

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Settlement Agreement is between Plaintiff Melinda James (“Plaintiff”) on behalf of herself and others similarly situated and other aggrieved employees and Defendant Coolsys Commercial & Industrial Solutions, Inc., formerly known as Source Refrigeration & HVAC, Inc. (“Defendant”). Plaintiff and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meaning:

- A. **Administration Costs**: All administrative costs incurred by the Settlement Administrator to administer this Settlement including the cost of notice to the Class members, claims administration, and any fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Joint Stipulation and Settlement Agreement, which is currently estimated at \$_____ and shall not exceed \$15,000. All Administration Costs shall be paid from the Qualified Settlement Fund. Funds allocated but not paid to the Settlement Administrator will be distributed to the class pro rata.
- B. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, entitled “Joint Stipulation and Settlement Agreement.”
- C. **Attorney Fee Award**: The amount, not to exceed 33 1/3% of the Gross Settlement Amount or \$175,833.33, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant.
- D. **Case or Class Action**: The lawsuit filed by Plaintiff on October 1, 2020, entitled *Melinda James, et al. v. Coolsys Commercial & Industrial Solutions, Inc., et al.*, Case No. 30-2020-01163014-CU-OE-CXC in the State of California, Orange County Superior Court.
- E. **Class**: All individuals employed as non-exempt hourly workers by Defendant within the State of California during the Class Period.
- F. **Class Counsel**: Jonathan Lebe and Annaliz Loera of Lebe Law, APLC.
- G. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above.

- H. **Class Notice or Notice:** The “Notice of Class Action Settlement” or “Notice” shall mean the notice to be provided to all Class Members regarding the terms of this Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval. The Notice shall be provided to all Class Members in both English and Spanish. The Notice shall constitute class notice pursuant to California Rule of Court 3.769 (f) and, once approved by the Court shall be deemed compliant with California Rule of Court 3.766.
- I. **Class Period:** The time period from October 1, 2016, through April 1, 2021.
- J. **Class Representative or Plaintiff:** Melinda James (“James”).
- K. **Class Representative Enhancement Payments:** The amount the Court awards to Plaintiff for her services as Class Representatives, which will not exceed \$5,000. This payment shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. This enhancement payment is subject to approval of the Court. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- L. **Complaint:** The complaint filed by Plaintiff October 1, 2020, in the case entitled *Melinda James, et al. v. Coolsys Commercial & Industrial Solutions, Inc., et al.*, Case No. 30-2020-01163014-CU-OE-CXC in the State of California, Orange County Superior Court. In conjunction with the Preliminary Approval Motion, Plaintiff will file a First Amended Complaint, attached hereto as **Exhibit B**. Plaintiff’s First Amended Complaint will add causes of action brought on behalf of the Class. The First Amended Complaint will be filed for settlement purposes only. Should the Settlement not become Final for whatever reason, the First Amended Complaint will be deemed stricken and Parties will revert back to their positions prior to settlement.
- M. **Cost Award:** The amount that the Court orders Defendant to pay Class Counsel for payment of actual litigation costs, which shall not exceed \$15,000. The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the Court awards less than the amount request, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- N. **Counsel for Defendant:** Attorneys Christine D. Baran and Ashton M. Riley of Fisher & Phillips LLP.
- O. **Court:** The State of California, Orange County Superior Court.
- P. **Defendant:** Coolsys Commercial & Industrial Solutions, Inc., formerly known as Source Refrigeration & HVAC, Inc.

