decision. Class Members will have until the Notice Response Deadline to
26 dispute Weeks Worked, object or opt out, unless extended by the Court.

27 62. Declaration of Due Diligence. The Settlement Administrator shall provide
28 counsel for the Parties, at least twenty-five (25) days prior to the final approval hearing, a
declaration of due diligence and proof of mailing with regard to the mailing of the Notice
Packet.

63. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the Settlement, and the ability to opt-out or request exclusion from the Settlement. The Notice Packet will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Settlement in accordance with the following guidelines:

(a) Requests for Exclusion from Settlement Class. Any Settlement Class Member, other than Plaintiffs, may request to be excluded from the Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline, or on or before 30 days after a Class Member is re-noticed after a skip trace. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *DOTY, ET AL. V. UNDERGROUND CONSTRUCTION CO., INC., ET AL.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT."

Any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address. Any such Request must be made in accordance with the terms set forth in the Notice Packet. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline (or within 30 days after a Class Member is re-noticed after a skip trace), unless the Parties otherwise agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement, including the right to object, appeal or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement; and (iii) will not be bound by this Agreement, or the Judgment.

(b) Binding Effect on Final Settlement Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise

provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement. Any Settlement Class Member, other than Plaintiffs, may object to the terms of this Agreement. To object, a Settlement Class Member shall inform the Settlement Administrator, in writing, of his or her objection which must be postmarked by the Notice Response Deadline at the address set forth in the Notice, or within thirty (30) days after a Class Member is re-noticed after a skip trace. Such objection shall include the full name, address, telephone number, dates of employment with Defendants of the Objecting Settlement Class Member, the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by counsel, the name and address of his or her counsel. If any Objecting Settlement Class Member wishes to speak at the Final Approval Hearing, that Objecting Settlement Class Member's written submission should include a request to be heard, and the Court will determine whether Objecting Settlement Class Members will be permitted to speak. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence and file with the Court prior to the Final Approval Hearing. Any Participating Class Member who files an objection remains eligible to receive monetary compensation from the Settlement. Plaintiffs and Defendants shall not be responsible for any fees, costs, or expenses incurred by any Class Member and/or his or her counsel related to any objections to the Settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure § 663.

(d) Failure to Object. Absent good cause found by the Court, any Settlement Class Member who desires to object but fails to timely submit a written objection waives any right to object and will be foreclosed from making any objection to this Settlement. Any Settlement Class Member who does not timely and properly become a party of record by intervening or filing a motion to vacate the judgment waives any and all rights to appeal from

1 the Judgment, including all rights to any post-judgment proceeding and appellate proceeding,
2 such as a motion to vacate judgment, motion for new trial, a motion under California Code of
3 Civil Procedure section 473, and/or extraordinary writs.

4 (e) Responses to Objections. Counsel for the Parties may file a response to
5 any objections submitted by Objecting Settlement Class Members at least five (5) court days
6 before the date of the Final Approval Hearing.

7 64. Settlement Class Members will have until the Notice Response Deadline to
8 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The
9 Settlement Administrator shall disclose jointly to Class Counsel and Defendants' counsel what
10 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
11 request of Class Counsel or Defense Counsel.

12 65. Funding of the Settlement Amount. Defendants shall make a one-time deposit
13 into the Qualified Settlement Fund ("QSF") of the Settlement Amount, as described in
14 Paragraph 43(a), that is necessary to make all payments required under this Settlement, within
15 thirty (30) calendar days after the Effective Date, plus shall separately pay its share of
16 employer payroll taxes as calculated and directed by the Settlement Administrator.

17 66. Distribution of Funds. No later than ten (10) calendar days after the deposit of
18 each payment into the QSF, the Settlement Administrator will mail the payments to the
19 Participating Class Members, the payment for the attorneys' fees and costs to Class Counsel,
20 any Service Payments to the Class Representatives, the payment to the LWDA for PAGA
penalties, and will pay itself the Settlement Administration Costs.

21 67. Undistributed Funds. In the event that any checks mailed to Participating Class
22 Members remain uncashed after the expiration of 180 days, or an envelope mailed to a
23 Participating Class Member is returned and no forwarding address can be located for the
24 Participating Class Member after reasonable efforts have been made (including but not limited
25 to skip tracing), then any such checks shall become null and void, and such monies shall be
26 distributed to the Legal Aid at Work, 180 Montgomery Street, Suite 600, San Francisco, CA
27 94104.

