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[Additional Counsel on the next page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

NATHAN M. PETERSON, an individual and
on behalf of all others similarly situated,

Plaintiff,

v.

SORENSEN ENGINEERING, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

CASE NO.: CIVDS2023994

[Assigned to the Hon. David Cohn in Dept.
S-26]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: November 2, 2020
Trial Date: None Set

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28 Co-Counsel for Defendant Sorensen Engineering, Inc.

1 This Class and PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement
2 Agreement”) is made by and between plaintiffs Nathan M. Peterson (“Plaintiff Peterson”),
3 Kariana Anderson, Ian Bateman, Carmen Lopez, Nancy Murillo, and Amanda Witzig
4 (“Plaintiffs”), on one hand, and defendant Sorenson Engineering, Inc. (“Defendant”), on the other
5 hand. The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually
6 as “Party.”

7 **1. DEFINITIONS**

8 1.1. “Action” means the Plaintiff Nathan Peterson’s lawsuit alleging wage and hour violations
9 against Defendant, captioned *Nathan Peterson v. Sorenson Engineering, Inc.*, Case No.
10 CIVDS2023994, initiated on November 2, 2020, and pending in Superior Court of the State of
11 California, County of San Bernardino.

12 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to
13 appoint to administer the Settlement.

14 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
15 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
16 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
17 Preliminary Approval of the Settlement.

18 1.4. “Aggrieved Employees” means Class Members working for Defendant as hourly-paid,
19 non-exempt employees during the PAGA Period in the State of California.

20 1.5. “Class” or “Settlement Class” means all persons currently or formerly employed by
21 Defendant as hourly-paid, non-exempt employees in the State of California at any time during
22 the Class Period.

23 1.6. “Class Counsel” means David D. Bibiyan, Diego Aviles, and Vedang J. Patel of Bibiyan
24 Law Group, P.C.

25 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
26 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
27 expenses, respectively, incurred to prosecute the Action.

1 1.8. "Class Data" means Class Member identifying information in Defendant's custody,
2 possession, or control, including the Class Member's (1) name; (2) last known address(es); (3)
3 last known telephone number(s); (4) Social Security Number(s); and (5) the dates of employment
4 (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

5 1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either
6 a Participating Class Member or Non-Participating Class Member (including a Non- Participating
7 Class Member who qualifies as an Aggrieved Employee).

8 1.10. "Class Member Address Search" means the Administrator's investigation and search for
9 current Class Member mailing addresses using all reasonably available sources, methods and
10 means including, but not limited to, the National Change of Address database, skip traces, and
11 direct contact by the Administrator with Class Members.

12 1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION
13 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
14 Class Members in English and Spanish in the form, without material variation, attached as Exhibit
15 A and incorporated by reference into this Agreement.

16 1.12. "Class Period" means the period from November 2, 2016 through September 1, 2022.

17 1.13. "Class Representatives" means the named Plaintiffs in the operative complaint in the
18 Action seeking Court approval to serve as a Class Representative, namely Nathan Peterson,
19 Kariana Anderson, Ian Bateman, Carmen Lopez, Nancy Murillo, and Amanda Witzig.

20 1.14. "Class Representative Service Payment" means the payment to the Class Representatives
21 for initiating the Action and providing services in support of the Action.

22 1.15. "Court" means the Superior Court of California, County of San Bernardino.

23 1.16. "Defendant" means named defendant Sorenson Engineering, Inc.

24 1.17. "Defense Counsel" means Alfred J. Landegger, Roxana E. Verano, and Evelyn Zarraga
25 of Landegger Verano & Davis, ALC and Leland P. McElhaney of Brunick, McElhaney &
26 Kennedy PLC.

27 1.18. "Effective Date" means the date when all of the following events have occurred: (a) the
28

1 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
2 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
3 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
4 one or more Participating Class Members objects to the Settlement, the day after the deadline
5 for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed,
6 the day after the appellate court affirms the Judgment and issues a remittitur .

7 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

8 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval
9 of the Settlement.

10 1.21. "Final Judgment" means the Judgment entered by the Court based upon the Final
11 Approval.