- Q. Effective Final Settlement Date:** The effective date of this Settlement or Final Settlement Date shall be the earlier of the following dates: (1) the date of final affirmation of the Final Approval from any appeal, the expiration of the time for, or the denial of, a petition to review the Final Approval, or if review is granted, the date of final affirmation of the Final Approval following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the Final Approval or the final dismissal of any proceeding to review the Final Approval, provided that the Final Approval is affirmed and/or not reversed in any part; or (3) if no class members intervene but objections are filed, the expiration date of the time for the filing or noticing of any appeal from the Court's Final Approval of the Settlement, as determined under Rule 8.104(a)(3) of the California Rules of Court or (4) if no class members intervene and there are no objections, the date the Court enters the Final Approval Order and Final Judgment.
- R. Eligible Aggrieved Employees:** The aggrieved employees eligible to recover the PAGA payment shall consist of all individuals employed as non-exempt hourly workers by Defendant within the State of California from April 6, 2019 through April 1, 2021 ("PAGA Period").
- S. Exclusion Form:** The Election Not To Participate or Opt-out Form, substantially similar to the form attached hereto as **Exhibit C**, subject to Court approval.
- T. Judgment or Final Approval:** The "Final Approval Order" means the final order entered by the Court following the Final Fairness and Approval Hearing. The "Final Judgment" means the final judgment entered by the Court following the Final Fairness and Approval Hearing.
- U. Gross Settlement Amount or GSA:** The total value of the Settlement is a non-reversionary Five Hundred, Twenty-Seven Thousand, Five Hundred Dollars and Zero Cents (\$527,500.00). This is the gross amount Defendant can be required to pay under this Settlement Agreement, which includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Participating Class Members, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer is excluded from the GSA and will be paid by Defendant separately. No portion of the Gross Settlement Amount will revert to Defendant for any reason. This amount is all-inclusive of all payments contemplated in this resolution, excluding the Individual Settlement Payment to Plaintiff as provided for in this Agreement, and excluding any employer-side payroll taxes on the portion of the Settlement Shares, if any are allocated to wages

- V. **Individual Settlement Payment**: The payment by Defendant to Plaintiff in accordance with the separate individual settlement agreement entered into between the Parties totaling \$20,000 regarding her claims of retaliation, wrongful termination, and other related claims.
- W. **Individual Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Settlement Share automatically, without the return of a claim form.
- X. **LWDA**: California Labor and Workforce Development Agency.
- Y. **Net Settlement Amount or NSA**: The total amount of money available for payout to Participating Class Members, which is the GSA less the Attorney Fee Award, Cost Award, Class Representative Enhancements, the portion of the PAGA Payment paid to the LWDA and aggrieved employees, and Administration Costs. In other words, the NSA is the portion of the GSA that will be distributed to Class Members who do not request exclusion from the Settlement.
- Z. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).
- AA. **PAGA Payment**: The PAGA Payment consists of \$25,000 of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Class Action. Seventy-five percent (75%) (\$18,750) of the PAGA Payment shall be paid to the LWDA, and twenty-five percent (25%) (\$6,250) of the PAGA Payment shall be part of the Net Settlement Amount distributed to Eligible Aggrieved Employees, on a pro rata basis, as set forth below.
- BB. **Participating Class Members**: All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.
- CC. **Parties**: Plaintiff Melinda James as an individual and as Class Representative, and Defendant Coolsys Commercial & Industrial Solutions, Inc., formerly known as Source Refrigeration & HVAC, Inc.
- DD. **Preliminary Approval or Preliminary Approval Order**: The order entered by the Court following the Preliminary Approval Hearing approving the proposed Settlement.
- EE. **Qualified Settlement Fund or QSF**: A fund within the meaning of Treasury Regulation § 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.*, that is established by the

Settlement Administrator for the benefit of Participating Class Members, Plaintiff and Class Counsel.

- FF. Released Claims:** Upon Defendant's fulfillment of its payment obligations under Section III (K)(9)(a) below, the claims that Plaintiff and the other Participating Class Members are releasing in exchange for the consideration provided for by this Agreement are all claims asserted in the operative complaint, that arise out of the facts asserted in the operative complaint, or that could have been asserted in the operative complaint, including for unpaid wages, including minimum wages, regular wages, overtime and double time, improper calculation of overtime and double time wages, meal and rest breaks, reporting time pay, on-call pay, failure to timely pay wages during employment, separation pay violations, non-compliant wage statements, failure to properly record hours worked and/or paid, unfair business practices, and PAGA.
- GG. Comprehensive Release:** Upon Defendant's fulfillment of its payment obligations under Section II (k)(9) below and the individual settlement agreement, Plaintiff is releasing in exchange for the consideration provided for by this Agreement a comprehensive release of all known and unknown claims by Plaintiff, including a California Civil Code section 1542 waiver arising out of the operative allegations in the Case.
- HH. Released Parties:** Defendant, its subsidiaries, affiliates, predecessors or successors in interest, and its respective past or present officers, directors, shareholders, employees, attorneys, agents, assigns, members, investors, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys.
- II. Response Deadline:** Forty-five (45) calendar days from the initial mailing of the Notice.
- JJ. Settlement Administration:** The Settlement Administrator will conduct a skip trace for the address of all former employee Class Members. The Settlement Administrator will translate into Spanish and mail the Notice in English and Spanish version by first class U.S. mail to all Class Members at the address Defendant has on file for those Class Members and to all former employee Class Members at the address resulting from the skip trace. The Notice will inform Class Members that they have until the Response Deadline to either object to the Settlement or to opt-out (exclude themselves) from the Settlement. Any Class Member who does not receive Notice after the steps outlined above have been taken will still be bound by the Settlement and/or Judgment.
- KK. Settlement Administrator:** The third party administrator agreed upon by Parties to administer this Settlement is CPT Group, Inc.