28 **H. Duties of the Parties Prior to the Court's Approval**

1 68. Promptly after execution of this Stipulation of Settlement, Plaintiffs will move
2 the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval
3 Order accomplishing the following:

4 (a) Scheduling the Final Approval Hearing on the issue of whether this
5 Settlement should be finally approved as fair, reasonable and adequate as to the Class
6 Members and a hearing on fees, costs and the Service Payments;

7 (b) Approving as to form and content the proposed Notice Packet, attached
8 hereto as **Exhibit A**;

9 (c) Directing the mailing of the Notice Packet by first class mail to the
10 Settlement Class Members;

11 (d) Preliminarily approving this Settlement; and

12 (e) Preliminarily certifying the class for purposes of this Settlement.

13 **I. Duties of the Parties Following Court's Final Approval**

14 69. In connection with the Final Approval Hearing provided for in this Stipulation of
15 Settlement, Class Counsel shall submit a proposed Final Approval Order:

16 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
17 adequate, and directing consummation of its terms and provisions;

18 (b) Approving Class Counsel's application for an award of attorneys' fees and
19 reimbursement of litigation costs and expenses, the Service Payments to the Plaintiffs, and the
20 payment to the Settlement Administrator for costs of administering the settlement; and

21 (c) Entering judgment approving settlement, thereby permanently barring all
22 Settlement Class Members from prosecuting any Released Claims against any of the Released
23 Parties.

24 **J. Voiding the Agreement**

25 70. If the Court fails or refuses to issue the Final Approval Order or fails to approve
26 any material condition of this Stipulation of Settlement which effects a fundamental change of
27 the Settlement, the entire Stipulation of Settlement shall be rendered voidable and
28 unenforceable as to all Parties herein at the option of either Party.

 71. If, after the Response Deadline and before the Final Approval Hearing, seven
and a half percent (7.5%) or more of the number of Settlement Class Members submit timely

1 and valid Requests for Exclusion from the Settlement, Defendant shall have, in its sole
2 discretion, the option to terminate this Settlement. Defendant shall exercise its option to
3 terminate, if it wishes, prior to the Final Approval Hearing. If Defendant decides to void the
4 Settlement, then the Settlement and conditional class certification shall be considered void,
5 and neither the Settlement, conditional class certification, nor any of the related negotiations or
6 proceedings, shall be of any force or effect, and the Parties shall stand in the same position,
7 without prejudice, as if this Settlement had been neither entered into nor filed with the Court.

8 72. If the Settlement is voided or fails for any reason, Plaintiffs and Defendants will
9 have no further obligations under the Settlement, including any obligation by Defendants to
10 pay the Settlement Amount, or any amounts that otherwise would have been owed under this
11 Settlement.

12 73. If the Settlement is voided or fails for any reason, any costs incurred by the
13 Settlement Administrator shall be borne equally by Defendants and Plaintiffs, unless otherwise
14 specified in this Agreement.

15 **K. Other Terms**

16 74. Waiver. The waiver by one Party of any breach of this Agreement by another
17 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

18 75. Parties' Authority. The signatories hereto represent that they are fully authorized
19 to enter into this Stipulation of Settlement and bind the Parties hereto to the terms and
20 conditions hereof.

21 76. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
22 accomplish the terms of this Stipulation of Settlement, including but not limited to, execution
23 of such documents and to take such other action as may reasonably be necessary to implement
24 the terms of this Stipulation of Settlement. The Parties to this Stipulation of Settlement shall
25 use their best efforts, including all efforts contemplated by this Stipulation of Settlement and
26 any other efforts that may become necessary by order of the Court, or otherwise, to effectuate
27 this Stipulation of Settlement and the terms set forth herein. As soon as practicable after
28 execution of this Stipulation of Settlement, Class Counsel shall, with the assistance and
cooperation of Defendants and Defendants' counsel, take all necessary steps to secure the
Court's preliminary and final approval of the settlement, and the final entry of judgment.

1 77. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
2 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
3 transfer, or encumber to any person or entity any portion of any liability, claim, demand,
4 action, cause of action or rights released and discharged by this Stipulation of Settlement.

5 78. No Admission. Defendants deny any and all liability to Plaintiffs and/or any
6 Settlement Class Member in this Action, as to any and all causes of action that were asserted
7 or that might have been asserted in this Action. Nonetheless, Defendants wish to settle and
8 compromise the matters at issue in the Complaint to avoid further substantial expense and the
9 inconvenience and distraction of protracted and burdensome litigation. Defendants also have
10 taken into account the uncertainty and risks inherent in litigation, and without conceding any
11 infirmity in the defenses that they has asserted or could assert against Plaintiffs, have
12 determined that it is desirable and beneficial that Plaintiffs' claims be settled in the manner
13 and upon the terms and conditions set forth in this Agreement.

14 79. Inadmissibility of Agreement. Whether or not the Court issues the Final
15 Approval Order, nothing contained herein, nor the consummation of this Stipulation of
16 Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or
17 wrongdoing on the part of Defendants or any of the other Released Parties. Each of the Parties
18 hereto have entered into this Stipulation of Settlement with the intention of avoiding further
19 disputes and litigation with the attendant inconvenience and expenses. This Stipulation of
20 Settlement is a settlement document, and it, along with all related documents such as the
21 notices, and motions for preliminary and final approval, shall, pursuant to California Evidence
22 Code Section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any
23 proceeding, except an action or proceeding to approve the settlement, and/or interpret or
24 enforce this Stipulation of Settlement. The stipulation for class certification as part of this
25 Stipulation of Settlement is for settlement purposes only and if, for any reason the settlement is
26 not approved, the stipulation will be of no force or effect.

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

To the Settlement Class:

Joshua S. Falakassa, Esq.
Falakassa Law, P.C.
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (818) 456-6168; Fax: (888) 505-0868

Arash S. Khosrowshahi, Esq.
Liberty Man Law
1010 F Street, Ste. 300
Sacramento, California 95814
Tel: (916) 573-0469; Fax: (866) 700-0787

To Defendants:

Paul V. Simpson
Simpson, Garrity, Innes & Jacuzzi PC
601 Gateway Blvd., Suite 950
South San Francisco, CA 94080
Tel.: (650) 615-4860; Fax: (650) 615-4861

81. Construction. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Stipulation of Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Stipulation of Settlement. Plaintiffs and Defendants expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

82. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation of Settlement or any provision hereof. Each term of this Stipulation of Settlement is contractual and not merely a recital.

83. Modification. This Stipulation of Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Stipulation of Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by all the Parties hereto.

1 84. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
2 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
3 provide written notice to the other Party and allow an opportunity to cure the alleged
4 deficiencies, and Plaintiffs and Defendants agree to seek the help of the Mediator to resolve
5 any dispute they are unable to resolve informally. During this period, the Parties shall bear
6 their own attorneys' fees and costs. This provision shall not apply to any legal action or other
7 proceeding instituted by any person or entity other than Plaintiffs or Defendants.

8 85. Choice of Law. This Settlement Agreement shall be governed by and construed,
9 enforced and administered in accordance with the laws of the State of California, without
10 regard to its conflicts-of-law rules.

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

16 87. Binding On Assigns. This Stipulation of Settlement shall be binding upon and
17 inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
18 administrators, successors and assigns.

19 88. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
20 because the members of the Settlement Class are numerous, it is impossible or impractical to
21 have each Class Member execute this Stipulation of Settlement. The Notice Packet will advise
22 all Settlement Class Members of the binding nature of the release provided herein and such
23 shall have the same force and effect as if each Settlement Class Member executed this
24 Stipulation of Settlement.

25 89. Counterparts. This Stipulation of Settlement may be executed in counterparts,
26 and when each Party has signed and delivered at least one such counterpart, each counterpart
27 shall be deemed an original, and, when taken together with other signed counterparts, shall
28 constitute one fully-signed Stipulation of Settlement, which shall be binding upon and
effective as to all Parties. Electronic signatures shall have the same force and effect as an
original.

1 90. Publicity. Class Counsel and Plaintiff agree to discuss the terms of this
2 Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to
3 serve as class counsel, in declarations submitted to a court in support of motions for
4 preliminary approval, final approval, for attorneys' fees/costs, and any other pleading filed
5 with the Court in conjunction with the Settlement, and in discussions with Class Members in
6 the context of administering this Settlement until the Preliminary Approval Order is issued.
7 Class Counsel and Plaintiffs agree that they shall not issue any press releases or press
8 statements regarding the Settlement, identify Defendants or Defense Counsel by name in any
9 media including Class Counsel's website, or have any communications with the press or media
10 about the Action or the Settlement.