12 1.22. "Gross Settlement Amount" means \$1,400,000.00 (One Million Four Hundred Thousand
13 Dollars and Zero Cents), which is the total amount Defendant agrees to pay under the Settlement,
14 unless increased pursuant to Paragraph 8.1 below, and not including the employer payroll taxes
15 owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will
16 be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA
17 Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment,
18 and Administrator's Expenses.

19 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the
20 Net Settlement Amount calculated according to the number of Workweeks worked during the
21 Class Period.

22 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of
23 the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA
24 Period.

25 1.25. "Judgment" means the judgment entered by the Court based upon Final Approval.

26 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency
27 entitled, under Labor Code section 2699, subd. (i).

1 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
2 under Labor Code section 2699, subd. (i).

3 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
4 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
5 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
6 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be
7 paid to Participating Class Members as Individual Class Payments.

8 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
9 Settlement by sending the Administrator a valid and timely Request for Exclusion.

10 1.30. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked
11 for Defendant for at least one day during the PAGA Period.

12 1.31. “PAGA Period” means the period from July 30, 2019 through September 1, 2022.

13 1.32. “PAGA” means the Private Attorneys’ General Act (Labor Code §§ 2698. *et seq.*).

14 1.33. “PAGA Notice” means Plaintiff Nathan Peterson’s July 30, 2020 letter to Defendant and
15 the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

16 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties (\$100,000.00) to be
17 paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees
18 (\$25,000.00) and 75% to the LWDA (\$75,000.00) in settlement of PAGA claims.

19 1.35. “Participating Class Member” means a Class Member who does not submit a valid and
20 timely Request for Exclusion from the Settlement.

21 1.36. “Plaintiffs” means Nathan Peterson, Kariana Anderson, Ian Bateman, Carmen Lopez,
22 Nancy Murillo, and Amanda Witzig.

23 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the
24 Settlement.

25 1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval
26 and Approval of PAGA Settlement to be mutually agreed upon by the Parties prior to Plaintiffs’
27 presentation of the same to the Court.

1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4 below.

1.41. “Released Parties” means: Defendant and each of its former and present directors, officers, principals, trustees, shareholders, owners, managers, members, attorneys, insurers, predecessors, successors, assigns, parents, subsidiaries, and affiliates. In connection with the temporary employees supplied to Defendant during the relevant time periods, “Released Parties” also include Redlands Staffing Services dba Arrow Staffing, Talent Workforce Solutions, Inc., in association with Samuel Hale Exchange, LLC, and each of their respective former and present directors, officers, principals, trustees, shareholders, owners, managers, members, attorneys, insurers, predecessors, successors, assigns, parents, subsidiaries and affiliates.

1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline has expired.

1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.45. “Workweek” means any week during which a Class Member was employed by the Defendant in a non-exempt, hourly position during the Class Period in California, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

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2. RECITALS

2.1. On July 30, 2020 Plaintiff Nathan Peterson filed with the Labor and Workforce Development Agency (“LWDA”) and served on Defendant a notice under Labor Code section 2699.3 (the “PAGA Notice”) stating that he intended to serve as a proxy of the LWDA to recover civil penalties for Aggrieved Employees for various Labor Code violations.

2.2. On November 2, 2020, Plaintiff Nathan Peterson commenced this Action by filing a Complaint alleging causes of action against Defendant for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to pay all wages due upon separation; (6) failure to provide accurate wage statements; (7) failure to indemnify; (8) engaging in unfair competition; and (9) violations of the Labor Code for which Plaintiff sought PAGA penalties.

2.3. Defendant denies the allegations in the Action, denies any failure to comply with the laws identified in the complaint, and denies any and all liability for the causes of action alleged in the complaint.

2.4. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff Nathan Peterson gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.5. On January 10, 2022, the parties participated in an all-day mediation presided over by Marc Feder, Esq. which was unsuccessful.

2.6. Prior to mediation, Plaintiffs obtained, through informal discovery: (1) time and payroll records for approximately a 10% sampling of the estimated 1,342 Class Members; (2) class data points, including rates of pay, and hire and termination dates; (3) all policy documents, including applicable employment handbooks; (4) purported arbitration agreements executed by Class Members; and (5) all documents concerning Plaintiff which were available to Defendant. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 (Dunk/Kullar). Plaintiffs also obtained, through

1 formal written discovery, additional class data and pertinent information; plaintiffs also took the
2 deposition of Defendant's PMK.

