

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Maria C. Hernandez (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Cold Steel, Inc. (“Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Tristan A. Mullis and Rachel E. Albert of Pettit Kohn Ingrassia Lutz & Dolin PC.

On May 26, 2020, Plaintiff filed a Class Action Complaint against Defendant in Los Angeles County Superior Court, in the matter entitled *Maria C. Hernandez v. Cold Steel, Inc.*, Case No. 20STCV20059 (the “Action”). On June 29, 2020, Plaintiff filed a First Amended Class and Representative Action Complaint. Upon the stipulation of the Parties, the case was transferred to Ventura County Superior Court on September 1, 2020, and assigned the case number 56-2020-00545301-CU-OE-VTA. As part of this Settlement Agreement, the Parties stipulate to the filing of a Second Amended Class and Representative Action Complaint (the “SAC”) alleging the following causes of action: (i) failure to pay all overtime wages; (ii) minimum wage violations; (iii) meal period violations; (iv) rest period violations; (v) wage statement violations; (vi) unfair competitions; (vii) civil penalties under the Private Attorneys General Act (“PAGA”); and (viii) waiting time penalties.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All non-exempt employees who are or were employed by Cold Steel, Inc., in the State of California during the time period of May 26, 2016 through the date of preliminary approval of the settlement (the “Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved, does not become Final as defined below, or is terminated or materially modified without agreement of the Parties, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release by Settlement Class Members and Plaintiff.** Upon the complete funding of the Gross Settlement Amount, Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant and their respective past and present divisions, affiliates, affiliated entities, related entities, parents, subsidiaries, predecessors, successors, assigns, and their respective shareholders, owners, officers, directors, employees, agents, trustees, attorneys, insurers, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, and privies (collectively, the “Released Parties”), as follows:

- A. All Settlement Class members who do not opt-out will release and discharge the Released Parties from any and all claims that were pled in the Action, or which could have been pled in the Action based on the factual allegations in the Action, that arose during the Class Period, including meal period violations, rest period violations, unpaid wages, including minimum wages, overtime and double time wages, wage statement violations, waiting time penalties, unfair business practices, and claims under the PAGA (“Released Claims”). This release shall run from May 26, 2016, through the date of preliminary approval of the settlement.
- B. In light of Plaintiff’s Class Representative Enhancement Payment, Plaintiff has agreed to release, as an individual and in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against Defendant. Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her 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.

Nothing contained herein shall constitute a release of any rights or claims that cannot be waived as a matter of law (including but not limited to claims arising under workers’ compensation laws). Nor shall anything contained herein be construed to exclude the filing of an administrative charge or complaint with the Equal Employment Opportunity Commission or National Labor Relations Board, or participation in an administrative investigation or proceeding.

3. **Gross Settlement Amount.** As consideration and subject to the express condition precedent that this Settlement Agreement becomes Final (as defined below), Defendant agrees to pay a non-reversionary “Gross Settlement Amount” of One Hundred Seventy Thousand Dollars and Zero Cents (\$170,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage ILYM Group, Inc. as the “Settlement Administrator” to administer this Settlement.
- B. The Settlement will become “Final” and effective when: (a) the Court’s final approval of the Settlement (if no timely objections by or on behalf of Settlement Class members have been filed, or any timely objections have been withdrawn); or (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed (“Effective Date”). Should this Settlement Agreement not be finally approved (or if approval is reversed or materially modified on appellate review), this Settlement shall be null and void.