LL. Superior Court: The State of California, Orange County Superior Court.

II. RECITALS

- A.** Per the Complaint, the Plaintiff alleges, *inter alia*, on behalf of herself, all others similarly situated, and other aggrieved employees, that Defendant violated California state wage and hour laws and the California *Business and Professions Code* section 17200 *et seq.* and PAGA as a result of Defendant's wage and hour policies and practices. Specifically, Plaintiff alleges that Defendant failed to pay all wages, including minimum wages, regular wages, overtime and double time; failed to properly calculate overtime and double time wages; failed to provide meal breaks (including without limitation first and second meal breaks) each day based on the hours worked by each employee, including meal breaks that were short, late, interrupted, and/or missed altogether; failed to authorize and permit legally compliant rest breaks each day based on the hours worked by each employee, including rest breaks that were short, late, interrupted, and/or missed altogether; failed to both pay for reporting time pay and to pay for reporting time at the legally required rate; failed to both pay for on-call time and to pay on-call time at the legally required rate; and failed to timely pay all wages during employment each pay period for every employee. Plaintiff further alleged that the aforementioned resulted in the Class receiving inaccurate wage statements; the underpayment of wages to employees upon termination and/or resignation; unfair business practices; and a violation of PAGA.
- B.** After the filing of the Complaint, the Parties agreed to attend mediation. Prior to the mediation, the Parties conducted significant investigation and discovery of the facts and law both before and after the Class Action was filed. Prior to mediation, Defendant produced hundreds of documents relating to its policies, practices, and procedures regarding paying non-exempt employees for all hours worked, meal and rest period policies, and payroll and operational policies. As part of Defendant's production, Plaintiff also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiff to understand the number of workweeks in the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis.
- C.** Plaintiff and Class Counsel have engaged in good faith, arms-length negotiations with Defendant concerning possible settlement of the claims asserted in the Class Action. On January 26, 2021, the Parties participated in a mediation before mediator Gig Kyriacou of Kyriacou Mediation. No settlement resulted at that mediation session, but rather a mediator's proposal was issued and left open through 2:30 p.m. on February 5, 2021. The Parties accepted the proposal subject to the approval of the Court and finalization of a

formal Settlement Agreement and amended complaint alleging class action allegations.

- D. Benefits of Settlement to Class Members.** Plaintiff and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, the existing arbitration agreements and the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel conducted extensive settlement negotiations, including formal mediation on January 26, 2021. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
- E. Defendant's Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendant have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.
- F. Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Class Action is not appropriate for PAGA or class treatment. Defendant asserts a number of defenses to the claims, and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Class Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any statements, discussions or communications, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiff can serve as adequate Class Representatives. There has been no final determination by any court as to the merits of the claims asserted by Plaintiff against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.
- G. Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Class Action. However, in the event that this Settlement is finally approved by the Court, none of Plaintiff, Class Members,

or Class Counsel will oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Class Members have resolved and are forever barred from re-litigating the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount that Defendant is obligated to pay under this Settlement Agreement is Five Hundred, Twenty-Seven Thousand, Five Hundred Dollars and Zero Cents (\$527,500.00).
- B. Notice to the Labor and Workforce Development Agency ("LWDA").** On July 10, 2020, Plaintiff filed and served her Notice of Labor Code Violations Pursuant to Labor Code Section 2699.3 and filed and served an amended Notice of Labor Code Violations on September 15, 2020. Thus, Plaintiff has satisfied her notice obligations under the PAGA.
- C. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
- D. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. This Stipulation is contingent upon the Preliminary and Final approval and certification of the Settlement Class only for purposes of settlement. If the Settlement does not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to certification as part of the Settlement shall have no bearing on and shall not be admissible or used in any way in connection with, the question of whether the Court should certify any claims in a non-settlement context in this Class Action or in any other lawsuit. Defendant expressly reserves the right to oppose class certification and/or to proactively move to deny class certification should this Settlement be modified or reversed on appeal or otherwise not become final.
- E. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff shall be appointed as the representatives for the Class.
- F. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.

- G. Individual Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member.

1. Calculation.

a. Individual Settlement Share Calculation. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked during the Class Period based on the Class data provided by Defendant, divided by (ii) the total number of weeks worked by any and all Participating Class Members collectively, during the Class Period based on the same Class data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Participating Class Member's Individual Settlement Share ties directly to the amount of weeks that he or she worked.

2. Tax Withholdings. Each Participating Class Member's Individual Settlement Share will be apportioned as follows: 1/3 wages, 1/3 penalties and 1/3 interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' share of payroll tax withholdings shall be withheld from each persons' Individual Settlement Share.

- H. Settlement Disbursement.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:

1. To the Plaintiff. In addition to her respective Individual Settlement Shares, and subject to the Court's approval, Plaintiff will receive up to Five Thousand Dollars and Zero Cents (\$5,000) as a Class Representative Enhancement Payment. The Settlement Administrator will pay the Class Representative Enhancement Payments out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payments. An IRS Form 1099 will be issued to Plaintiff with respect to her Class Representative Enhancement Payments. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payments, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for

paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff, the difference shall become part of the NSA and be available for distribution to Participating Class Members.

2. **To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees not to oppose, a total Attorney Fee Award not to exceed thirty-three and one-third percent (33 1/3%) or \$175,833.33 of the GSA and a Cost Award not to exceed \$15,000. The Settlement Administrator will pay the court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Fund. The Settlement Administrator may purchase an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Participating Class Members.
3. **To the Responsible Tax Authorities.** The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll withholding taxes. The Settlement Administrator will submit Defendant's portion of payroll withholding tax calculation to Defendant for additional funding and forward those amounts along with each person's Individual Settlement Share withholdings to the appropriate taxing authorities.
4. **To the Settlement Administrator.** The Settlement Administrator – CPT Group, Inc. - will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$15,000. This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated, the difference shall become part of the NSA and be available for distribution to Participating Class Members. In the event the Court does not approve the entirety of the application for the Administration Costs, the Settlement Administrator shall pay to itself whatever amount the Court awards, and neither Defendant nor the Plaintiff shall be responsible for paying the difference between the amount requested and the amount awarded.

5. To Class Members. The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members shall be made from the Qualified Settlement Fund.

6. To Eligible Aggrieved Employees. The Settlement Administrator shall pay each Eligible Aggrieved Employee according to their proportional share, which will be based upon the total number of pay periods he or she was employed during the PAGA Period. The individual share will be calculated by determining the total number of pay periods the Eligible Aggrieved Employees were employed during the PAGA Period (i.e., the sum of all pay periods of employment for each eligible aggrieved employee), and dividing that number into the \$6,250 amount allocated to Eligible Aggrieved Employees to determine the monetary value assigned to each pay period. That number will then be multiplied by the individual eligible aggrieved employee's total number of pay periods employed during the PAGA Period to determine that individual's proportional share. Settlement checks issued to the Eligible Aggrieved Employees pursuant to this Joint Stipulation and Settlement Agreement shall expire 180 days from the date they are issued by Defendant. Any unclaimed funds after the 180 days shall be turned over by the Settlement Administrator, with information for each Eligible Aggrieved Employee who failed to timely cash his/her settlement check, to the state Department of Industrial Relations Unpaid Wages Fund in the name of the Eligible Aggrieved Employee.

I. Appointment of Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree that CPT Group, Inc. shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, translating into Spanish, and mailing the Notice to the Putative Class Members; keeping track of any objections or requests for exclusion from Class Members; performing skip traces and re-mailing Notices and Individual Settlement Shares to Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's Individual Settlement Share; providing weekly status reports to Defendant's Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing Individual Settlement Shares to Participating Class Members; calculating and mailing the aggrieved employees Payment to the LWDA; distributing the Attorney Fee Award and Cost Award to Class Counsel; printing and providing Class Members and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Superior Court upon the completion of the Settlement; providing any funds remaining in the QSF as a result of uncashed checks to the state Department of Industrial Relations Unpaid Wages Fund in the name of the Settlement Class member, including the

administration of related tax reimbursements; and for such other tasks as the Parties mutually agree.

J. CIRCULAR 230 DISCLAIMER. Each Party to this Agreement (for purposes of this section, the “Acknowledging Party” and each Party to this Agreement other than the Acknowledging Party, an “Other Party”) acknowledges and agrees that:

- (1) No provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisors, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of U.S. Treasury Dept. Circular 230 (31 C.F.R. Part 10, as amended);
- (2) The Acknowledging Party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any Other Party or any attorney or advisor to any Other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any Other Party to avoid any tax penalty that may be imposed on the Acknowledging Party; and
- (3) No attorney or advisor to any Other Party has imposed any limitation that protects the confidentiality of any such attorney’s or advisor’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

K. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a. Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval hearing, and approving the Class Notice and Exclusion Form. Class counsel will submit to Defendant’s counsel drafts of the motions for Preliminary Approval of settlement, Class Notice and Exclusion Form (“notice packets”) to class members. Defendant’s counsel will not unreasonably withhold approval. Plaintiff’s counsel will not submit motions to the Court for Preliminary Approval, or notice packets, without Defendant’s counsel’s approval.
- b. At the Preliminary Approval hearing, the Plaintiff will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval hearing.

- c. Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Parties will cooperate and provide their best efforts to resolve any questions or issues raised by the Court. Should the Agreement not become Final for any reason after the Parties cooperate and provide best efforts to resolve questions or issues raised by the Court including by entering into an amended settlement agreement resolving such issues, the Settlement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Enhancements.

2. Notice to Class Members. After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Class Notice in accordance with the following procedure:

- a. Within twenty-one (21) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver to the Settlement Administrator the following information about each Class Member: (1) first and last name; (2) last known mailing address; (3) social security number; (4) hire and termination dates; and (5) the total number of weeks during which the Class Member performed any actual work during the Class Period as a member of the Class ("collectively "Class List"). If any or all of this information is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will conduct a skip trace for the address of all former Defendant employee Class Members and all return mail. The Settlement Administrator shall maintain the Class List and all data contained within the Class List as private and confidential.

- b.** The Settlement Administrator shall run all the addresses on the Class List through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information. The Settlement Administrator shall translate the Class Notice and Exclusion Form to Spanish, and shall mail both English and Spanish translations of the Class Notice and Exclusion Form to the Class Members via first-class regular U.S. Mail using the most current mailing address information available within fourteen (14) calendar days after the receipt of the Class List from Defendant.
- c.** If a Class Notice is returned because of an incorrect address, within ten (10) days from receipt of the returned Notice, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Class Notice shall be re-mailed to the original address. If the Class Notice is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or forwarded mail, will have their Response Deadline to postmark an Exclusion Form, or file and serve an objection to the Settlement extended by ten (10) calendar days from the original Response Deadline. The Settlement Administrator shall mark on the envelope whether the Class Notice is a re-mailed notice.
- d.** Class Members may dispute the information provided in their Class Notice, but must do so in writing, via first class mail, and it must be postmarked by the Response Deadline. To the extent Class Members dispute the number of weeks to which they have been credited or the amount of their Individual Settlement Share, Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's

records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible weeks that should be applied and/or the Individual Settlement Share to which the Class Member may be entitled.

- e. If any Exclusion Form received is incomplete or deficient, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and allow fourteen (14) days to cure the deficiency. If after the earlier of the cure deadline or the Response Deadline, the Exclusion Form is not cured, it will be determined that the Class Member did not exclude himself or herself from the Settlement and will be bound by the Settlement.
 - f. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of Exclusion Forms received.
 - g. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval hearing. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.
- 3. Objections to Settlement.** The Class Notice will provide that the Class Members who wish to object to the Settlement must do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline. In order for any Class Member to object to this Settlement, or any term of it, the person making the objection must not submit a request for exclusion (i.e., must not opt out). The timeframe to submit an objection will not be increased for returned mailings.
- a. **Format.** Any Objections shall state: (a) the objecting person's full name, address, and telephone number and the name and address of counsel, if any; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying

witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing; (f) signed by the objecting Class Member or his or her attorney; and (g) state whether the objecting Class Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing.

- b. Appearance at Final Approval and Oral Objection.** Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel, at his or her own expense and orally object to the Settlement. Any attorney who will represent an individual objecting to this Settlement must file a notice of appearance with the Court and serve Class Counsel and Defense Counsel no later than fifteen (15) calendar days before the Final Approval hearing.
- c.** If a Class Member objects to the Settlement, the objecting Class Member will remain a member of the Settlement and if the Court approves the Settlement, the objecting Class Member will be bound by the terms of the Settlement in the same way and to the same extent as a Participating Class Member who does not object.
- d.** Named Plaintiff and Defendant will be permitted to respond in writing to such objections no later than seven (7) days before the Final Approval hearing. Named Plaintiff waives any right to object to the Settlement, and hereby endorses the Settlement as fair, reasonable and adequate and in the best interests of the Settlement Class.

4. Request for Exclusion from the Settlement ("Opt-Out"). The Class Notice will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator an Exclusion Form. The written request for exclusion must: (a) include the Class Member's name, address, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member or his or her lawful representative; and (d) be postmarked no later than the Response Deadline.

- a. Confirmation of Authenticity.** The date of the initial mailing of the Class Notice, and the date the signed request to be excluded is postmarked, shall be conclusively determined according to the records of the Settlement Administrator. If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. Any Class Member who returns a timely, valid, and executed Exclusion Form will not participate in or be

bound by the Settlement and Judgment, will not receive an Individual Settlement Share and will not have any right to object, appeal, or comment thereon. A Class Member who does not complete and mail a timely Exclusion Form will automatically be included in the Settlement, will receive an Individual Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement.

- b. Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.
- c. Defendant's Option to Terminate.** If more than five percent (5%) of the Class Members submit Exclusion Forms, Defendant, at its sole option, may withdraw from the Settlement and this Agreement is null and void. To exercise this option Defendant must do so within thirty (30) days after expiration of the opt-out period.

- 5. No Solicitation of Objection or Requests for Exclusion.** Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.

6. Motion for Final Approval.

- a.** Upon expiration of the Objection/Exclusion Deadlines, Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Class Members who do not opt out of the Settlement. Class counsel will submit to Defendant's counsel drafts of the motion for Final Approval of

settlement to class members. Defendant's counsel will not unreasonably withhold approval. Plaintiff's counsel will not submit motions to the Court without Defendant's counsel's approval.

- b. If the Court does not grant Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree Plaintiff shall be responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.
 - c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the Class Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.
- 7. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.
- 8. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any

alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Share.

9. Disbursement of Settlement Shares and Payments. Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Superior Court's Final Approval Order and Judgment. The maximum amount Defendant can be required to pay under this Settlement for any purpose is the Gross Settlement Amount. The Settlement Administrator shall keep Defendant's Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendant's Counsel and Class Counsel..

- a. **Funding the Settlement:** Provided there is an Effective Settlement Agreement, no later than thirty (30) days after the Court grants final approval of the settlement, Defendant or its designee shall deposit the Gross Settlement Amount and any apportioned employer's share of payroll taxes by wiring funds into a QSF set up and controlled by the Settlement Administrator. In the event there are objectors to the Joint Stipulation and Settlement Agreement, payment shall be made within seven (7) calendar days after the time to appeal has run or all appeals have been exhausted, whichever occurs later.
- b. **Disbursement:** Within fourteen (14) calendar days after the funding of the Settlement, the Settlement Administrator shall calculate and pay all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorney Fee Award, the Cost Award, the Class Representative Enhancements, the PAGA Payment, and the Administration Costs. The Settlement Administrator will forward a check for 75% of the PAGA Payment to the LWDA for settlement of the PAGA claim.
- c. **QSF:** The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.4168B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

10. Uncashed Checks. Participating Class Members must cash or deposit their Individual Settlement Share checks within one hundred eighty (180)

calendar days after the checks are mailed to them. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will conduct a skip trace and send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, cancel the checks, and pay the amount of the Individual Settlement Share to the state Department of Industrial Relations Unpaid Wages Fund in the name of the Class Member/Eligible Aggrieved Employee.

11. Final Report by Settlement Administrator. Within ten (10) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.

12. Defendant's Legal Fees. Defendant is responsible for paying for all of Defendant's own legal fees, costs, and expenses incurred in this Class Action outside of the Gross Settlement Fund.