3 2.7. On September 1, 2022, the parties participated in a second all-day mediation presided
4 over by Marc Feder, Esq. which led to this Agreement to settle the Action.

5 2.8. As part of this Settlement Agreement, the Parties agree to stipulate to Plaintiff Peterson
6 filing a First Amended Complaint to include Plaintiffs Kariana Anderson, Ian Bateman, Carmen
7 Lopez, Nancy Murillo, and Amanda Witzig to the Action. The First Amended Complaint will
8 be filed concurrently with Plaintiffs' Motion for Preliminary Approval. In connection with
9 Plaintiff's First Amended Complaint, Defendant reserves the right to file responsive pleadings,
10 including an answer asserting, *inter alia*, the following affirmative defenses: failure to exhaust
11 administrative remedies, lack of standing, no ascertainable representative group, statute of
12 limitations, good faith, excessive fines sought, PAGA claims unmanageable, plaintiff's claims
13 not typical of class, absence of uniformity of issues in common, unmanageable variations in
14 proof, permissible rounding, arbitration agreements, compliance with meal period requirements,
15 non-compensable travel time, class action claims unmanageable, compliance with rest period
16 requirements, and reasonable and good faith belief that employee wage statements were accurate
17 and complete.

18 2.9. The Court has not granted class certification.

19 2.10. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
20 other pending matter or action asserting claims that will be extinguished or affected by the
21 Settlement.

22 **3. MONETARY TERMS**

23 3.1. Gross Settlement Amount. Defendant promises to pay \$1,400,000.00 as the Gross
24 Settlement Amount, unless escalated pursuant to Paragraph 8.1 of this Agreement, and to
25 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
26 Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll
27 taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will

disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiffs: Service Payments to Class Representatives or named plaintiffs of not more than \$7,500.00 to Plaintiff Peterson, and \$5,000 to each of the other named Plaintiffs, for a total of up to \$32,500.00 to Plaintiffs, in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives or named plaintiffs are entitled to receive as Participating Class Members. Defendant will not oppose Plaintiffs' request for a Class Representative Service Payments that do not exceed these amounts. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will endeavor to seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which, unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to be \$490,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$50,000.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class

Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendant for such work unless, Defendant materially breaches this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement, and said additional amounts are awarded by a court of competent jurisdiction. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$16,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$16,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 10% of each Participating

1 Class Member's Individual Class Payment will be allocated to settlement of
2 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
3 withholding and will be reported on an IRS W-2 Form. 90% of each
4 Participating Class Member's Individual Class Payment will be allocated to
5 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
6 Non-Wage Portions are not subject to wage withholdings and will be reported
7 on IRS 1099 Forms. Participating Class Members assume full responsibility and
8 liability for any employee taxes owed on their Individual Class Payment.
9 Notwithstanding the treatment of the payments to each Participating Class
10 Member, none of the payments called for by this Agreement, including the
11 Wage Portions of the Individual Class Payments, are to be treated as earnings,
12 wages, pay or compensation for the purpose of any applicable benefit or
13 retirement plan.

14 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
15 Class Payments. Non-Participating Class Members will not receive any
16 Individual Class Payments. The Administrator will retain amounts equal to their
17 Individual Class Payments in the Net Settlement Amount for distribution to
18 Participating Class Members on a pro rata basis.

19 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
20 \$75,000.00 to be paid from the Gross Settlement Amount, with 75% (\$56,250.00)
21 allocated to the LWDA PAGA Payment and 25% (\$18,750.00) allocated to the
22 Individual PAGA Payments.

23 3.2.5.1. The Administrator will calculate each Individual PAGA
24 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share
25 of PAGA Penalties (\$18,750.00) by the total number of PAGA Pay Periods
26 worked by all Aggrieved Employees during the PAGA Period and (b)
27 multiplying the result by each Aggrieved Employee's PAGA Pay Periods.

Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. 100% of the PAGA Penalties are allocated as penalties and not as wages. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records, Defendant estimates there are 1,342 Class Members who collectively worked a total of 104,123 Workweeks, and 1,027 Aggrieved Employees who worked a total of 39,496 PAGA Pay Periods.

