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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CONSUELO ANDRADE, individually and)
on behalf of all others similarly situated,)

Plaintiff,)

vs.)

NOVACAP, LLC a Delaware Limited)
Liability Company; and DOES 1 through 50,)
inclusive,)

Defendants.)

Case No. 20STCV21805

*Assigned For All Purposes to the Hon. William
F. Highberger, Dept. 10*

**NOTICE OF LODGING JOINT
STIPULATION AND CLASS ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

Date: April 29, 2021

Time: 1:30 p.m.

Department: 10

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that Plaintiff CONSUELO ANDRADE hereby lodges the
3 fully executed Joint Stipulation and Class Action Settlement Agreement and Release
4 (“Agreement”), attached hereto as Exhibit 1.

5
6 DATED: March 24, 2021

LAW OFFICES OF CHOI & ASSOCIATES

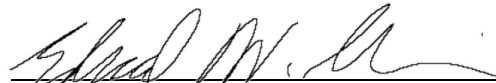
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8 By: 
9 Edward W. Choi
10 Attorneys for Plaintiff and the Class
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EXHIBIT 1

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CONSUELO ANDRADE, individually and on)
behalf of all others similarly situated,)
Plaintiff,)

vs.)

NOVACAP, LLC a Delaware Limited)
Liability Company; and DOES 1 through 50,)
inclusive,)

Defendants.)

Case No. 20STCV21805

**JOINT STIPULATION AND CLASS
ACTION SETTLEMENT AGREEMENT
AND RELEASE**

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This Joint Stipulation and Class Action Settlement Agreement and Release (“Settlement Agreement”) is made and entered into between Plaintiff Consuelo Andrade (“Plaintiff” or “Class Representative”) on the one hand, individually and on behalf of the Class (as defined below), by and through his counsel of record, Diversity Law Group, P.C., Law Offices of Choi & Associates, and David Lee Law (“Class Counsel”), and Defendant Novacap, LLC (“Defendant” or “Novacap”) on the other hand, by and through their counsel of record, Seyfarth Shaw LLP, subject to the approval of the Court, as provided below. This Settlement Agreement is intended by Plaintiff and Defendant to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof, as follows:

1. **Definitions.**

As used herein, for the purposes of this Settlement Agreement only, the following terms shall be defined as set forth below:

- 1.1 “Action” refers to the civil action entitled: *Consuelo Andrade, individually and on behalf of all others similarly situated v. Novacap, LLC, a Delaware Limited Liability Company; and DOES 1 through 50, inclusive*, Case No. 20STCV21805 in the Superior Court of the State of California, for the County of Los Angeles.
- 1.2 “Class” refers to all current and former non-exempt California employees of Defendant who earned overtime wages and non-discretionary incentive pay, including without limitation, “Goal” incentives, in the same workweek at any time during the period of time from April 6, 2016, through December 31, 2019.
- 1.3 “Class Counsel” refers to the attorneys of record for the Class Representative, Diversity Law Group, P.C., Law Offices of Choi & Associates, and David Lee Law.
- 1.4 “Class Counsel Award” refers to costs incurred and attorneys’ fees sought by Class Counsel and agreed upon by the Parties for Class Counsel’s litigation and resolution of this Action, subject to Court approval.
- 1.5 “Class Members” shall mean all individuals identified in Paragraph 1.2.
- 1.6 “Class Settlement Notice” refers to the form of direct-mail notice to Class Members substantially in the form attached hereto as **Exhibit A**, as may be modified by the Court.

- 1.7 “Class Member Payment” shall refer to the amount paid to a Settlement Class Member who does not timely submit a Request for Exclusion as set forth in Paragraph 1.27 below.
- 1.8 “Class Period” refers to April 6, 2016, through the date of preliminary approval of the settlement.
- 1.9 “Class Representative” refers to Consuelo Andrade.
- 1.10 “Complaint” refers to any of the complaints filed by Plaintiff in the Action which includes the original complaint, and the First Amended Complaint.
- 1.11 “Exclusion Deadline” refers to a date that is forty-five (45) calendar days after the date that the Notice Packet is initially mailed to Class Members and is the deadline by which Class Members’ Requests for Exclusion must be postmarked in order to be timely.
- 1.12 “Fairness Hearing” refers to the hearing at which the Court will consider whether the terms of the Settlement Agreement are fair, reasonable, and adequate for the Class and meet all applicable requirements for approval.
- 1.13 “Final Approval Order” refers to the final order by the Court approving the Settlement following the Fairness Hearing.
- 1.14 “Final Effective Date” refers to the first day after the date by which the last of the following has occurred: (a) all conditions of settlement that can be accomplished prior to the Final Effective Date becomes in existence; (b) the Court, or other court assuming jurisdiction of this matter, has entered the Final Approval Order and Judgment; and (c) the Court’s Judgment approving the Settlement becomes final. If there are no objections to this Settlement Agreement, or if any objection is filed and subsequently withdrawn, the date of entry of the Final Approval Order. If there are objections to this Settlement Agreement, or if an appeal, review, or writ, the date the Settlement becomes final shall be the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal or denial of such appeal, or the expiration of the time to file a petition for writ of certiorari, or, (ii) if a petition for a writ of certiorari is filed, the date of dismissal or denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment..

- 1.15 “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum settlement payment Defendant may be obligated to make: One Hundred Twenty-Five Thousand Dollars and Zero Cents (**\$125,000.00**). This sum shall include all payments made to Settlement Class Members, the Court-approved Service Award to the Class Representative, the Court-approved Settlement Administration Costs, the Court-approved Class Counsel Award, and the Labor and Workforce Development Agency Payment for a release of all Private Attorneys’ General Act claims as set forth below. The GSA is non-reversionary.
- 1.16 “Judgment” refers to the final judgment by the Court approving the Settlement.
- 1.17 “Labor and Workforce Development Agency Payment” means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection with the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”). The Parties have agreed that Ten Thousand Dollars (**\$10,000**) of the Gross Settlement Amount will be allocated to the resolution of any Class Members’ claims arising under PAGA. Pursuant to PAGA, 75%, or Seven Thousand Five Hundred Dollars (**\$7,500**), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency, and 25%, or Two Thousand Five Hundred Dollars (**\$2,500**), of the PAGA Settlement Amount will be part of the Net Settlement Amount to be available for distribution to Settlement Class Members.
- 1.18 “Net Settlement Amount” (also referred to herein as “NSA”) shall be defined as the GSA minus the Court-approved Service Award to the Class Representative, the Court-approved Settlement Administration Costs, the Court-approved Class Counsel Award, and the Labor and Workforce Development Agency Payment. The NSA is the maximum amount that shall be available for distribution to and on behalf of Class Members for Class Member Payments.
- 1.19 “Notice Packet” refers to the Class Settlement Notice to be sent by U.S. Mail to each Class Member by the Settlement Administrator as set forth herein in the form substantially similar attached as **Exhibit “A”** and subject to approval by the Court.
- 1.20 “Objection Deadline” refers to a date that is forty-five (45) calendar days after the date that the Notice Packet is initially mailed to Class Members, and is the deadline by which any written objections must be filed with the Court.