L. Release of Claims.

- 1. Participating Class Members.** Upon Defendant's fulfillment of their payment obligations under Section III (K)(9)(a), Class Members, who do not submit a timely and valid request for exclusion, hereby waive, release, promise never to assert in any forum, remise and forever discharge the Released Parties from the Released Claims for the time frame from October 1, 2016, through April 1, 2021.
- 2. Plaintiff.** Plaintiff will enter into an individual settlement agreement, which shall provide for an Individual Settlement Payment, as provided for in this Agreement, and which shall provide for a broad release. This release, waiver and discharge of all claims shall include, but will not be limited to, any and all claims arising out of the Action, as well as additional claims described in the Individual Settlement Agreement
- 3. Class Counsel.** As of the date the Judgment becomes Final, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys' fees and expenses against Defendants arising from or related to the Class Action.
- 4. Signatures of All Class Members Unnecessary to Be Binding.** The Parties agree for settlement purposes only that, because the Class Members are so numerous, it is impossible or impracticable to have each Class Member execute this Agreement. Accordingly, the Notices will advise all Class Members of the binding nature of their releases and, if the Court

grants final approval of this Settlement Agreement, this Agreement shall have the same force and effect as if it were executed by each Class Member.

M. Effect of PAGA Settlement. As of the Effective Final Settlement Date, this settlement forever bars Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all Eligible Aggrieved Employees during the PAGA Period, from pursuing any action under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*, against, the Released Parties based on or arising out of alleged violations of Labor Code sections alleged in the Case.

N. Miscellaneous Terms

- 1. No Admission of Liability.** Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Case, or that but for the Settlement, a Class should be certified in the Case. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff’s and Defendant’s willingness to settle the Case will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant’s, policies or bonus programs. Any payments made under the terms of this Settlement shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendant’s benefit plan, policy or bonus program. Defendant retains the right to modify the language of their benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for “hours worked,” “hours paid,” “hours of service,” or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Settlement..

- 3. Publicity.** Class Counsel and Plaintiff agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as class counsel, in declarations submitted to a court in support of motions for preliminary approval, Final Approval, for attorneys' fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. Class Counsel and Plaintiff agree that they shall not publish any press releases or press statements regarding the Settlement, identify Defendant or Defendant's counsel by name in any media including Class Counsel's website, or have any communications with the press or media about the Action or the Settlement. Plaintiff, in response to inquiries, will state that that "the Case was resolved."
- 4. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict its terms. In entering into this Agreement, the parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. Nothing in this Agreement in any way limits or negates the enforceability and effect of the underlying arbitration agreements signed by employees of Defendant, obligating them to arbitrate any and all claims on an individual (and not on a class, collective, or representative) basis.
- 5. Authorization to Enter Into Settlement Agreement.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.

- 6. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
- 7. Deadlines Falling on Weekends or Holidays.** To the extent that any deadline set forth in this Settlement Agreement falls on a Saturday, Sunday or legal holiday, that deadline shall be continued until the following business day.
- 8. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Class Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.
- 9. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
- 10. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- 11. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that she has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 12. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
- 13. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- 14. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations

regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of such taxes.

- 15. Force Majeure.** The failure of any party to perform any of its obligations hereunder shall not subject such party to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions, floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages, shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage, terrorist acts, acts or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such party.
- 16. Jurisdiction of the Superior Court.** Pursuant to Code of Civil Procedure Section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 17. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.
- 18. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 19. Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart

will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 6/4/2021, 2021

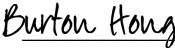
MELINDA JAMES

DocuSigned by:

Plaintiff

Dated: 6/7/2021, 2021

COOLSYS COMMERCIAL & INDUSTRIAL SOLUTIONS, INC.

DocuSigned by:

Defendant
Burton Hong
EVP and General Counsel

Dated: 6/3/2021, 2021

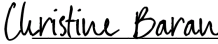
LEBE LAW, APLC

DocuSigned by:

Jonathan Lebe, Esq.
Annaliz Loera, Esq.
Attorneys for Plaintiff Melinda James, on behalf of herself and all others similarly situated

Dated: 6/9/2021, 2021

FISHER & PHILLIPS LLP

DocuSigned by:

Christine D. Baran, Esq.
Ashton M. Riley, Esq.
Attorneys for Defendant Coolsys Commercial & Industrial Solutions, Inc., formerly known as Source Refrigeration & HVAC, Inc.