4.2. Class Data. Not later than 15 business days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 calendar days after the Effective Date. Defendant's payment of the Gross Settlement Amount and Defendant's share of payroll taxes is

contingent upon receipt of the Administrator's payment instructions. Defendant's payment obligations with respect to the Gross Settlement Amount and Defendant's share of payroll taxes shall be met upon initiating the electronic transfer of funds in the amounts provided for in this Settlement Agreement pursuant to the Settlement Administrator's instructions. In the event of an unsuccessful electronic transfer of funds, the Parties agree to cooperate in good faith to resolve the issues.

4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and the Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change

1 of Address Database.

2 4.4.2. The Administrator must conduct a Class Member Address Search for all other
3 Class Members whose checks are returned undelivered without USPS forwarding
4 address. Within 7 days of receiving a returned check the Administrator must re-mail
5 checks to the USPS forwarding address provided or to an address ascertained through
6 the Class Member Address Search. The Administrator need not take further steps to
7 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
8 The Administrator shall promptly send a replacement check to any Class Member whose
9 original check was lost or misplaced, requested by the Class Member prior to the void
10 date.

11 4.4.3. For any Class Member whose Individual Class Payment check or Individual
12 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
13 shall transmit the funds represented by such checks to Legal Aid at Work for use in San
14 Bernardino County (the "Cy Pres Recipient").

15 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
16 not obligate Defendant to confer any additional benefits or make any additional
17 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
18 specified in this Agreement.

19 **5. RELEASE OF CLAIMS**

20 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement,
21 and on the date when Defendant fully funds the entire Gross Settlement Amount and funds all
22 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs,
23 Class Members, and Class Counsel will release claims against all Released Parties as follows:

24 5.1. Plaintiffs' Release. Plaintiffs, individually and on behalf of their respective former and
25 present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns
26 generally release and discharge Released Parties from all claims, transactions, occurrences,
27 demands, rights, liabilities and causes of action of every nature and description whatsoever,

whether known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with any act or omission of the Released Parties through each respective Plaintiff's date of execution of this Agreement, including, but not limited to: (a) all claims that were or reasonably could have been alleged based on the facts contained in the operative complaint in the Action and (b) all PAGA claims that were or reasonably could have been alleged based on facts contained in the operative complaint in the Action, Plaintiffs' PAGA Notice, or ascertained during the Action and released under 5.2 and 5.4 below ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to those rights that as a matter of law cannot be waived, including, but not limited to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or with respect to each Plaintiff, based on occurrences after said Plaintiff's date of execution of this Agreement. Plaintiffs each acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release only, Plaintiffs each expressly waive and relinquish the provisions, rights and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from any and all claims that were

1 alleged or reasonably could have been alleged based on the facts stated in the operative complaint
2 in the Action that arose during the Class Period including without limitation with respect to the
3 following claims: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure
4 to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or
5 compensation in lieu thereof; (5) failure to pay all wages due upon separation; (6) failure to
6 provide accurate wage statements; (7) failure to indemnify; (8) engaging in unfair competition;
7 (9) violation of or claims under the following sections of the California Labor Code, sections
8 201, 202, 203, 226, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2802; and (j)
9 violation of the applicable California Industrial Wage Orders that could have been premised on
10 the claims alleged in the operative complaint or that could have been based on the facts alleged
11 in the operative complaint, as well as any potential statutory penalties, interest or attorneys' fees
12 associated with all of such causes of action under California law. ("Released Class Claims").

13 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not
14 release any other claims, including claims for vested benefits, wrongful termination, violation of
15 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
16 workers' compensation, or claims based on facts occurring outside the Class Period.

17 5.4. Release by Aggrieved Employees: All Aggrieved Employees, regardless of whether they
18 are Participating Class Members or Non-Participating Class Members, are deemed to release, on
19 behalf of themselves and their respective former and present representatives, agents, attorneys,
20 heirs, administrators, successors, and assigns, the Released Parties from all claims demands,
21 rights, liabilities and causes of action under the California Labor Code Private Attorneys General
22 Act that were alleged, or reasonably could have been alleged, based on the facts stated in the
23 PAGA Notice and thereafter alleged in the operative complaint in the Action, arising during or
24 with respect to the PAGA Period, including without limitation, claims for PAGA penalties
25 pursuant to Labor Code sections 210, 226.3, 558, 1197.1, and 2699 in connection with alleged
26 violations of Labor Code sections 200, 201 201.3, 202, 203, 204, 226, 226.7, 227.3, 232, 232.5,
27 246, *et seq.*, 432, 510, 512, 1174, 1102.5, 1174, 1194, 1197, 1197.5, 1198.5, 2699, 2802, and