- 1.21 “Parties” refers to Plaintiff, Consuelo Andrade and Defendant Novacap, LLC collectively.
- 1.22 “Plaintiff’s Released Claims” are those claims defined in Paragraph 13.1 that are released solely by Plaintiff against Defendant and all of its former, present, or future parents, subsidiaries, affiliates, partners, officers, governors, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals.
- 1.23 “Preliminary Approval” refers to the date the Court grants preliminary approval of the Settlement.
- 1.24 “Preliminary Approval Order” refers to the Court's Order granting Preliminary Approval of the Settlement.
- 1.25 “Released Claims” are those claims defined in Paragraph 13.3 that are released by Settlement Class Members.
- 1.26 “Released Parties” as used herein means Defendant Novacap, LLC, its parents, subsidiaries and affiliates, and all of their officers, governors, employees, owners and agents, and any profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans’ respective trustees, administrators, agents, employees, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals.
- 1.27 “Service Award” refers to the Court’s award of a monetary payment to the Plaintiff for her services as Class Representative as described in Paragraph 7, to be paid for from the Gross Settlement Amount, and in return for executing Plaintiff’s Released Claims as set forth in Paragraph 13.1
- 1.28 “Settlement” refers to the settlement of the Action on behalf of the Settlement Class under the terms and conditions set forth in this Settlement Agreement.
- 1.29 “Settlement Administration Costs” refers to the costs that the Parties agree to pay the Settlement Administrator, subject to Court approval, for its fees and costs to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement. The Parties anticipate that the Settlement Administration Costs will be Ten Thousand Dollars (\$10,000).

- 1.30 “Settlement Administrator” refers to the third party administrator mutually selected by the parties, subject to Court approval, to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement.
- 1.31 “Settlement Class” or “Settlement Class Member” refers to all Class Members, or individual Class Members as defined in Paragraph 1.2 who do not request exclusion from the Settlement pursuant to Paragraph 16 of this Settlement Agreement.

2. Procedural History and Recitals.

- 2.1 On or about June 5, 2020, Plaintiff filed her Complaint as a class action against Defendant alleging, (1) violation of Labor Code §226; (2) violation of Labor Code §§510 and 1194; and (3) violation of Business and Professions Code §17200, *et seq.* The Complaint asserts the claims are being brought on behalf of Defendant’s non-exempt employees for a period beginning April 6, 2016.
- 2.2 On or about July 15, 2020, Plaintiff filed the operative First Amended Complaint against Defendant, asserting claims for (1) violation of Labor Code §226; (2) violation of Labor Code §§510 and 1194; (3) violation of Business and Professions Code §17200, *et seq.*; and (4) Violation of Labor Code Section 2698, *et seq.*
- 2.3 On February 16, 2021, the Parties participated in a mediation session before mediator Gig Kyriacou, an experienced mediator who has mediated numerous wage-hour class actions. At the mediation session, the Parties reached the basic terms of a settlement, signed a binding Settlement Term Sheet/Memorandum of Understanding and agreed to prepare this formal settlement agreement, subject to Court approval.
- 2.4 Defendant denies that it is liable to Plaintiff or the Class and further denies that, for any purpose other than settling the Action, this Action is appropriate for class treatment.
- 2.5 Class Counsel represent that they have thoroughly investigated the Class Representative’s claims against Defendant. Class Counsel represent that they have conducted their own investigation into the underlying facts, events, and issues related to the subject matter of this Action. Class Counsel represent that they have further undertaken an extensive analysis of the legal principles applicable to the claims asserted against Defendant, and the potential defenses thereto. Both Class Representative and Defendant have had an

opportunity to evaluate their respective positions on the merits of the claims asserted.

- 2.6 Class Counsel has also engaged in intensive arms-length negotiations with counsel for Defendant with a view toward achieving substantial benefits for the Class while avoiding the cost, delay and uncertainty of further litigation, trial and appellate review.
- 2.7 As a consequence of said negotiations, and of Class Counsel's investigation, analysis and discovery, Plaintiff and Class Counsel determined to enter into this Settlement Agreement on the terms and conditions hereinafter set forth, believing such Settlement to be fair, reasonable and adequate and in the best interests of Class Members. Plaintiff and Class Counsel have determined to execute this Settlement Agreement and urge approval by the Court of the proposed Settlement after considering (1) the substantial factual and legal defenses asserted by Defendant to the claims asserted in the Action; (2) the potential difficulties Plaintiff and Class Members would encounter in establishing the elements of their claims; (3) the substantial benefits that Class Members shall receive pursuant to the proposed Settlement; (4) the fact that the proposed Settlement ensures that Class Members shall receive relief in the most expeditious and efficient manner practicable, and thus much sooner than would be possible were the claims to be litigated successfully through trial and appeal; and (5) the fact that the proposed Settlement allows persons who would otherwise fall within the definition of the Class, if they so desire, to opt out of the Action and individually pursue the claims alleged in the Action.
- 2.8 As set forth above, without admitting any wrongdoing or liability, Novacap, LLC is willing to agree to the terms of the proposed Settlement provided that all of the Released Claims (as defined below) are settled and compromised, in order to fully resolve all issues relating to the subject matter of the Action.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and of the release and dismissal of all Released Claims, Plaintiff (on behalf of himself and as the Class Representative on behalf of the Class), Class Counsel, and Defendant agree to the terms and provisions of this Settlement Agreement, subject to the approval of the Court.

3. Stipulation to Certification and Limitation on Effect of Settlement.

- 3.1 The Settlement shall not constitute, in this or any other proceeding, an admission of any kind by Defendant, including without limitation, that certification of a class is appropriate or proper or

that Plaintiff could establish any of the requisite elements for class treatment of any of the claims in the Action. For purposes of this settlement only, the Parties stipulate to the certification of the Class under California Code of Civil Procedure Section 382. In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, Defendant expressly reserves all rights to challenge certification of a class on all available grounds.

4. Establishment of the GSA.

- 4.1 This Settlement shall be made on a non-claims-made basis and will be non-reversionary. Defendant shall pay a total of no more than the GSA, plus any employer side payroll taxes.
- 4.2 Payment by Defendant pursuant to this Settlement Agreement shall settle for Settlement Class Members, all Released Claims between the Released Parties and Settlement Class Members including all Class Member Payments, the Court-approved Service Award to the Class Representative, the Court-approved Settlement Administration Costs, the Court-approved Labor and Workforce Development Agency Payment, and the Court-approved Class Counsel Award.

5. Calculation of the NSA and Distribution of Settlement Proceeds.

- 5.1 This settlement shall be a “non-reversionary”, “non-claims-made” settlement. Each Settlement Class Member will be entitled to a share (for the individual Class Member Payments) of the NSA in accordance with the formula set forth below. Payments will be made from the NSA only to Settlement Class Members, as set forth herein.
 - 5.1.1 Each Settlement Class Member will be paid a Class Member Payment in accordance with the following formula:
 - 5.1.1.1 Each Settlement Class Member’s Class Member Payment will be calculated by dividing the number of Goal Payments received by the Settlement Class Member during the Class Period (“Goal Payments”) by all Goal Payments received by all Settlement Class Members, multiplied by the NSA.
 - 5.1.2 The amount distributed to Settlement Class Members in the form of Class Member Payments, plus all required employee’s share withholdings on amounts allocated to

wage payments, will not exceed the Net Settlement Amount.

5.1.3 If a Class Member timely and validly submits a Request for Exclusion, as set forth herein, his or her portion of the NSA for the individual Class Member's settlement amount including all required withholdings will be included in the NSA for distribution to Participating Settlement Class Members.

5.2 Payments to Class Members pursuant to this Settlement Agreement are not intended by the Parties to be compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including, without limitation, all plans, subject to Employee Retirement Income Security Act ("ERISA"). The parties agree that the payments are not intended to represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

6. Attorneys' Fees and Costs.

Class Counsel shall move for attorneys' fees and costs contemporaneous with the motion for the Final Approval Order requesting, and to which Defendant agrees to not oppose, an attorneys' fees award not to exceed Forty-One Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (**\$41,666.66**) (i.e., one-third of the GSA), plus a cost award not to exceed Fifteen Dollars (**\$15,000.00**). Defendant retains the right to oppose a request for attorneys' fees exceeding one-third of the GSA or a request for costs in excess of \$15,000. If the Court awards a lower amount of attorneys' fees or costs requested by Plaintiff's counsel, the other terms of this Agreement shall apply. The award of attorneys' fees and costs award in the amounts sought is not a material term of this Agreement and the award of any of these items at less than requested by Class Counsel does not give rise to a basis to abrogate this Agreement. However, Class Counsel retains the right to appeal any such reductions, but such appeal will delay Defendant's obligation to make all payments set forth in this Agreement. Any unapproved amount of attorneys' fees and costs shall be allocated to the Net Settlement Amount and be apportioned to the Class Members as described in Paragraph 5 of this Agreement.

7. Service Award.

Class Counsel shall file a motion requesting a Service Award for Plaintiff to which Defendant agrees to not object, of up to Ten Thousand Dollars (**\$10,000.00**) from the GSA in consideration for serving as Class Representative

and in exchange for Plaintiff's Released Claims. Defendant retains the right to object to a request for any Service Award in excess of this amount. Should the Court approve a Service Award in an amount less than that set forth herein, the unapproved portion or portions shall revert to the NSA and be apportioned to Class Members as described in Paragraph 5 of this Settlement Agreement. The award of a Service Award in the amount sought is not a material term of this Agreement and the award of an amount less than requested by Plaintiff does not give rise to a basis to abrogate this Agreement.

8. PAGA Settlement Amount.

Subject to Court approval, the Parties agree that the amount of Ten Thousand Dollars (**\$10,000.00**) of the Gross Settlement Amount will be allocated to the resolution of any claims arising under PAGA. Pursuant to PAGA, 75%, or Seven Thousand Five Hundred Dollars (**\$7,500.00**), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency, and 25%, or Two Thousand Five Hundred Dollars (**\$2,500**), of the PAGA settlement amount will be part of the Net Settlement Amount available for distribution to Settlement Class Members. Defendant retains the right to oppose a request for a Labor and Workforce Development Agency Payment exceeding this amount. If the Labor and Workforce Development Agency Payment approved by the Court is less than the specific amount, it does not give rise to a basis to abrogate this Settlement Agreement. Any unapproved amount of Labor and Workforce Development Agency Payment shall be allocated to the NSA and be apportioned to Class Members as described in Paragraph 5 of this Settlement Agreement.

9. Costs of Settlement Administration.

The Parties agree to mutually select Phoenix Settlement Administrators as the Settlement Administrator in this Action. This administration duty shall include without limitation, setting up an escrow account for funding of the Settlement, obtaining tax identification number(s) for Defendant applicable to the Settlement, calculating the Class Member Payments, performing an initial National Change of Address ("NCOA") search upon receipt of the Class Member mailing addresses, mailing the Notice Packets, performing one skip trace on Notice Packets returned as undeliverable, establishing a hotline telephone number to communicate with Class Members about the Settlement, reviewing and processing requests for exclusion, mailing the Class Members Payments and tax forms to the Settlement Class Members, and making all required distributions. The Settlement Administrator will report payment of the individual Class Member Payments to all required taxing and other authorities, take appropriate withholdings, forward payments for withholdings and requisite reporting documentation to the applicable taxing agencies, and issue Internal Revenue Service Form 1099s. The Settlement Administrator will establish a Qualified Settlement Fund ("QSF"), pursuant to Section 468B(g) of the Internal Revenue Service, for the purposes of administering the Settlement. Subject to Court

approval, all Settlement Administration Costs shall be taken from the GSA. The Parties expect Settlement Administration Costs to not exceed Ten Thousand Dollars (\$10,000.00). Any unapproved amount of Settlement Administration Costs shall be allocated to the NSA and apportioned to the Class Members as described in Paragraph 5 of this Settlement Agreement. The award of Settlement Administrator Costs in the amount sought is not a material term of this Agreement and the award of an amount less than requested by Plaintiff does not give rise to a basis to abrogate this Agreement.

10. Payment Procedure.

- 10.1 Funding the Settlement. Within fourteen (14) business days after final approval by the Court, Defendant will deposit money into an interest bearing account, through the Settlement Administrator, in an amount equal to the GSA, including the amounts awarded by the Court for the Class Counsel Award, Settlement Administration Costs, Service Award, the Labor and Workforce Development Agency Payment, and Class Member Payments, plus any employer side employment taxes.
- 10.2 Payments to Class Members, Class Counsel, Class Representatives, and Taxing Authorities. Within five (5) business days after the Final Effective Date of the settlement as set forth in Paragraph 1.1.2, the Settlement Administrator will pay: (1) the NSA to the Settlement Class Members per the terms of this Settlement Agreement and the Final Approval Order; (2) the Court approved Class Counsel Award and Costs; (3) the Court approved Settlement Administration Costs; (4) the Court approved Service Award to the Class Representative; and (5) the Court approved Labor and Workforce Development Agency Payment to the proper authority.
- 10.3 Uncashed Class Payments. In the event that a Class Payment check as calculated set forth in Paragraph 5 is not negotiated within 180 calendar days from the date initially mailed by the Settlement Administrator, the Settlement Administrator will tender the value of those uncashed checks, and any interest accrued, to the State Controller's to be deposited in the Unclaimed Property Fund. In such event, the affected Class Members will be deemed to have irrevocably waived any right in or claim to an individual settlement payment, but the settlement and their release of Released Claims will remain binding upon them.

11. Tax Treatment.

- 11.1 Tax Treatment of Claimed Portion of Settlement Payments. One-third (1/3) of each Class Member Payment shall constitute wages

for the purposes of IRS reporting, while two-thirds (2/3) shall constitute payments for penalties and interest. The wage-portion shall be reported to the IRS pursuant to form W-2 and non-wage portion via form 1099 as applicable for penalties, interest, and non-wage reimbursements.

- 11.2 Employer's Portion of Payroll Taxes. Employer payroll taxes on the wage-portion of each Class Member Payment shall be paid by Defendant separately and in addition to the GSA.
- 11.3 Tax Treatment of Class Representative Enhancement Award. Plaintiff will receive an IRS Form 1099 for her individual Service Award and will be responsible for payment of any taxes owing on said amount.
- 11.4 Tax Treatment of Attorneys' Fees and Cost Award. Class Counsel will receive an IRS Form 1099 for any amount awarded to Class Counsel in the form of attorneys' fees or costs and will be responsible for payment of any taxes owing on said amount.
- 11.5 No Tax Advice. Defendant is not giving any tax advice in connection with the settlement or any payments to be made pursuant to this settlement. Each Settlement Class Member agrees to indemnify, and hold harmless Defendant from any liability for taxes, fees, costs, or assessments resulting from his or her failure to timely pay his or her share of taxes, interest, fees, or penalties owed.

12. Resolution of Disputes Relating to Amounts Owed to a Class Member.

If a Class Member timely disputes the number of Goal Payments listed on the Class Settlement Notice, the Parties' counsel will make a good faith effort to resolve the dispute cooperatively. If counsel for the Parties cannot agree, the dispute shall be submitted to the Settlement Administrator, who shall examine the records and either verify the calculation or provide a corrected calculation. If a Class Member disputes the number of Goal Payments, it will be the Class Member's responsibility to supply information confirming the error in the calculation or Defendant's records. In any event, the Settlement Administrator will make every effort to resolve any such disputes prior to final approval of this Settlement Agreement. The Settlement Administrator's determination of disputes under this Paragraph will be final.

13. Release.

In exchange for the consideration set forth in this Settlement Agreement, Plaintiff and the Class Members agree to release all claims as set forth herein as applicable.

13.1 Upon funding of the GSA, Plaintiff Consuelo Andrade agrees to generally release Defendant and all of its former, present, or future parents, subsidiaries, affiliates, partners, officers, governors, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals ("Released Parties") from any and from all causes of action, claims, rights, damages, punitive or statutory damages, penalties, liabilities, expenses, and losses and issues of any kind or nature whatsoever that Plaintiff has or may have had against any of the Released Parties through the date of execution of this Settlement Agreement ("Plaintiff's Released Claims"). Plaintiff acknowledges that she may have claims that are presently unknown and that the release of Plaintiff's Released Claims contained in this Settlement Agreement is intended to and will fully, finally, and forever discharge all claims against the Released Parties, whether now asserted or un-asserted, known or unknown, suspected or unsuspected, which now exist, or heretofore existed or may hereafter exist, which if known, might have affected her decision to enter into this release. In making this waiver, Plaintiff agrees that, although she may discover facts in addition to or different from those that are currently known or believed to be true with respect to Plaintiff's Released Claims, it is her intention to fully, finally, and forever settle and release any and all Plaintiff's Released Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery or existence of such additional or different facts. The foregoing waiver includes, without limitation, an express waiver, as to Plaintiff's Released Claims, to the fullest extent permitted by law, by Plaintiff of any and all rights under California Civil Code section 1542, 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."

It is expressly understood and agreed to that Plaintiff's Released Claims relate only to Plaintiff as an individual and do not extend to any claims of any person other than Plaintiff.

13.2 Plaintiff warrants and represents that she has not assigned or, transferred, to any person or entity any of Plaintiff's Released Claims or any rights, claims, or causes of action arising out of Plaintiff's Released Claims. In addition, Plaintiff shall defend,

hold harmless, and indemnify the Released Parties, or any of them, from and against any claims, damages, litigation, causes of action, and expenses, including reasonable attorneys' fees, resulting from any breach by Plaintiff of this warranty and representation, or any breach by Plaintiff of her release of Plaintiff's Released Claims.

- 13.3 Upon funding of the GSA, all Class Members who did not opt out of this Action by filing a timely, valid Request for Exclusion (i.e. Settlement Class Members) hereby release and discharge, for the time period from April 6, 2016, to the date of preliminary approval or Defendant and all of its former, present, or future parents, subsidiaries, affiliates, partners, officers, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals, and any profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans' respective trustees, administrators, agents, employees, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals (collectively, the "Released Parties) from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorney's fees, damages, action or causes of action contingent or accrued for, or which relate to the allegations and claims asserted in the *Andrade* complaint, First Amended Complaint as set forth herein, including without limitation to, the California Labor Code or Business & Professions Code (including Section 17200); the Private Attorneys General Act, the Fair Labor Standards Act, any IWC Wage Order; claims for restitution, liquidated damages, overtime, interest, failure to pay the regular rate, inaccurate pay stubs, meal and rest period penalties, waiting time penalties, penalties of any nature whatsoever, any other benefit claimed on account of the allegations asserted in the operative *Andrade* complaint. This release shall not include unrelated, non wage and hour claims like discrimination, workers compensation, or ERISA claim. The cashing of the settlement check by class members shall be deemed to be an opt-in for purposes of the FLSA claims referred in the Released Claims. The Settlement Administrator shall include a legend on the settlement check stating "By cashing this check, I am opting into *Andrade v. Novacap LLC*, Case No. 20STCV21805 under FLSA, 29 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement.
- 13.4 Prohibition on Subsequent Assertion of Released Claims. Plaintiff, to the fullest extent allowed by law, is prohibited from asserting a Plaintiff's Released Claim, and from commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding against

the Released Parties, based on Plaintiff's Released Claims. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process. Settlement Class Members, to the fullest extent allowed by law, are prohibited from asserting a Released Claim, and from commencing, joining in, or voluntarily assisting in a lawsuit or adversary proceeding against the Released Parties, based on Released Claims. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process.

14. Class Settlement Notice and Claims Administration.

14.1 Engagement of Settlement Administrator. The Parties agree to Phoenix Settlement Administrators as the Settlement Administrator to perform the notice and other settlement claims administration functions set forth below.

14.1.1 The Settlement Administrator shall provide Defendant's counsel and Class Counsel with weekly summary reports, including the total number of Class Settlement Notices that were returned as undeliverable, the total number of objections and Requests for Exclusion, if any. The Settlement Administrator shall maintain records of its work, which shall be available for inspection upon request by Defendant's counsel or Class Counsel.

14.2 Identification of Class Members.

14.2.1 Within seven (7) calendar days of the latter of preliminary approval of this settlement or court approval of settlement notice to the class, Defendant shall provide the Settlement Administrator with the following information:

- (1) the names, employment identification number, last known addresses, last known telephone numbers, and social security numbers of each Class Member; and
- (2) data showing the number of Goal Payments each Settlement Class member received during the Class Period.

14.2.2 Upon its receipt of the list of names and last known addresses of each Class Member, the Settlement Administrator shall access the NCOA Database, and update the addresses maintained by Defendant.

- 14.2.3 The Settlement Administrator shall provide the Notice Packet by first class mail, forwarding requested, to the Class Members at the addresses identified through the process described above. This mailing shall occur promptly after receipt of the information from Defendant set forth in Paragraph 14.2.1.
- 14.2.4 As to any Notice Packets that are returned as undeliverable within ten (10) calendar days after the date of the initial mailing or where the NCOA Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable, the Settlement Administrator shall perform one skip-trace procedure. Such skip-trace procedure shall be performed within two (2) business days of the date on which the Settlement Administrator is informed that a Notice Packet is undeliverable. If this procedure reveals a new address, the Settlement Administrator shall within five (5) business days thereafter re-mail the Notice Packet to the new address.
- 14.2.5 If Defendant and the Settlement Administrator determine, based upon further review of available data, that a person previously identified as being a Class Member should not be so included or identify a person who should have been included as a Class Member but was not so included, Defendant and the Settlement Administrator shall promptly delete or add such person as appropriate and immediately notify Class Counsel prior to such deletions or additions (and the reasons therefore).
- 14.2.6 Other than the obligations set forth in this Settlement Agreement, Defendant shall have no additional obligation to identify or locate any Class Member or have any liability in connection with the provision of information to the Settlement Administrator or otherwise.