- C. The Gross Settlement Amount shall be deposited with the Settlement Administrator within fifteen (15) calendar days of Effective Date.
- D. This is a non-reversionary settlement. The Gross Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class members;
 - (2) All costs of the Settlement Administrator which are anticipated to be no greater than Ten Thousand Dollars and Zero Cents (\$10,000.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Enhancement Payment in recognition of her contributions to the Action and her service to the Settlement Class. If Plaintiff's request for her enhancement payment is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members;
 - (4) Up to one-third (33.33%) of the Gross Settlement Amount in Class Counsel's attorneys' fees (currently estimated at \$56,666.67), plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke the Settlement Agreement based on that reason, and the Settlement will remain binding; and
 - (5) Fifteen Thousand Dollars and Zero Cents (\$15,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Eleven Thousand Two Hundred Fifty Dollars and Zero Cents (\$11,250.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00) will be payable to the Settlement Class as the "PAGA Amount."
- E. Any reduction by the Court of these requests will revert to the Net Settlement Amount for distribution to the Settlement Class members who do not opt-out.
- F. **Employer Payroll Taxes.** The Gross Settlement Amount does not include Employer Payroll Taxes, which shall be paid by Defendant separate and apart from, and in addition to, the Gross Settlement Amount.
- G. **Escalator Clause.** Defendant represents there are approximately 3,400 workweeks worked by Settlement Class members during the Class Period. If the number of workweeks worked by Settlement Class members during the Class Period is more than 10% greater than this figure (i.e., if there are 3,741 or more workweeks worked by Settlement Class members), Defendant agrees to increase

the Gross Settlement Amount on a proportional basis (e.g., if the actual number of workweeks were 20% greater than 3,400, Defendant would agree to increase the Gross Settlement Amount by 20%).

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiff’s Class Representative enhancement payment, the LWDA’s share of the PAGA payment, and the Settlement Administrator’s fees and expenses for administration. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Settlement Award based on the following formula:
 - i. Wage Statement/PAGA Amount: Five percent (5%) of the Net Settlement Amount plus the \$3,750.00 payable to the Settlement Class members as the PAGA Amount shall be designated as the “Wage Statement/PAGA Amount.” Each participating Settlement Class member who was employed by Defendant at any time between May 26, 2019 to the end of the Class Period, shall receive a portion of the Wage Statement/PAGA Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period.
 - ii. Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from Defendant at any time after May 26, 2017.
 - iii. The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class member’s total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.
- C. Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards,

less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.

- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: 80% as penalties and interest; and 20% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each Settlement Class member who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the State Controller to be deposited in the Unclaimed Property Fund for the benefit of the Settlement Class member whose check was not cashed.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be Fifty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$56,666.67). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for her time and risk in prosecuting this case, and her service to the Settlement Class. This payment will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object to the appointment of ILYM Group, Inc. as Settlement Administrator. Defendant will not object to Plaintiff seeking permission to pay up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members. The Settlement Administrator shall also give notice of final judgment by posting the final judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC as Class Counsel;
- C. Appointing Maria C. Hernandez as Class Representative for the Settlement Class;
- D. Approving ILYM Group, Inc. as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Notice of Estimated Settlement Award), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment and the number of Workweeks worked by each Settlement Class member while employed during the Class Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format reasonably satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of the information provided for in Paragraph 9(A), the Settlement Administrator shall: (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii)

update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.

- C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within five (5) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have an additional fourteen (14) calendar days after the Response Deadline to opt-out, object, or dispute their Individual Settlement Payment. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline.
- D. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion Form to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
- i. The Notice Packet shall state that a Settlement Class member who wishes to exclude themselves from the Settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment

thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time from May 26, 2019, through the date of preliminary approval of this Settlement and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories of relief pled in the SAC, whether they submit a valid and timely Request for Exclusion or not.

- ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.

- E. Objections. Members of the Settlement Class who do not opt-out may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court) within the Response Deadline. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless an objection is filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to respond. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Any Settlement Class member who wishes to may appear in person or through their own counsel and raise an objection at the Final Approval Hearing.
- F. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Individual Settlement Payment, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement. However, if the Settlement Administrator

and the Parties cannot agree on a resolution, the Parties will submit the dispute to the Court for a final determination.

- G. Defendant understands its legal obligation not to retaliate against the Settlement Class members for their participation and/or election to participate in the benefits to be afforded any of them by the Settlement and/or the Action.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Payment, LWDA payment, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Tristan A. Mullis, Pettit Kohn Ingrassia Lutz & Dolin PC, 5901 W. Century Blvd., Suite 1100, Los Angeles, California 90045;
tmullis@pettitkohn.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245;
phaines@haineslawgroup.com.

14. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

15. **Cooperation.** The Parties agree to work cooperatively and in good faith to execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement, and the Parties agree to work cooperatively, diligently, and in good faith to ensure that all documents necessary to seek the Court's approval of this Settlement are timely filed.

16. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

17. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

DATED:

Cold Steel, Inc.

By: _____
Name: _____
Title: _____

DATED: May 14, 2021

Maria C. Hernandez

By:  _____
Maria C. Hernandez (May 14, 2021 18:12 PDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

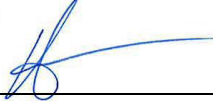
DATED:

PETITT KOHN INGRASSIA LUTZ & DOLIN PC

By: _____
Tristan A. Mullis
Rachel E. Albert
Attorneys for Defendant

DATED: May 17, 2021

HAINES LAW GROUP, APC

By:   _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

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15. **Cooperation.** The Parties agree to work cooperatively and in good faith to execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement, and the Parties agree to work cooperatively, diligently, and in good faith to ensure that all documents necessary to seek the Court's approval of this Settlement are timely filed.

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DATED:

Cold Steel, Inc.

By: 
Name: ALEX CASTRO
Title: CFO

DATED:

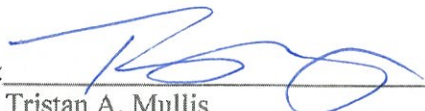
Maria C. Hernandez

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: 6/8/2021

PETITT KOHN INGRASSIA LUTZ & DOLIN PC

By: 
Tristan A. Mullis
Rachel E. Albert
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA

MARIA C. HERNANDEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

COLD STEEL, INC., a California Corporation; and
DOES 1 through 100,

Defendants.

Case No. 56-2020-00545301-CU-OE-VTA

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees who are or were employed by Cold Steel, Inc., in the State of California during the time period of May 26, 2016 through <<PRELIM APPROVAL DATE>> (“Class Period”).

**PLEASE READ CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT
THIS NOTICE IS BEING PROVIDED TO YOU IN ENGLISH AND SPANISH**

Why should you read this Notice?

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in the matter of *Maria C. Hernandez v. Cold Steel, Inc.*, Ventura County Superior Court Case No. 30-2020-00545301-CU-OE-VTA (the “Action”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Cold Steel, Inc.’s (“Cold Steel”) records show that you were employed at Cold Steel as a non-exempt employee in California between May 26, 2016 and <<PRELIM APPROVAL DATE>> (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Maria C. Hernandez (“Plaintiff”) brought this Action against Cold Steel on a class and representative action basis on behalf of a class of non-exempt employees within the State of California who are or were employed by Cold Steel from May 26, 2016 through <<PRELIM APPROVAL DATE>>. Plaintiff is known as the “Class Representative,” and her attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

Plaintiff alleges that Cold Steel failed to pay Settlement Class members all minimum and overtime wages owed, failed to provide all meal periods in accordance with California law, failed to authorize and permit all rest periods in accordance with California law, failed to timely pay all wages owed upon separation of employment, and failed to furnish accurate and itemized wage statements to Settlement Class members. As a result of the foregoing alleged violations, Plaintiff alleges that Cold Steel engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Cold Steel denies Plaintiff’s claims and denies that it has violated any laws or done anything wrong. Cold Steel also

denies that it owes Settlement Class members any wages, restitution, penalties, damages, or other amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Cold Steel, by whom all liability is expressly denied.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Cold Steel has agreed to settle the Action on the terms summarized in this Notice. After Class Counsel had the opportunity to review certain relevant information, the Settlement was reached after mediation and arm's length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Cold Steel, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Cold Steel, your decision about whether to participate in the Settlement will not affect your employment. California law and Cold Steel's policy strictly prohibit unlawful retaliation. Cold Steel will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Alexandra R. McIntosh amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Cold Steel: Pettit Kohn Ingrassia Lutz & Dolin PC Tristan A. Mullis tmullis@pettitkohn Rachel E. Albert ralbert@pettitkohn 5901 W. Century Blvd., Suite 1100 Los Angeles, CA 90045 Tel: (310) 649-5772 Fax: (310) 649-5777 pettitkohn.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who are or were employed by Cold Steel in the State of California from May 26, 2016 through <<PRELIM APPROVAL DATE>>. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Cold Steel as described below.

Cold Steel has agreed to pay \$170,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class members, Class Counsel's attorneys' fees and expenses, settlement administration costs, payment to the Labor & Workforce Development Agency ("LWDA") for its share of civil penalties under the PAGA, and the Class Representative enhancement payment.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for up to one-third of

the Gross Settlement Amount, which is currently estimated at \$56,666.67, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 in verified costs incurred in connection with the Action.

Settlement Administration Costs. The Court has approved ILYM Group, Inc. to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Parties request setting aside up to \$10,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award the Class Representative an enhancement payment in the amount of \$5,000.00 to compensate her for her service and extra work provided on behalf of the Settlement Class.

PAGA Payment to State of California. The parties have agreed to allocate \$15,000.00 towards the Settlement of the PAGA claims in the Action. \$11,250.00 will be paid to the State of California Labor & Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$3,750.00 will be allocated to Settlement Class members as described below.

Calculation of Individual Settlement Class Members’ Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement. The Net Settlement Amount is estimated at approximately \$67,083.33, and will be divided as follows:

- (i) Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount” and will be allocated in equal amounts to all participating Settlement Class members whose employment with Cold Steel ended at any time between May 26, 2017 through <<PRELIM APPROVAL DATE>>.
- (ii) Wage Statement/PAGA Amount: Five Percent (5%) of the Net Settlement Amount plus the \$3,750.00 payable to the Settlement Class members as the PAGA Amount shall be designated as the “Wage Statement/PAGA Amount.” Each participating Settlement Class member who was employed by Cold Steel at any time from May 26, 2019 to <<PRELIM APPROVAL DATE>> shall receive a portion of the Wage Statement/PAGA Amount proportionate to the number of workweeks that he or she worked during the time period of May 26, 2019 to <<PRELIM APPROVAL DATE>>.
- (iii) The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class Member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class Members during the Class Period.

Payments to Settlement Class members. If the Court grants final approval of the Settlement, individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion from the Settlement. Settlement checks will be valid for 180 days. Any checks that were not cashed within 180 days will escheat to the California State Controller Unclaimed Property Fund in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be treated as follows: 20% as “wages,” for which an IRS Form W-2 will be issued; and 80% as “penalties” and “interest” for which an IRS Form 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of the individual Settlement Awards. The Settlement Administrator, Cold Steel and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, each Settlement Class Member who does not opt-out will release and discharge Cold Steel and their respective past and present divisions, affiliates, affiliated entities, related entities, parents, subsidiaries, predecessors, successors, assigns, and their respective shareholders, owners, officers, directors, employees, agents, trustees, attorneys, insurers, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, and privies (collectively, the “Released Parties”) from any and all claims that were pled in the Action, or which could have been pled in the Action based on the factual allegations in the Action, that arose during the Class Period, including meal period violations, rest period violations, unpaid wages, including minimum wages, overtime and double time wages, wage statement violations, waiting time penalties, unfair business practices, and claims under the PAGA. This release shall run from May 26, 2016 through <<PRELIM APPROVAL DATE>>.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period, the proportionate number of workweeks you worked between May 26, 2019 and <<PRELIM APPROVAL DATE>>, and whether you separated employment with Cold Steel at any point from May 26, 2017 through <<PRELIM APPROVAL DATE>>, as stated in the accompanying Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Estimated Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, the proportionate number of workweeks you worked between May 26, 2019 and <<PRELIM APPROVAL DATE>>, and whether you separated employment with Cold Steel at any point from May 26, 2017 through <<PRELIM APPROVAL DATE>>, as stated in the accompanying Notice of Estimated Settlement Award. The information contained in Cold Steel’s records regarding each of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator an executed Request for Exclusion Form no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. A Request for Exclusion Form is included with this Notice.

Send the Request for Exclusion Form directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. All objections and correspondence must be sent directly to the Settlement

Administrator, please do not send objections or correspondence to the Court. Any objections will be provided to the Court by Plaintiff in connection with the Final Approval Hearing. Your written objection should include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections should be in writing and must be postmarked on or before <<RESPONSE DEADLINE>>. Notwithstanding the foregoing, you do not need to object in writing to be heard at the Final Approval Hearing.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 41 of the Ventura County Superior Court, located at 800 South Victoria Avenue, Ventura, California 93009. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Maria C. Hernandez v. Cold Steel, Inc.*, Ventura County Superior Court Case No. 56-2020-00545301-CU-OE-VTA.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 41 of the Ventura County Superior Court, located at 800 South Victoria Avenue, Ventura, California 93009. The Court will also be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, and the Class Representative enhancement payment. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

If the Court grants Final Approval, the Court will issue a final judgment which shall be posted on the Settlement Administrator's website (<http://www.XXX>).

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Ventura County Superior Court, located at 800 S. Victoria Ave., Ventura, California 93009, during regular court hours. You may also visit the Ventura County Superior Court website at www.ventura.courts.ca.gov to inspect the Court's files by going to the "Online Services" tab, selecting "Case Inquiry," and then selecting "Civil & Probate Database," and entering the case number information. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE TO THE COURT, COLD STEEL, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

EXHIBIT B

NOTICE OF ESTIMATED SETTLEMENT AWARD

MARIA C. HERNANDEZ V. COLD STEEL, INC.
VENTURA COUNTY SUPERIOR COURT CASE NO. 56-2020-00545301-CU-OE-VTA

Please complete and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Settlement Award:

According to Cold Steel, Inc.'s ("Cold Steel") records:

- (a) You worked [] Workweeks between May 26, 2016 and <<PRELIM APPROVAL DATE>> (Class Period);
- (b) You worked [] Workweeks between May 26, 2019 and <<PRELIM APPROVAL DATE>> (the Wage Statement/PAGA Period);
- (c) Your employment with Cold Steel <<DID/DID NOT>> end between May 26, 2017 and <<PRELIM APPROVAL DATE>> (the Waiting Time Period).

Based on the above, your Settlement Award is estimated at \$ [].

(IV) If you disagree with items (a) - (c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Cold Steel's records, those records will control unless you are able to provide documentation that establishes that Cold Steel's records are mistaken. If there is a dispute about whether Cold Steel's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the Class Notice that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**

Signature: _____

Date: _____

EXHIBIT C

REQUEST FOR EXCLUSION FORM

Maria C. Hernandez v. Cold Steel, Inc.
Ventura County Superior Court
Case No.: 56-2020-00545301-CU-OE-VTA

IF YOU **DO NOT** WISH TO BE PART OF THE CLASS ACTION SETTLEMENT, YOU MUST **COMPLETE**, **SIGN** AND **MAIL** THIS FORM, POSTMARKED ON OR BEFORE **[INSERT DATE]**, ADDRESSED AS FOLLOWS:

ILYM GROUP, INC.
MARIA C. HERNANDEZ V. COLD STEEL, INC.
SETTLEMENT ADMINISTRATOR

ADDRESS
ADDRESS
PHONE
FAX

DO NOT SUBMIT THIS FORM IF YOU WISH TO RECEIVE A PAYMENT UNDER THE SETTLEMENT.

By signing, filling out, and returning this form, I confirm that I **do not** want to be included in the Settlement of the lawsuit entitled *Maria C. Hernandez v. Cold Steel, Inc.*, Ventura County Superior Court Case No. 56-2020-00545301-CU-OE-VTA.

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *MARIA C. HERNANDEZ V. COLD STEEL, INC.* 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.

Name

Telephone Number

Address

Date

Signature

Last Four Digits of Social Security Number: ____ ____ ____ ____