2810.5. (“Released PAGA Claims”). The foregoing releases shall be binding on Plaintiffs, the Aggrieved Employees, and the State of California, and shall bar by res judicata any claim under the PAGA brought by any person, including the Aggrieved Employees, on behalf of the State of California, as to any claims predicated on the Released PAGA Claims.

6. MOTION FOR PRELIMINARY APPROVAL

The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1. Defendant’s Representation Regarding No Potential Conflicts of Interest. Defendant and Defense Counsel are not aware of any potential conflicts of interest with the Administrator and Cy Pres Recipient. Defendant and Defense Counsel are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Plaintiffs’ Responsibilities. Plaintiffs will prepare and endeavor to deliver to Defense Counsel prior to filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members and the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its

1 timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations
2 (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd.
3 (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and (vii) all facts relevant to any
4 actual or potential conflict of interest with Class Members and the Administrator. Plaintiffs and
5 Class Counsel aver that they are not aware of any other pending matter or action asserting claims
6 that will be extinguished or adversely affected by the Settlement.

7 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
8 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
9 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
10 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
11 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
12 Administrator.

13 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
14 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
15 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
16 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
17 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
18 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
19 meeting and conferring, and in good faith, in an attempt to agree to modify the Agreement and
20 otherwise satisfy the Court's concerns.

21 7. SETTLEMENT ADMINISTRATION

22 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve
23 as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees
24 to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
25 Agreement in exchange for payment of Administration Expenses, including without limitation,
26 calculating the Individual Class Payments to be issued to Participating Class Members,
27 Individual PAGA Payment to be issued to Aggrieved Employees, sending notices, preparing all

1 checks and mailings, establishing a qualified settlement fund and holding the various payments
2 from Defendant comprising the Gross Settlement Amount and employer payroll taxes. The
3 Parties and their Counsel represent that they have no interest or relationship, financial or
4 otherwise, with the Administrator other than a professional relationship arising out of prior
5 experiences administering settlements.

6 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
7 Identification Number for purposes of calculating payroll tax withholdings and providing reports
8 to state and federal tax authorities. The Administrator will be responsible for calculating the
9 applicable taxes and withholdings, including Defendant's employer payroll taxes owed on the
10 Individual Class Payments, and for paying all taxes and withholdings to the applicable taxing or
11 governmental authorities with the necessary reports, and submitting copies to Defense Counsel.
12 The Administrator shall issue to Participating Class Members IRS Forms W-2 for the Wage
13 Portions of the Individual Class Payments, IRS Forms 1099 for the Non-Wage Portions, and IRS
14 Forms 1099 to Aggrieved Employees for Individual PAGA Payments, as described in this
15 Agreement.

16 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
17 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section
18 468B-1.

19 7.4. Notice to Class Members

20 7.4.1. No later than three (3) business days after receipt of the Class Data, the
21 Administrator shall notify Class Counsel that the list has been received and state the
22 number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the
23 Class Data.

24 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
25 days after receiving the Class Data, the Administrator will send to all Class Members
26 identified in the Class Data, via first-class United States Postal Service ("USPS") mail,
27 the Class Notice with Spanish translation, substantially in the form attached to this
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1 Agreement as Exhibit “A.” The first page of the Class Notice shall prominently estimate
2 the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment
3 payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if
4 applicable) used to calculate these amounts. Before mailing Class Notices, the
5 Administrator shall update Class Members’ addresses using the National Change of
6 Address database.

7 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice
8 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
9 using any forwarding address provided by the USPS. If the USPS does not provide a
10 forwarding address, the Administrator shall conduct a Class Member Address Search,
11 and re-mail the Class Notice to the most current address obtained. The Administrator
12 has no obligation to make further attempts to locate or send Class Notice to Class
13 Members whose Class Notice is returned by the USPS a second time.