11 91. Attorneys' Fees and Costs. Except as otherwise specifically provided for herein,
12 each party shall bear his/her/its own attorneys' fees, costs and expenses, taxable or otherwise,
13 incurred by them in or arising out of this Action, and shall not seek reimbursement thereof
14 from any other party to this Agreement.

15 Dated: _____

PLAINTIFF:

16
17 _____
18 Thomas Anderson Doty

19 Dated: _____

PLAINTIFF:

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21 _____
22 Sophia Coleman

23 Dated: _____

CLASS COUNSEL:
24 FALAKASSA LAW, P.C.

25 _____
26 Joshua S. Falakassa, Esq.
27 Attorney for Plaintiff
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Dated: _____

CLASS COUNSEL:
LIBERTY MAN LAW

Arash S. Khosrowshahi, Esq.
Attorney for Plaintiff

Dated: _____

**DEFENDANT UNDERGROUND
CONSTRUCTION CO., INC.:**

Chris Ronco, President

Dated: _____

**DEFENDANT UNDERGROUND ELECTRIC
CONSTRUCTION CO., LLC:**

Andrew A. McManus, Vice-President

Dated: _____,

DEFENDANTS' COUNSEL:
SIMPSON, GARRITY, INNES & JACUZZI PC

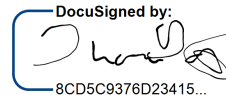
Paul V. Simpson, Esq.
Attorney for Defendants

90. Publicity. Class Counsel and Plaintiff agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as class counsel, in declarations submitted to a court in support of motions for preliminary approval, final approval, for attorneys' fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. Class Counsel and Plaintiffs agree that they shall not issue any press releases or press statements regarding the Settlement, identify Defendants or Defense Counsel by name in any media including Class Counsel's website, or have any communications with the press or media about the Action or the Settlement.

91. Attorneys' Fees and Costs. Except as otherwise specifically provided for herein, each party shall bear his/her/its own attorneys' fees, costs and expenses, taxable or otherwise, incurred by them in or arising out of this Action, and shall not seek reimbursement thereof from any other party to this Agreement.

5/5/2021
Dated: _____

PLAINTIFF:

DocuSigned by:

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Thomas Anderson Doty

5/5/2021
Dated: _____

PLAINTIFF:

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Sophia Coleman

5/5/2021
Dated: _____

CLASS COUNSEL:
FALAKASSA LAW, P.C.

DocuSigned by:

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Joshua S. Falakassa, Esq.
Attorney for Plaintiff

5/5/2021
Dated: _____

CLASS COUNSEL:
LIBERTY MAN LAW

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DocuSigned by:
Arash Khosrowshahi
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Arash S. Khosrowshahi, Esq.
Attorney for Plaintiff

Dated: _____

**DEFENDANT UNDERGROUND
CONSTRUCTION CO., INC.:**

Chris Ronco, President

Dated: _____

**DEFENDANT UNDERGROUND ELECTRIC
CONSTRUCTION CO., LLC:**

Andrew A. McManus, Vice-President

Dated: _____,

DEFENDANTS' COUNSEL:
SIMPSON, GARRITY, INNES & JACUZZI PC

Paul V. Simpson, Esq.
Attorney for Defendants

1 Dated: _____
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3

CLASS COUNSEL:
LIBERTY MAN LAW

4 _____
Arash S. Khosrowshahi, Esq.
Attorney for Plaintiff

5
6 Dated: 5.7.21
7

**DEFENDANT UNDERGROUND
CONSTRUCTION CO., INC.:**

8 _____
9 George R Bradshaw, Executive Vice-President

10
11 Dated: 5/7/21
12

**DEFENDANT UNDERGROUND ELECTRIC
CONSTRUCTION CO., LLC:**

13 _____
14 Andrew A. McManus, Vice-President

15
16 Dated: 5-10-2
17

DEFENDANTS' COUNSEL:
SIMPSON, GARRITY, INNES & JACUZZI PC

18 _____
19 Paul V. Simpson, Esq.
20 Attorney for Defendants
21
22
23
24
25
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