14.3 Class Settlement Notice and Notification of Goal Payments.

14.3.1 Class Settlement Notice for Persons Identified as Class Members. The Class Settlement Notice shall be a pre-printed notice, in substantially the form attached hereto as Exhibit A and to be approved by the Court. In addition to other information contained on the Class Settlement Notice, the Class Settlement Notice shall state the number of Goal Payments that the Class Member received during the Class Period, according to available Defendant's records and each Class Member's estimated settlement payment. The Class Settlement Notice also shall include an explanation of the pro rata distribution formula.

14.3.1.1 The Class Settlement Notice shall state that, if the Class Member disagrees with the number of Goal Payments, the Class Member must set forth the information that he or she believes is correct, explain the basis for such belief, and submit written documentation to support his or her claim. Failure to submit written documentation to support such dispute will mean that Defendant's numbers from its records will be controlling.

15. **Objections to the Settlement.**

Any Class Member who does not submit a valid and timely Request for Exclusion (i.e. a Settlement Class Member) may object to the proposed Settlement Agreement. The Class Notice will provide that Class Members who wish to object to the Settlement may file with the Court not later than **forty five (45) calendar days** after the date the Settlement Administrator initially mails the Notice Packet to the Class Members ("Objection Deadline"), an objection and any supporting papers objecting to the Settlement. The Class Member may also appear at the Final Approval hearing virtually or in person following the Court's mandatory use of facial coverings and social distancing requirements and be heard orally at the Final Approval Hearing without submitting a written objection. Class Member who does not file and serve an objection in the manner and by the deadline specified in the Class Settlement Notice or appear at the Final Approval Hearing will be deemed to have waived all objections and will be foreclosed from making any objections to the Settlement, whether by appeal or otherwise.

16. **Right to Request Exclusion.**

16.1 Any Class Member may elect to opt out of the Settlement by submitting a written Request for Exclusion from the Settlement to the Settlement Administrator that is signed and completed. To be timely, all such Requests for Exclusion must be postmarked no

later than **forty five (45) calendar days** after the date the Settlement Administrator initially mails the Notice Packet to the Class Members. Class Members requesting exclusion must ensure their Request for Exclusion contains their full and correct name and current address. The Settlement Administrator shall send all Requests for Exclusion to Defendant's counsel and Class Counsel not later than five (5) business day after receipt of said Request for Exclusion. A Class Member who fails to comply with the opt-out procedure set forth in the Class Settlement Notice and on the Request for Exclusion Form on or before the Exclusion Deadline, as set by the Court, shall not be excluded and shall instead be bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto.

- 16.2 Any Class Member who elects to opt out of the Class in the manner and within the time limits specified above and in the Class Settlement Notice and Request for Exclusion Form: (1) shall not have any rights under the Settlement Agreement; (2) shall not be entitled to receive any compensation under the Settlement Agreement; (3) shall not have standing to submit any objection to the Settlement Agreement; and (4) shall not be bound by the Settlement Agreement.
 - 16.3 Except for persons who elect to opt out of the Class in the manner and within the time limits specified above and in the Class Settlement Notice and request for Exclusion, all Class Members, shall be deemed to be within the Class for all purposes under this Settlement Agreement, shall be bound by the terms and conditions of this Settlement Agreement (including the release provisions in Paragraph 13.3), including all orders issued pursuant thereto, and shall be deemed to have waived all unstated objections and unstated opposition to the fairness, reasonableness, and adequacy of this Settlement Agreement, and any of its terms.
 - 16.4 If the Settlement Agreement is given final approval and the Final Effective Date occurs, it shall operate as a full, complete, and final release of all Plaintiff's Released Claims, and all Released Claims of Settlement Class Members and as an effective covenant not to sue.
17. **Payment of Settlement Proceeds.**
- 17.1 Payments to the Settlement Class Members. As provided in Paragraph 5, payments to Settlement Class Members shall commence five business days after the Final Effective Date. However, the deadlines for the provision of Class Member Payments to particular Settlement Class Members may be extended

to provide for the resolution of any disputes regarding the validity or amount of any claims.

18. Application for Preliminary Approval Order.

After the Parties' execution of this Agreement, Plaintiff shall file for preliminary approval of the proposed Settlement, requesting a Preliminary Approval Order that contains the following provisions:

- (1) preliminarily approving the Settlement Agreement and its terms;
- (2) approving the form of the Class Settlement Notice, and finding that the proposed method of disseminating the Class Settlement Notice meets the requirements of due process and is the best notice practicable under the circumstances;
- (3) establishing the procedures and the deadline by which Class Members may assert objections to the certification of the Class and/or to the Settlement;
- (4) establishing a deadline to submit papers/briefing in response to any objections and for Plaintiff to submit papers/briefing in support of final approval of the Settlement Agreement including the Service Award for the Class Representative and the Class Counsel Award;
- (5) establishing procedures and the deadline by which individuals may exclude themselves from the Action;
- (6) appointing Class Counsel, the Settlement Administrator, and the Class Representative; and
- (7) setting a date for the Fairness Hearing.

The Settlement Agreement will be submitted to the California Labor & Workforce Development Agency at the same time that it is submitted to the Court for preliminary approval. Counsel for Defendant will be given an opportunity to comment on said motion prior to filing, and such comments shall be implemented to the extent they are deemed reasonable by Plaintiff and Class Counsel.

19. Final Approval Order and Judgment.

If the Settlement shall be finally approved by the Court following the Fairness Hearing, the Parties hereto shall jointly request that the Court enter a Final Approval Order and Judgment, which includes the following provisions:

- (1) confirming certification of the Settlement Class for settlement purposes;

- (2) finding that the dissemination of the Class Notice, Request for Exclusion Form, in the form and manner ordered by the Court was accomplished as directed, met the requirements of due process; and
- (3) finally approving the Settlement Agreement and the Settlement as fair, reasonable and adequate and directing consummation of the Settlement in accordance with its terms and provisions;

The Judgment shall include the following provisions:

- (1) directing the Parties to implement the terms of the Settlement Agreement;
- (2) releasing and discharging the Released Parties from any and all liability with respect to the Plaintiff's Released Claims as hereinabove provided;
- (3) releasing and discharging the Released Parties from any and all liability with respect to the Released Claims as hereinabove provided;
- (4) resolving and settling all of Plaintiff's Released Claims as hereinabove provided, with the release precluding them from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of themselves, or in any other capacity of any kind whatsoever, any action in this Court, any other state court, or any arbitration or mediation proceeding or any other similar proceeding, against any Released Parties that asserts any claims that are Plaintiff's Released Claims under the terms of the Settlement;
- (5) resolving and settling all the Released Claims by all Settlement Class Members as hereinabove provided, with the release precluding them from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of himself or herself, or in any other capacity of any kind whatsoever, any action in this Court, any other state court, or any arbitration or mediation proceeding or any other similar proceeding, against any Released Party that asserts any claims that are Released Claims under the terms of the Settlement; and providing that any person who violates the terms of the release by further asserting any of the Released Claims against any of the Released Parties shall pay the costs and attorneys' fees incurred by any Released Party as a result of the violation if Defendant has provided written notification to that person or their designated representative of the bar against

asserting any of the Released Claims and the Released Party is the prevailing party in an action brought by the person for the asserted barred Released Claim;

- (6) awarding the Service Award to the Class Representative as determined by the Court;
- (7) approving payments to the LWDA; and
- (8) reserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Settlement and enforcement of the Judgment.

20. Effect of Settlement Not Being Final.

In the event that the Settlement does not become Final then the Settlement Agreement shall become null and void, and all negotiations, proceedings, and statements relating thereto shall be without prejudice as to the rights of any and all Parties hereto, and all Parties and their respective predecessors and successors shall be deemed to have reverted to their respective positions in the Action as of the date and time immediately prior to the execution of this Settlement Agreement, and except as otherwise expressly provided herein. If the Court does not approve either preliminarily or finally any material term or condition of the Settlement Agreement, or if the Court effects a material change to the Parties' settlement, then this entire Settlement Agreement will be, at the Parties' discretion, voidable and unenforceable.

21. Tolerance of Requests for Exclusion.

Notwithstanding any other provision of this agreement, Defendant retains the right, in the exercise of its sole discretion, to nullify the settlement within thirty (30) days after expiration of the opt out period set forth in Paragraph 16, if 5 percent (5%) or more of Class Members opt out of this settlement. All signatories and their counsel must not encourage opt-outs. Counsel for the Class Members and Defendant specifically agree not to solicit opt-outs, directly or indirectly, through any means. If Defendant elects to void the settlement under the terms of this paragraph, Defendant will bear the costs of administration incurred up until that point.

22. No Admissions.

The Parties understand and agree that this Settlement Agreement is the result of a good faith compromise settlement of disputed claims, and no part of this Settlement Agreement or any conduct or written or oral statements made in connection with this Settlement and this Settlement Agreement, whether or not the Settlement is finally approved and/or consummated, may be offered as or construed to be an admission or concession of any kind by Defendant, or any of the Class Members, Released Parties, or Plaintiff.

23. Avoidance of Undue Publicity.

The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the settlement. If counsel for either party receives an inquiry about the settlement from the media, counsel may respond only after the motion for preliminary approval has been filed and only by confirming the accurate terms of the settlement. Class Counsel agrees not to publicize this settlement on its website(s) and any social media outlets. Nothing in this provision shall prevent Defendant from making any required disclosure or Class Counsel from referencing the Settlement in adequacy filings.

24. Extensions of Time.

Without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

25. Construction.

This Settlement Agreement was entered into after substantial good faith, arms-length negotiations between the Parties' counsel. This Settlement Agreement has been entered into without any coercion and under no duress. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement Agreement so that it shall not be deemed to have been prepared or drafted by one party or another.

26. Due Authority of Attorneys.

Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto warrants and represents that he or she has been duly authorized and empowered to execute this Settlement Agreement on behalf of each such respective Party and to bind them to the terms hereof.

27. Entire Agreement.

This Settlement Agreement (including all Exhibits hereto) sets forth the entire agreement of the Parties with respect to its subject matter and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding the subjects covered herein. The Parties acknowledge that no representations, inducements, warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any of the Parties which are not embodied or incorporated by reference herein.

28. Modification or Amendment.

This Settlement Agreement may not be modified or amended except in a writing signed by all signatories hereto or their successors in interest.

29. Successors.

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns, and upon any corporation, partnership or other entity into or with which any Party hereto may merge, combine or consolidate.

30. Counterparts.

This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

31. Waivers.

The waiver by any Party of any breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

32. Governing Law.

This Settlement Agreement shall be governed by and construed, enforced, and administered in accordance with the internal laws of the State of California.

33. Headings.

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and shall not be given weight in its construction.

34. Notices.

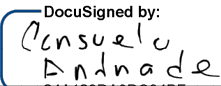
Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than notice to the Class or Class Members, shall be in writing and mailed as follows: (1) to Class Representatives, the Class, and Class Counsel to the attention of Edward W. Choi, Law Offices of Choi & Associates, P.C., 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, (213) 381-1515; and (2) to Defendant and counsel for Defendant, to the attention of Brian P. Long, Seyfarth Shaw LLP, 601 S. Figueroa St., Suite 3300, Los Angeles, California 90017, (213) 270-9675.

35. Enforcement of Settlement Agreement.

The Court shall retain jurisdiction for purposes of enforcing the terms of this Settlement Agreement pursuant to CCP section 664.6. The prevailing party to any such enforcement action shall also be entitled to seek its attorneys' fees and costs incurred in connection with such enforcement proceedings.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Dated: March 10, 2021

By: 
Consuelo Andrade

On behalf of herself, and the Class

DIVERSITY LAW GROUP, P.C.

Dated: March 10, 2021

By: 
Larry W. Lee

Attorneys for Plaintiff and the Class

LAW OFFICES OF CHOI & ASSOCIATES

Dated: March 10, 2021

By: 
Edward W. Choi

Attorneys for Plaintiff and the Class

DAVID LEE LAW

Dated: March 10, 2021

By: 
David Lee

Attorneys for Plaintiff and the Class

NOVACAP, LLC

Dated: March , 2021

By: _____
Its _____

SEYFARTH SHAW LLP

Dated: March , 2021

By: _____
Brian P. Long
Attorneys for Defendant

35. **Enforcement of Settlement Agreement.**

The Court shall retain jurisdiction for purposes of enforcing the terms of this Settlement Agreement pursuant to CCP section 664.6. The prevailing party to any such enforcement action shall also be entitled to seek its attorneys' fees and costs incurred in connection with such enforcement proceedings.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Dated: March ____, 2021

By: _____

Consuelo Andrade

On behalf of herself, and the Class

DIVERSITY LAW GROUP, P.C.

Dated: March ____, 2021

By: _____

Larry W. Lee

Attorneys for Plaintiff and the Class

LAW OFFICES OF CHOI & ASSOCIATES

Dated: March ____, 2021

By: _____

Edward W. Choi

Attorneys for Plaintiff and the Class

DAVID LEE LAW

Dated: March ____, 2021

By: _____

David Lee

Attorneys for Plaintiff and the Class

NOVACAP, LLC

Dated: March 17, 2021

By: _____

Its VP Finance

Thomas C. Wu

SEYFARTH SHAW LLP

Dated: March 17, 2021

By: _____

Brian P. Long

Attorneys for Defendant

EXHIBIT A

NOTICE OF SETTLEMENT OF CLASS ACTION AND SETTLEMENT HEARING

Consuelo Andrade v. Novacap, LLC
Superior Court for the State of California, County of Los Angeles
Case No. 20STCV21805

To: All persons who were employed within the State of California by Novacap, LLC (“Novacap” or “Defendant”) as a non-exempt employee who earned overtime wages and non-discretionary incentive pay, including without limitation, “Goal” incentives associated with pizza reward luncheons, in the same workweek at any time during the period of time from April 6, 2016, through December 31, 2019 (the “Class”):

THIS NOTICE is of a proposed settlement of a class action lawsuit, and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Court will conduct a hearing on INSERT DATE to address whether the proposed settlement should be approved (“Final Approval Hearing”). You may be entitled to receive a payment under the terms of this class action settlement contained in the Settlement Agreement.

[IDENTIFYING INFORMATION]

You have been identified as a Class member in the above lawsuit. Under the terms of the proposed settlement you are eligible to receive a share of the Net Settlement Amount should the Court grant the settlement in full. Your share of the Net Settlement Amount is based on Novacap’s records that show you were employed by Novacap in the State of California as a non-exempt employee between April 6, 2016 and December 31, 2019, and received Goal Payments during that period. Based thereon, your estimated share of the settlement is approximately \$.

If you dispute the total number of Goal Payments you received during this period set forth above, you must set forth the information that you believe is correct, and submit written documentation to [Settlement Administrator] not later than INSERT DEADLINE. Your eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT (SEE SECTION VIII FOR MORE DETAILS)	
DO NOTHING	Receive a settlement payment and give up your right to sue on the Released Claims described in Section IV. This settlement does not require a claims process to receive a payment. Therefore, there is <u>no</u> claim form for you to complete should you wish to receive payment.
EXCLUDE YOURSELF	You may “opt-out” of any connection with this case including any right to a settlement payment. If you choose to opt-out, you must complete and return a letter requesting exclusion by <u>INSERT DEADLINE</u> . All persons who validly and timely opt-out of the Settlement will not receive any settlement payment and will preserve Released Claims described in Section IV subject to applicable statute of limitations.
OBJECT	Write to the Court about why you do not like the Settlement by submitting an objection by <u>INSERT DEADLINE</u> . You may also appear at the Final Approval hearing virtually or in person following the Court’s mandatory use of facial coverings and social distancing requirements and be heard orally at the Final Approval Hearing without submitting a written objection.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.

I. Why should I read this Notice?

The parties have proposed to settle this class action lawsuit. You are a member of the Class. If the Court approves the proposed Settlement, your legal rights may be affected. This Notice, which has been approved by the Court, is only a summary. A more detailed Settlement Agreement contains the complete terms of the Settlement, and is on file with the Court, where it is available for your review. See Section X for further information.

II. What is this lawsuit about?

A lawsuit entitled *Consuelo Andrade v. Novacap, LLC* is now pending in the Superior Court for the State of California, for the County of Los Angeles, Case No. 20STCV21805. Plaintiff Consuelo Andrade (“Plaintiff” or “Class Representative”) has alleged claims against Novacap under the California Labor Code. Plaintiff brought this Lawsuit as a class action and PAGA enforcement action on behalf of herself and other similarly situated Novacap employees, and is claiming that Novacap owes unpaid wages and overtime, and penalties to current and former non-exempt employees in California. In summary, Plaintiff alleges that Novacap did not pay all earned overtime wages, provide accurate wage statements, timely pay all wages to employees at the time of their termination, maintain accurate payroll records, and timely pay wages during employment. Plaintiff’s First Amended Complaint alleges

the following causes of action: (1) violation of Labor Code §226; (2) violation of Labor Code §§510 and 1194; (3) violation of Business and Professions Code §17200, *et seq.*; and (4) Violation of Labor Code Section 2698, *et seq.* Plaintiff seeks a monetary recovery on behalf of the Class for the alleged violations, along with interest, costs and fees.

Novacap contends that it has complied with all laws and denies the allegations Plaintiff is asserting in this Lawsuit. The Court has not formed any opinions concerning the merits of the Lawsuit, and the Court has not ruled for or against Plaintiff as to the merits of any of their individual or class or PAGA enforcement claims. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable and that any final determination of those issues will be made at the final fairness hearing. You will not be retaliated against by Novacap for electing to participate or not participate in the settlement.

III. Who is covered by the class action lawsuit and the proposed Settlement?

A. The Class. On **INSERT DATE**, the Court granted preliminary approval of the Settlement and authorized this notice. The Court defined the “Class” as including all persons who were employed within the State of California by Novacap who earned overtime wages and non-discretionary incentive pay, including without limitation, “Goal” incentives, in the same workweek at any time during the period of time from April 6, 2016, through December 31, 2019..

B. The Effect of Membership in the Class. If you come within the definition of the Class, you are a Settlement Class Member unless you exclude yourself from (“opt out of”) the Class by following the procedures for exclusion that are set forth in this Notice. Settlement Class Members are eligible to receive the benefits created by the proposed Settlement including a settlement payment based on their pro-rata share of the Net Settlement Amount and will be bound by the Settlement if it is approved by the Court. Persons who exclude themselves from the Class will not be bound by the Settlement and will not share in the Settlement proceeds but may pursue their own timely individual claims against Novacap subject to applicable statute of limitations.

IV. What are the terms of the Settlement?

The proposed Settlement was negotiated with Defendant by the attorneys for the Class (“Class Counsel”). Class Counsel believes that this Settlement is in the best interest of the members of the Settlement Class. As part of the proposed Settlement, Defendant and Class Counsel have agreed to the following:

Monetary Amounts Under the Settlement

- Defendant shall provide the members of the Settlement Class, on a non-claims-made basis, monetary compensation in the maximum total amount of \$125,000.00 (the “Gross Settlement Amount” or “GSA”), less amounts awarded by the Court for attorneys’ fees and costs, settlement administration costs, service award to the Class Representative, and payments made to the California Labor and Workforce Development Agency (“LWDA”) for penalties under the PAGA (the “Net Settlement Amount” or “NSA”). Assuming the Court approves the maximum amounts sought to be deducted from the GSA, the NSA is estimated to be \$**INSERT AMOUNT**.
- The Settlement Administrator will calculate individual Class Members’ pro-rata share of the NSA for their individual settlement payment. Each Class Member’s proportional share will be determined by dividing the number of Goal Payments received by the Settlement Class Member during the Class Period based on Novacap’s available records (“Goal Payments”) by all Goal Payments received by Class Members between April 6, 2016 and December 31, 2019, multiplied by the NSA. The number of Goal Payments that Novacap’s records shows you worked is listed on the first page of this notice.
- Defendant, through the Settlement Administrator, shall pay the amounts awarded by the Court for attorneys’ fees and costs, settlement administration expenses, service award to the Class Representative, payment to the California LWDA for PAGA penalties, employer side payroll taxes, and the amounts owed to the Settlement Class Members, within five (5) business days after the Settlement is funded. The settlement is to be paid within five business days of the Final Effective Date of the Settlement Agreement. The Final Effective Date is defined as follows: the first day after the date by which the last of the following has occurred: (a) all conditions of settlement that can be accomplished prior to the Final Effective Date becomes in existence; (b) the Court, or other court assuming jurisdiction of this matter, has entered the Final Approval Order and Judgment; and (c) the Court’s Judgment approving the Settlement becomes final. If there are no objections to this Settlement Agreement, or if any objection is filed and subsequently withdrawn, the date of entry of the Final Approval Order. If there are objections to this Settlement Agreement, or if an appeal, review, or writ, the date the Settlement becomes final shall be the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal or denial of such appeal, or the expiration of the time to file a petition for writ of certiorari, or, (ii) if a petition for a writ of certiorari is filed, the date of dismissal or denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment. No money will be distributed unless and until the effective date of final approval occurs.

Contemporaneous with requesting the Court approve in final the proposed Settlement, Class Counsel will apply to the Court for approval of all amounts sought in the Settlement as follows: (i) all payments to Settlement Class Members and applicable employer payroll tax payments; (ii) settlement administration costs which are estimated to not exceed \$10,000.00 for services associated with administering the settlement; (iii) a payment of \$7,500.00 to the LWDA for settlement of the PAGA claims brought in this case; (iv) a \$10,000.00 service award to the Class Representative for her service to the Class and her general release of claims; (v) and an award of attorneys’ fees in the amount of \$41,666.66 (equivalent to one third of total Gross Settlement Amount) and an award of costs up to \$**0**,000.00 for fees and costs that have remained unpaid to date.

Release

- Upon the Court's final approval of the Settlement, a judgment will be entered fully and finally settling the action as to Plaintiff and all Settlement Class Members.
- As a result of the Settlement and Judgment to be entered, all Settlement Class Members hereby release and discharge, for the time period from April 6, 2016, to **INSERT DATE**, Defendant and all of its former, present, or future parents, subsidiaries, affiliates, partners, officers, employees, owners, agents, shareholders, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals, and any profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans' respective trustees, administrators, agents, employees, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals (collectively, the "Released Parties) from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorney's fees, damages, action or causes of action contingent or accrued for, or which relate to the allegations and claims asserted in the *Andrade* complaint, First Amended Complaint as set forth herein, including without limitation to, the California Labor Code or Business & Professions Code (including Section 17200); the Private Attorneys General Act, the Fair Labor Standards Act, any IWC Wage Order; claims for restitution, liquidated damages, overtime, interest, failure to pay the regular rate, inaccurate pay stubs, meal and rest period penalties, waiting time penalties, penalties of any nature whatsoever, any other benefit claimed on account of the allegations asserted in the operative *Andrade* complaint. This release shall apply to all claims arising at any point from April 6, 2016, through preliminary approval, but this release shall not include unrelated, non wage and hour claims like discrimination, workers compensation, or ERISA claims. The release includes a full release of all claims brought under the California Labor Code Sections 201-203, 226, 510, 1194, and all derivative claims brought under PAGA. Additionally, the Parties agree that they do not intend payments under this Settlement Agreement to be compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, and thus the release of those plans under this Settlement Agreement is appropriate. The cashing of the settlement check shall be deemed to be an opt-in for purposes of the FLSA claims referred in the Released Claims.
- **If you do NOT exclude yourself from the Class by following the procedures set forth in this Notice and the Court approves the proposed Settlement, you will be deemed to have entered into the release of Released Claims in the Settlement Agreement.**

V. How do I receive a payment?

Any Class Member who wishes to be considered for any payment under this Settlement does not need to do anything. If you do not elect to exclude yourself from the Settlement and are deemed an eligible Class member, you will receive a payment should the Settlement become Final. If you are a member of the Class and you move or change your address, and you want to receive your settlement benefits at your new address, you must send a notice of your change of address to **INSERT SETTLEMENT ADMINISTRATOR INFORMATION** or contact the Settlement Administrator by phone at **INSERT SETTLEMENT ADMINISTRATOR INFORMATION**.

VI. Who represents the Class?

The Court has designated Plaintiff Consuelo Andrade to serve as Class Representative in this lawsuit. The law firms that serve as Class Counsel are Diversity Law Group, P.C., Law Offices of Choi & Associates, and David Lee Law. Class Counsel can be reached as follows:

Larry W. Lee, Diversity Law Group, P.C., 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, (213) 488-6555; Edward Choi, Law Offices of Choi & Associates, 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, (213) 381-1515; David Lee, David Lee Law, 515 S. Flower Street, Suite 1900, Los Angeles, CA 90071, (213) 236-3536.

VII. What are the reasons for the Settlement?

Class Counsel agreed to enter into this proposed Settlement after weighing the risks and benefits to the Class of this Settlement compared with those of continuing the litigation. The factors that Class Counsel considered included the uncertainty and delay associated with continued litigation, a trial and appeals, and the uncertainty of particular legal issues that have yet to be determined. Class Counsel balanced these and other substantial risks in determining that the proposed Settlement is fair, reasonable, and adequate in light of all circumstances and in the best interests of Class Members.

Defendant agreed to this proposed Settlement in order to avoid the expense and distraction associated with lengthy litigation, and to allow it to focus on continuing to provide quality service and products to its customers.

VIII. What are my rights and options?

A. First, you may remain a member of the Class, represented by Class Counsel, and take no further action. If you take no further action as a Class Member, you will be represented by Class Counsel but will have the right to receive your share of the Settlement proceeds. If the Settlement is approved by the Court, you will be bound by the terms of the Settlement which will result in a release of the Released Claims.

B. Second, you may remain a member of the Class but elect to hire your own attorney to represent you. If you do not wish to be represented by Class Counsel, you may hire your own attorney. Your attorney must send a Notice of Appearance to the Settlement Administrator at the address listed in Section V, so that it is **postmarked** on or before **INSERT DATE**. Even though your own attorney represents you, you will continue to be a Class Member. You will be responsible for any attorneys' fees and costs charged by your attorney.

C. Third, you may exclude yourself from the Class. If you are a member of the Class but do not want to remain in the Class, you may exclude yourself ("opt out"). If you exclude yourself from the Class, you will lose any right to participate in the Settlement including any right to receive a settlement payment. You will also lose the right to have objections you might have to the Settlement considered by the Court before it rules on the Settlement. You will be free to pursue any claims you may have against Defendant on your own behalf subject to applicable statute of limitations, but Class Counsel will not represent you. In order to exclude yourself from the Class, you must complete and sign a letter including your full name and address. Requests for Exclusion must be sent to the Settlement Administrator at the address listed in Section V, **postmarked** on or before **INSERT DATE**. **If you do not comply with these procedures and the deadline for exclusions, you will lose any opportunity to exclude yourself from the Class, and your rights will be determined in this lawsuit by the Settlement Agreement if it is approved by the Court and you may not recover under any other individual settlement agreement regarding the claims released through the Settlement.**

D. Fourth, you may remain a member of the Class, and on your own behalf, or through your own attorney, object to the certification of the Class, to the Settlement, to the Application for Attorneys' Fees and Costs, and/or to the Application for Service Award. If you do not exclude yourself from the Class, you may object to the certification of the Class, to the terms of the proposed Settlement, and/or to the applications for attorneys' fees, costs, and service award. To do so, you or your own attorney may file a written objection, and include any and all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) that you would like the Court to consider not later than **INSERT DATE**. You may also appear at the Final Approval hearing virtually or in person following the Court's mandatory use of facial coverings and social distancing requirements and be heard orally at the Final Approval Hearing without submitting a written objection. **If you do not comply with these procedures, you will lose any opportunity to have your objection considered at the Final Approval Hearing or otherwise to contest the approval of the Settlement or to appeal from any orders or judgments entered by the Court in connection with the proposed Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement.**

IX. When is the court hearing and what is it for?

On **INSERT FINAL APPROVAL HEARING DATE**, the Court will hold a public hearing **INSERT COURT INFORMATION**, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel's applications for attorneys' fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiff's request for service award. This hearing may be continued or rescheduled by the Court without further notice. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing. If you want to be heard orally in support of or in opposition to the Settlement, either personally or through counsel, you must indicate your intention to appear at the Final Approval Hearing in writing as detailed above.

X. Where can I get more information?

If you have questions about this Notice, the enclosed Request for Exclusion Form, or the Settlement, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you should contact the Settlement Administrator (contact information listed in Section V), for more information or to request that a copy of this Notice and Request for Exclusion Form be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them – contact information noted above in Section VI. You may also seek advice and guidance from your own private attorney at your own expense, if you so desire.

This Notice is only a summary. For more detailed information, you may review the Settlement Agreement (attached to the Declaration of _____ in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement filed on **INSERT DATE**), containing the complete terms of the proposed Settlement, which is on file with the Court.

Notice of the Final Judgment will be available on the Settlement Administrator's website at [INSERT WEBSITE ADDRESS].

PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR DEFENDANT FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.