14 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
15 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
16 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
17 notice is re-mailed. The Administrator will inform the Class Member of the extended
18 deadline with the re-mailed Class Notice.

19 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
20 discovers any persons who believe they should have been included in the Class Data
21 and should have received Class Notice, the Parties will expeditiously meet and confer
22 in person or by telephone and in good faith, in an effort to agree on whether to include
23 them as Class Members. If the Parties agree, such persons will be Class Members
24 entitled to the same rights as other Class Members, and the Administrator will send, via
25 email or overnight delivery, a Class Notice requiring them to exercise options under this
26 Agreement not later than 15 days after receipt of Class Notice, or the deadline dates in
27 the Class Notice, which ever are later.

1 7.5. Requests for Exclusion (Opt-Outs).

2 7.5.1. Class Members who wish to exclude themselves from (opt-out of) the Class
3 Settlement must send the Administrator, by fax, email or mail, a signed written Request
4 for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus
5 an additional 15 days for Class Members whose Class Notice is re-mailed). A Request
6 for Exclusion is a letter from a Class Member or his/her representative that reasonably
7 communicates the Class Member's election to be excluded from the Settlement and
8 includes the Class Member's name, address and email address or telephone number. To
9 be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

10 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
11 fails to contain all the information specified in the Class Notice. The Administrator shall
12 accept any Request for Exclusion as valid if the Administrator can reasonably ascertain
13 the identity of the person as a Class Member and the Class Member's desire to be
14 excluded. The Administrator's determination shall be final and not appealable or
15 otherwise susceptible to challenge. If the Administrator has reason to question the
16 authenticity of a Request for Exclusion, the Administrator may demand additional proof
17 of the Class Member's identity. The Administrator's determination of authenticity shall
18 be final and not appealable or otherwise susceptible to challenge.

19 7.5.3. Every Class Member who does not submit a timely and valid Request for
20 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
21 to all benefits and bound by all terms and conditions of the Settlement, including the
22 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
23 regardless whether the Participating Class Member actually receives the Class Notice
24 or objects to the Settlement.

25 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
26 Non-Participating Class Member and shall not receive an Individual Class Payment or
27 have the right to object to the class action components of the Settlement. Because future
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1 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
2 Participating Class Members who are Aggrieved Employees are deemed to release the
3 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
4 PAGA Payment.

5 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
6 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
7 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
8 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the
9 allocation by communicating with the Administrator via mail. The Administrator must encourage
10 the challenging Class Member to submit supporting documentation. In the absence of any
11 contrary documentation, the Administrator is entitled to presume that the Workweeks contained
12 in the Class Notice are correct so long as they are consistent with the Class Data. The
13 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
14 Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator
15 shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods
16 to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

17 7.7. Objections to Settlement

18 7.7.1. Only Participating Class Members may object to the class action components of
19 the Settlement and/or this Agreement, including contesting the fairness of the
20 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
21 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

22 7.7.2. Participating Class Members may send written objections to the Administrator, by
23 fax, email or mail. In the alternative, Participating Class Members may appear in Court
24 (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
25 Hearing. A Participating Class Member who elects to send a written objection to the
26 Administrator must do so not later than 45 days after the Administrator's mailing of the
27 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
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1 mailed).

2 7.7.3. Non-Participating Class Members have no right to object to any of the class action
3 components of the Settlement.

4 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
5 performed or observed by the Administrator contained in this Agreement or otherwise.

6 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
7 and use an internet website to post information of interest to Class Members, including
8 the date, time and location for the Final Approval Hearing and copies of the Settlement
9 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
10 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
11 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
12 the Final Approval and the Judgment. The Administrator will also maintain and monitor
13 an email address and a toll-free telephone number to receive Class Member calls and
14 emails.

15 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
16 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
17 Not later than 5 days after the expiration of the deadline for submitting Requests for
18 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
19 containing (a) the names of Class Members who have timely submitted valid Requests
20 for Exclusion (“Exclusion List”); and (b) the names of Class Members who have
21 submitted invalid Requests for Exclusion..

22 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
23 reports to Class Counsel and Defense Counsel that, among other things, tally the number
24 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
25 Exclusion (whether valid or invalid) received, objections received, challenges to
26 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
27 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
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Weekly Reports must include/provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator's Declaration. Before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

1 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

2 Based on its records, Defendant estimates that (1) there are 1,342 Class Members and
3 104,123 Total Workweeks during the Class Period and (2) there are 1,027 Aggrieved Employees
4 who worked 39,496 Pay Periods during the PAGA Period.

5 8.1. Increase in Workweeks. Defendant estimates there are a total of 104,123 Workweeks
6 worked by Class Members during the Class Period. Should the actual number of Workweeks
7 worked by Class Members during the Class Period increases by more than 5% of this figure (i.e.,
8 by more than 5,206 Workweeks), then the Gross Settlement Amount shall be increased by the
9 Workweeks worked by Class Members in excess of 109,329 (104,123 Workweeks + 5,206
10 Workweeks) multiplied by the Workweek Value. The Workweek Value shall be calculated by
11 dividing the Gross Settlement Amount by 104,123 Workweeks. The Parties agree that the
12 Workweek Value amounts to \$13.45 per Workweek (\$1,400,000 / 104,123 Workweeks). Thus,
13 for example, should there be 110,00 Workweeks during the Class Period, then the Gross
14 Settlement Amount shall be increased by \$9,024.95 [(110,000 Workweeks – 109,329
15 Workweeks) x \$13.45].

16 **9. DEFENDANT’S RIGHT TO WITHDRAW.**

17 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5%
18 of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from
19 the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab
20 initio, have no force or effect whatsoever, and that neither Party will have any further obligation
21 to perform under this Agreement; provided, however, Defendant will remain responsible for
22 paying all Settlement Administration Expenses incurred to that point. Defendant must notify
23 Class Counsel and the Court of its election to withdraw not later than fourteen (14) days after the
24 Administrator sends the final Exclusion List to Defense Counsel; late elections will have no
25 effect.

26 **10. MOTION FOR FINAL APPROVAL**

27 Prior to the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for
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1 final approval of the Settlement that includes a request for approval of the PAGA settlement
2 under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed
3 Judgment (collectively “Motion for Final Approval”). Plaintiffs shall endeavor to provide drafts
4 of these documents to Defense Counsel for review at least five (5) business days prior to filing
5 the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and
6 confer in person or by telephone, and in good faith, to resolve any disagreements concerning the
7 Motion for Final Approval.

8 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
9 a Participating Class Member, including the right to file responsive documents in Court no later
10 than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the
11 Court.

12 10.2. Duty to Cooperate. If the Court does not grant Final Approval, conditions Final Approval
13 on any material change to the Settlement (including, but not limited to, the scope of release to be
14 granted by Class Members) or if the Settlement is terminated by either Party in accordance with
15 this Settlement Agreement, the Parties will request that the Court reopens the proceedings within
16 14 days. Notwithstanding the foregoing, the Parties agree to expeditiously work together in good
17 faith in an attempt to address the Court’s concerns by revising the Agreement as necessary to
18 obtain Final Approval. The Court’s decision to award less than the amounts requested for the
19 Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
20 Expenses Payment and Administrator Expenses Payment shall not constitute a material
21 modification to the Agreement within the meaning of this paragraph.

22 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
23 Court will retain jurisdiction over the Parties, Action and the Settlement solely for purposes of
24 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
25 and (iii) addressing such post-Judgment matters as are permitted by law.

26 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
27 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
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Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

12. ADDITIONAL PROVISIONS

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the operative complaint in the Action have merit or that Defendant has

any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement). Payment of wages does not extend or alter the Class Members' or Aggrieved Employees' period of employment for any purpose.

12.2. Confidentiality. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) to the extent necessary to report income to appropriate taxing authorities; (3) in response to a court order or subpoena; or (4) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Member.

1 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
2 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
3 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
4 ability to communicate with Class Members in accordance with Class Counsel's ethical
5 obligations owed to Class Members.

6 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
7 together with its attached exhibits shall constitute the entire agreement between the Parties
8 relating to the Settlement, superseding any and all oral representations, warranties, covenants or
9 inducements made to or by any Party.

10 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
11 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate
12 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
13 its terms and to execute any other documents reasonably required to effectuate the terms of this
14 Agreement including any amendments to this Agreement.

15 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
16 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
17 Settlement Agreement, submitting supplemental evidence, and supplementing points and
18 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
19 or content of any document necessary to implement the Settlement or on any modification of the
20 Agreement that may become necessary to implement the Settlement, the Parties will seek the
21 assistance of a mediator and/or the Court for resolution.

22 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
23 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer or
24 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
25 action or right released and discharged by the Party in this Settlement.

26 12.8. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are
27 providing any advice regarding taxes or taxability nor shall anything in this Settlement be relied
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upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

12.12. 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.

12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations or in connection with the Settlement, or during the course of formal or informal discovery, may be used only with respect to this Settlement and no other purpose, and may not be disseminated further to any plaintiff in this action or to any person who is not class counsel in this action, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.

12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a

weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign) or email, which, for purposes of this Agreement, shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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

IT IS SO AGREED:

For Plaintiff, Nathan Peterson

For Plaintiff, Kariana Anderson

8/17/2023

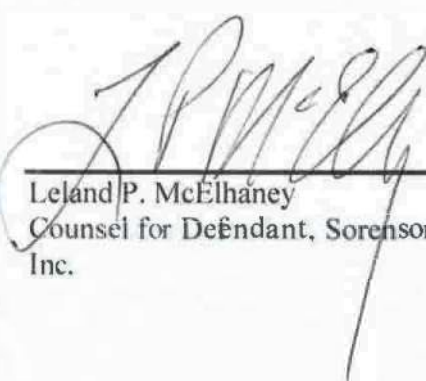
 **Paul Sewell**
For Defendant, Sorenson Engineering, Inc.

8/17/2023


Alfred J. Landegger
Roxana E. Verano
Evelyn Zarraga
Counsel for Defendant, Sorenson Engineering, Inc.

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For Plaintiff, Ian Bateman


8/17/2023
Leland P. McElhaney
Counsel for Defendant, Sorenson Engineering,
Inc.

For Plaintiff, Carmen Lopez

For Plaintiff, Nancy Murillo

For Plaintiff, Amanda Witzig

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs

weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign) or email, which, for purposes of this Agreement, shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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IT IS SO AGREED:


Nathan Peterson (Aug 14, 2023 19:49 PDT)

For Plaintiff, Nathan Peterson

For Defendant, Sorenson Engineering, Inc.

For Plaintiff, Kariana Anderson

Alfred J. Landegger
Roxana E. Verano
Evelyn Zarraga
Counsel for Defendant, Sorenson Engineering, Inc.

weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign) or email, which, for purposes of this Agreement, shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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

IT IS SO AGREED:

For Plaintiff, Nathan Peterson

For Defendant, Sorenson Engineering, Inc.


Kariana Anderson (Aug 15, 2023 11:17 PDT)
For Plaintiff, Kariana Anderson

Alfred J. Landegger
Roxana E. Verano
Evelyn Zarraga
Counsel for Defendant, Sorenson Engineering, Inc.

Ian Bateman
Ian Bateman (Aug 14, 2023 15:37 PDT)

For Plaintiff, Ian Bateman

Leland P. McElhaney
Counsel for Defendant, Sorenson Engineering,
Inc.

For Plaintiff, Carmen Lopez

For Plaintiff, Nancy Murillo

For Plaintiff, Amanda Witzig

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs

For Plaintiff, Ian Bateman

Carmen Lopez

Carmen Lopez (Aug 15, 2023 12:08 PDT)

For Plaintiff, Carmen Lopez

For Plaintiff, Nancy Murillo

For Plaintiff, Amanda Witzig

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs

Leland P. McElhaney
Counsel for Defendant, Sorenson Engineering,
Inc.

For Plaintiff, Ian Bateman

Leland P. McElhaney
Counsel for Defendant, Sorenson Engineering,
Inc.

For Plaintiff, Carmen Lopez


Nancy Murillo (Aug 14, 2023 19:00 CDT)
For Plaintiff, Nancy Murillo

For Plaintiff, Amanda Witzig

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs

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For Plaintiff, Ian Bateman

Leland P. McElhaney
Counsel for Defendant, Sorenson Engineering,
Inc.

For Plaintiff, Carmen Lopez

For Plaintiff, Nancy Murillo

For Plaintiff, Amanda Witzig

David D. Bibiyan

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs