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CAPSTONE TURBINE CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES, SPRING STREET COURTHOUSE

FERNANDO VIGIL and DOUGLAS R.
HERNANDEZ, as individuals and on behalf of
all others similarly situated,

Plaintiffs,

vs.

CAPSTONE TURBINE CORPORATION, a
Delaware corporation; KIRK PETTY, an
individual; LEAH HAYS, an individual; and
DOES 1 through 100, inclusive,

Defendants.

Case No. 20STCV41495

ASSIGNED FOR ALL PURPOSES TO:
HON. DANIEL BUCKLEY, DEPT. 1

**SETTLEMENT AGREEMENT AND
STIPULATION TO RESOLVE CLASS
ACTION AND PAGA CLAIMS**

1 This Settlement Agreement and Stipulation To Resolve Class Action and PAGA Claims
2 (the "Settlement Agreement," "Agreement," or "Settlement") is entered into to resolve the action
3 entitled *Fernando Vigil, et al. v. Capstone Turbine Corporation*, Los Angeles County Superior
4 Court Case No. 20STCV41495.

5 **DEFINITIONS**

6 1. Action. "**Action**" means *Fernando Vigil, et al. v. Capstone Turbine Corporation*,
7 Los Angeles County Superior Court Case No. 20STCV41495.

8 2. Agreement or Settlement or Settlement Agreement. "**Agreement**" or "**Settlement**"
9 or "**Settlement Agreement**" means this Settlement Agreement and Stipulation To Resolve Class
10 Action and PAGA Claims, entered into by the Parties to resolve the Action.

11 3. Aggrieved Employees. "**Aggrieved Employees**" means Class Members who
12 worked during the PAGA Period as non-exempt, hourly-paid employees.

13 4. Attorneys' Fees and Costs. "**Attorneys' Fees and Costs**" means the amount
14 authorized by the Court for: (i) an award of attorneys' fees to Class Counsel for litigation and
15 resolution of the matter, in the amount that does not exceed 35% percent of the Gross Settlement
16 Amount (as the same may be escalated pursuant to this Agreement); and (ii) reimbursement of
17 actual costs incurred by Class Counsel in connection with this Action, in an amount to not to
18 exceed twenty-five thousand dollars (\$25,000).

19 5. Class Counsel. "**Class Counsel**" means David D. Bibiyan and Sara Ehsani-Nia of
20 Bibiyan Law Group, P.C.

21 6. Class or Class Members. "**Class**" or "**Class Members**" means all current and
22 former employees who worked in a non-exempt, hourly-paid position for Capstone Turbine
23 Corporation within the State of California at any time during the Class Period.

24 7. Class Notice. "**Class Notice**" means the Notice of Class Action Settlement,
25 attached as **Exhibit A** to this Agreement, or a substantially similar notice approved by the Court.

26 8. Class Period. "**Class Period**" means the period from October 29, 2016 to
27 December 6, 2021.

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1 9. Court. “**Court**” means the Los Angeles County Superior Court, where the Action
2 is currently pending.

3 10. Defendant. “**Defendant**” means Capstone Turbine Corporation.

4 11. Effective Date. The “**Effective Date**” of this Agreement will be the later of (i) the
5 61st day after service of notice of entry of the Final Order and Final Judgment, if no appeal, review,
6 or writ has been filed; or (ii) if an appeal, review, or writ is sought from the Final Order or Final
7 Judgment, the day after the Final Order and Final Judgment are affirmed or the appeal, review, or
8 writ is dismissed or denied, and the Final Order and Final Judgment are no longer subject to further
9 judicial review. The Effective Date is conditioned upon the Court’s having entered a Final Order
10 and Judgment as set forth in this Agreement.

11 12. Enhancement Award. “**Enhancement Award**” means the amount the Court
12 authorizes to be paid to each of the Named Plaintiffs in addition to their Individual Settlement
13 Payment, in recognition of their efforts and work in prosecution of the Action, up to \$7,500.00
14 each.

15 13. Final Hearing Date. “**Final Hearing Date**” means the date set by the Court for the
16 hearing on final approval of the Settlement.

17 14. Final Order and Judgment. “**Final Order and Judgment**” means the proposed
18 order granting final approval of the Settlement and the separate proposed judgment, which
19 Plaintiffs will submit to the Court with the motion for final approval of the Settlement.

20 15. Gross Settlement Amount. “**Gross Settlement Amount**” means the total
21 settlement payment Defendant has agreed to make under this Agreement. The Gross Settlement
22 Amount is \$525,000.00.

23 16. Individual PAGA Payment. “**Individual PAGA Payment**” means a payment to
24 an Aggrieved Employee of the employee’s share of the PAGA Payment as set forth in this
25 Agreement.

26 17. Individual Settlement Payment. “**Individual Settlement Payment**” means the
27 individual settlement payment allocated to each Participating Class Member and/or Aggrieved
28 Employee as set forth in this Agreement, and consists of the Participating Class Member Payment

1 and the Individual PAGA Payment to the extent an employee is eligible.

2 18. Named Plaintiffs. “**Named Plaintiffs**” means Fernando Vigil and Douglas R.
3 Hernandez.

4 19. Notice Period. “**Notice Period**” means the time period commencing on the date
5 the Class Notice is mailed to Class Members and ending 45 days thereafter unless a notice is
6 remailed to a Class Member, in which case, the Notice Period shall end either 45 days after mailing
7 or 15 days after remailing, whichever is later.

8 20. Net Class Settlement Amount. “**Net Class Settlement Amount**” means the
9 settlement amount to be distributed to Participating Class Members, which is the Gross Settlement
10 Amount less Attorneys’ Fees and Costs, the Enhancement Award, the PAGA Amount, and
11 Settlement Administration Costs.

12 21. PAGA Claims. “**PAGA Claims**” means, for the duration of the PAGA Period,
13 claims for penalties under the California Private Attorneys’ General Act (California Labor Code §
14 2698, *et seq.*) that (a) arise from the facts, matters, transactions or occurrences alleged in the Action
15 or that could have been alleged in the Action based on such facts; or (b) arise from the facts,
16 matters, transactions or occurrences alleged, or that could have been alleged, in the Amended
17 PAGA Notice Letter sent by Class Counsel to the Labor and Workforce Development Agency
18 (“LWDA”) pursuant to Labor Code section 2699.3 on or about October 27, 2020, asserting that
19 Defendant violated various provisions of the Labor Code. Without limiting the foregoing, and in
20 addition to the foregoing, the PAGA Claims include claims premised on failure to pay the
21 minimum wage; failure to pay regular wages; failure to pay overtime compensation and other
22 premium wages; off-the-clock work; failure to provide and maintain complete and accurate
23 itemized wage statements that included all information required by the California Labor Code;
24 failure to keep accurate time records; failure to provide meal periods and rest breaks or additional
25 pay in lieu thereof; failure to provide employees with rates of pay and overtime rates applicable to
26 their employment; failure to reimburse employees for costs incurred in furtherance of work duties;
27 untimely payment of wages; violations of California Labor Code §§ 201, 202, 203, 204, 210, 226,
28 226.3, 226.7, 404, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198.5, 1199, 2802,

1 2810.5; in connection with the allegations in the LWDA Notice and Operative Complaint,
2 violations of California Labor Code sections 218.6 and 558; and related violations of the applicable
3 California Wage Orders.

4 22. PAGA Amount. “**PAGA Amount**” means the amount of \$60,000.00, which
5 represents the portion of the Gross Settlement Amount allocated to the settlement of the PAGA
6 Claims. The PAGA Amount is paid from the Gross Settlement Amount, and will be allocated as
7 set forth in this Agreement. The Parties agree that 75% of the PAGA Amount (\$45,000.00) will
8 be paid to the LWDA as the “LWDA Payment,” and the remaining 25% (\$15,000.00) will be
9 allocated to the Aggrieved Employees as the “PAGA Payment.”

10 23. PAGA Period. “**PAGA Period**” means the period from July 28, 2019 to December
11 6, 2021.

12 24. Parties. “**Parties**” means the Defendant and the Named Plaintiffs, individually and
13 on behalf of all Class Members and Aggrieved Employees. Each of the Parties may be referred to
14 in the singular as a “Party.”

15 25. Participating Class Member. “**Participating Class Member**” means each Class
16 Member who has not timely opted out of the Settlement pursuant to this Agreement; “Settlement
17 Class” means a class of all Participating Class Members.

18 26. Preliminary Approval Order. “**Preliminary Approval Order**” means an order
19 from the Court preliminarily approving this Settlement.

20 27. Released Parties. “**Released Parties**” means and includes Capstone Turbine
21 Corporation and its past, present, and future predecessors, successors, assigns, affiliates,
22 shareholders, members, owners, officers, directors, investors, employees, managers, managing
23 agents, partners, affiliated companies or entities, parents, subsidiaries, holding companies, agents,
24 attorneys, insurers, and representatives.

25 28. Released Claims. “**Released Claims**” means, for the duration of the Class Period,
26 any and all claims against Defendant and the other Released Parties that arise from the facts,
27 matters, transactions or occurrences alleged in the Action or that could have been alleged in the
28 Action based on such facts. Without limiting the foregoing, and in addition to the foregoing, the

Released Claims include claims for failure to pay the minimum wage; failure to pay regular wages; failure to pay overtime compensation and other premium wages; off-the-clock work; failure to provide and maintain complete and accurate itemized wage statements that included all information required by the California Labor Code; failure to keep accurate time records; failure to provide meal periods and rest breaks or additional pay in lieu thereof; failure to provide employees with rates of pay and overtime rates applicable to their employment; failure to reimburse employees for costs incurred in furtherance of work duties; untimely payment of wages; violations of applicable sick leave laws; violation of state and federal background check laws; violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 246.5, 510, 512, 1174, 1194, 1194.2, 1197, 1197.5, 1198.5, 1199, and 2802; related violations of the applicable California Wage Orders; violations of all related or corresponding federal laws; and violation of California Business and Professions Code section 17200, *et seq* in connection with the alleged Labor Code violations alleged (or that could be alleged based on the facts pled) in the Action.

29. Settlement Administration Costs. “**Settlement Administration Costs**” means the costs of settlement administration, including costs of notice to Class Members, distributing settlement payments, and any other fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Settlement.

30. Settlement Administrator. “**Settlement Administrator**” means the ILYM Group, Inc. or such other third-party administrator chosen by the Parties and approved by the Court.

31. Settlement Hearing. “**Settlement Hearing**” means the hearing on the Final Hearing Date at which the Court will determine whether to fully and finally approve the fairness and reasonableness of this Agreement.

RECITALS

32. On October 28, 2020, Fernando Vigil and Douglas R. Hernandez filed a putative class action against defendant Capstone Turbine Corporation in a case styled *Fernando Vigil, et al. v. Capstone Turbine Corporation*, Los Angeles County Superior Court Case No. 20STCV41495. The Complaint alleges that Defendant violated various wage-and-hour laws, including: (1) failure to pay minimum and regular wages; (2) failure to pay overtime; (3) failure

1 to provide meal periods and pay meal period premiums; (4) failure to authorize and permit rest
2 periods and pay rest period premiums; (5) failure to timely pay wages; (6) failure to provide
3 accurate itemized wage statements; and (7) violation of California Business and Professions Code
4 § 17200 *et seq.* On March 10, 2021, the Named Plaintiffs filed a First Amended Complaint, adding
5 claims for civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699.

6 33. Defendant denies that it engaged in any misconduct in connection with the wage-
7 and-hour practices associated with the Class Members (inclusive of the Aggrieved Employees).
8 Defendant further denies that it has any liability of any kind associated with the claims alleged in
9 the Action. Defendant contends that it has complied with both federal and state wage-and-hour
10 laws, and all other laws regulating its relationship with the Class Members, including the Named
11 Plaintiffs.

12 34. On October 7, 2021, the Parties participated in mediation with Lynn Frank, Esq. of
13 Frank & Feder (the “Mediator”), a respected mediator of complex wage and hour actions, and with
14 the assistance of the Mediator’s evaluations, the Parties reached the settlement that is memorialized
15 in this Agreement.

16 35. Class Counsel has investigated the facts relating to the Action. Settlement
17 discussions were conducted at arm’s-length, a full-day mediation with a neutral third-party took
18 place, and the Settlement is the result of an informed and detailed analysis of Defendant’s potential
19 liability and exposure in relation to the costs and risks associated with continued litigation. Based
20 on the documents produced, as well as Class Counsel’s own independent investigation and
21 evaluation, Class Counsel believes that the Settlement documented by this Settlement Agreement
22 is fair, reasonable, and adequate, and in the best interest of the Class in light of all known facts and
23 circumstances, including the risk of significant delay and defenses asserted to the merits of the
24 Action. While Defendant specifically denies any liability in the Action, Defendant has agreed to
25 enter into this Settlement to avoid the costs associated with defending the Action.

26 **TERMS AND CONDITIONS**

27 NOW, THEREFORE, in consideration of the recitals listed above and the promises and
28 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of

1 the consideration and undertakings set forth below, Named Plaintiffs, individually and on behalf of
2 the Class Members, Aggrieved Employees, and, to the extent permitted by law, the State of
3 California, and Defendant agree that the Action shall be and is finally and fully compromised and
4 settled on the following terms and conditions:

5 36. Non-Admission Of Liability. The Parties enter into this Agreement to resolve the
6 dispute that has arisen between them and to avoid the burden, expense and risk of continued
7 litigation. In entering into this Agreement, Defendant and the other Released Parties do not admit,
8 and specifically deny, that they have violated any federal, state, or local law; violated any
9 regulations or guidelines promulgated pursuant to any statute or any other applicable laws,
10 regulations or legal requirements; breached any contract; violated or breached any duty; engaged
11 in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to
12 the Class or the Aggrieved Employees. Neither this Agreement, nor any of its terms or provisions,
13 nor any of the negotiations connected with it, shall be construed as an admission or concession by
14 Defendant or any of the other Released Parties of any such violations or failures to comply with
15 any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement,
16 this Agreement and its terms and provisions shall not be offered or received as evidence in any
17 action or proceeding to establish any liability or admission on the part of Defendant or to establish
18 the existence of any condition constituting a violation of, or a non-compliance with, federal, state,
19 local or other applicable law.

20 37. Conditional Nature Of Settlement. For settlement purposes *only*, the Parties agree
21 that (a) a class may be certified in the Action pursuant to California Code of Civil Procedure
22 Section 382, and (b) the Action may proceed as a PAGA representative action.

23 a. The Parties intend their settlement to be contingent upon the preliminary
24 and final approval of each and every term of this Agreement, without material modification. The
25 Parties and their respective counsel shall use their respective best efforts to obtain Court approval
26 and implement this Agreement in accordance with its terms. If the Court does not so approve this
27 Agreement, the Parties agree to meet and confer to address the Court's concerns. If the Parties are
28 unable to agree upon a resolution, the Parties agree to refer their dispute to Lynn Frank (the

mediator) for informal assistance in seeking a resolution. If thereafter the Parties are unable to resolve the dispute, the Parties intend this Agreement to become null and void, and unenforceable, in which event the settlement terms set forth in this Agreement, including any modifications made with the consent of the Parties, and any action taken or to be taken in connection with this Agreement shall be terminated and shall become null and void and have no further force or effect, and the class certified for settlement purposes pursuant to this Agreement will be decertified for all purposes. In such an event, the Parties shall be jointly responsible for payment of the Settlement Administrator's fees, if any, in an equal amount.

b. In the event the Court does not grant preliminary or final approval of the Parties' settlement, or in the event that this Agreement shall terminate or the settlement embodied in this Agreement does not become effective for any reason, the Agreement and all negotiations, court orders and proceedings relating to the Agreement shall be without prejudice to the rights of the Named Plaintiffs, Class Members and Defendant, each of whom shall be restored to their respective positions existing prior to the execution of this Agreement, and evidence relating to the Agreement and all negotiations shall not be discoverable or admissible in the Action or any other litigation. Defendant does not waive, and instead expressly reserves, its rights to challenge the propriety of class certification and/or the Action proceeding on a representative basis for any purpose should the Court not grant preliminary or final approval of the Parties' settlement.

38. Participating Class Member Release Of Claims. Upon the funding of the Gross Settlement Amount and the Employer's Taxes necessary to effectuate the Settlement to the Settlement Administrator, the Named Plaintiffs and all Participating Class Members hereby shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties from the Released Claims that arose during the Class Period.

a. This release by the Named Plaintiffs and each Participating Class Member is intended to settle any and all of the Released Claims that any of them may have against Defendant or any of the Released Parties during the Class Period.

b. Because it is impossible or impracticable to have each Class Member

1 execute this Agreement, the Class Notice will advise all Class Members of the binding nature of
2 the release and such notice will have the same force and effect as if the Agreement were executed
3 by each Class Member.

4 39. Aggrieved Employees Release of PAGA Claim: In exchange for the PAGA
5 Amount recited in this Agreement, the Named Plaintiffs, as the representatives for the State of
6 California and all Aggrieved Employees (to the extent permitted by law), and on behalf of their
7 current, former, and future heirs, executors, administrators, attorneys, agents, and assigns will,
8 upon payment of the Gross Settlement Amount and the Employer's Taxes necessary to effectuate
9 the settlement to the Settlement Administrator, forever completely release and discharge
10 Defendant and each of the Released Parties from the PAGA Claims that arose during the PAGA
11 Period. The Aggrieved Employees and the State of California will be deemed by operation of the
12 Final Order and Judgment to have agreed not to sue or otherwise make a claim against Defendant
13 and any of the Released Parties for the PAGA Claims that arose during the PAGA Period, to the
14 extent permissible by law.

15 40. Full Release By The Named Plaintiffs. Upon payment of the Gross Settlement
16 Amount and the Employer's Taxes necessary to effectuate the settlement to the Settlement
17 Administrator, the Named Plaintiffs fully release and discharge Defendant and the other Released
18 Parties from the Released Claims and any other claims that the Named Plaintiffs now have or claim
19 to have, or has ever had or claimed to have, against the Released Parties. Without limiting the
20 generality of the foregoing, the Named Plaintiffs specifically and expressly release to the
21 maximum extent permitted by law any claims against Defendant and the Released Parties, arising
22 out of or relating to the Named Plaintiffs' employment or the termination of their employment
23 with Defendant and any other Released Party. This general release by the Named Plaintiffs
24 includes a waiver of Named Plaintiffs' rights under Civil Code Section 1542, which provides: "A
25 general release does not extend to claims that the creditor or releasing party does not know or
26 suspect to exist in his or her favor at the time of executing the release and that, if known by him
27 or her, would have materially affected his or her settlement with the debtor or released party."

28 41. No Prior Assignments. The Named Plaintiffs represent and warrant that they have

1 not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or
2 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
3 action, or rights released and discharged by this Agreement.

4 42. Settlement Payments And Calculation Of Claims. Subject to final Court approval
5 and the conditions specified in this Agreement, and in consideration of the mutual covenants and
6 promises set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of
7 \$525,000.00. The Gross Settlement Amount includes, but is not limited to, payments to be made to
8 Participating Class Members, Class Counsel's Attorneys' Fees and Costs, Enhancement Awards to
9 the Named Plaintiffs, the PAGA Amount, and Settlement Administration Fees and Costs. For the
10 avoidance of doubt, subject to the conditions set forth in this Agreement, Defendant shall not be
11 required to pay any amount over \$525,000.00 for this Settlement, apart from the employer's share
12 of applicable taxes which will be paid in addition to the Gross Settlement Amount, and as set forth
13 in Paragraph 43.

14 43. Settlement Escalator. The Settlement is based on the representation that there were
15 no more than 16,656 non-exempt workweeks worked by the Class Members during the Class Period.
16 Should the actual number of workweeks during the Class Period increase by more than 1,665
17 workweeks, Defendant shall increase the Net Class Settlement Amount proportionally by the
18 workweeks in excess of 18,321 (16,656 + 1,665) multiplied by the workweek value. The workweek
19 value shall be calculated by dividing the Gross Settlement Amount by 16,656. The Parties agree
20 that the workweek value is \$31.52 (\$525,000 / 16,656 workweeks). Thus, for example, should there
21 be 20,000 workweeks in the Class Period, then the Settlement Amount shall be increased by \$52,922
22 ((20,000 workweeks – 18,321 workweeks) x \$31.52/workweek.).

23 44. Apportionment of Gross Settlement Amount. The Parties agree, subject to Court
24 approval and the conditions specified in this Agreement, that the Gross Settlement Amount shall
25 be apportioned as follows:

26 a. Class Counsel Attorneys' Fees and Costs: At the final approval hearing,
27 Class Counsel will apply to the Court for an award of Attorneys' Fees of no more than thirty-five
28 percent (35%) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 43

1 of this Agreement, equals \$183,750.00. Class Counsel will also apply to the Court for an award
2 of actual costs incurred by Class Counsel not to exceed the amount of \$25,000.00. These fees and
3 costs are included in, and shall come from, the Gross Settlement Amount. Class Counsel will be
4 issued an IRS Form 1099 for any fees and costs awarded by the Court pursuant to this
5 Paragraph 44.a. Except as provided in this Paragraph 44.a, each party will bear its own attorneys'
6 fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Action. If the
7 Court awards a lower amount of Attorneys' Fees and Costs than the amount requested, any amount
8 not awarded will be part of the distribution to the Participating Class Members as set forth in this
9 Agreement and shall not be a reason to invalidate/terminate this Agreement.

10 b. Settlement Administrator Costs: At the final approval hearing, Class
11 Counsel will apply to the Court for approval of Settlement Administration costs not to exceed the
12 amount of \$12,000. These costs are included in, and shall come from, the Gross Settlement
13 Amount. If the actual amount of the Settlement Administration Costs is less than \$12,000, the
14 difference between \$12,000 and the actual Settlement Administration Costs shall be a part of the
15 Net Class Settlement Amount. If the Settlement Administration Costs exceed \$12,000 then such
16 excess will be paid solely from the Gross Settlement Amount and Defendant will not be
17 responsible for paying any additional funds in order to pay these additional costs.

18 c. Named Plaintiff Enhancement Award: At the final approval hearing, Class
19 Counsel will apply to the Court for an award of up to \$7,500.00 to be paid to each Named Plaintiff
20 as an Enhancement Award for their services and for assuming the risks associated with this
21 litigation, for the time spent in assisting Class Counsel to litigate this Action, and as consideration
22 for providing a general release. Defendant will not oppose such application. The Enhancement
23 Award is included in, and shall come from, the Gross Settlement Amount. Each Named Plaintiff
24 will be issued an IRS Form 1099 for the Enhancement Award approved by the Court pursuant to
25 this Paragraph. The Enhancement Award payable to each Named Plaintiff shall be in addition to
26 any payment they may receive pursuant to Paragraph 44.e, below. If the Court awards less than
27 the amount requested, any amount not awarded will be part of the distribution to the Participating
28 Class Members as set forth in this Agreement and shall not be a reason to invalidate/terminate this

1 Agreement.

2 d. PAGA Amount: At the final approval hearing, Class Counsel will apply to
3 the Court for approval of the PAGA Amount of \$60,000.00 for claims for civil penalties asserted
4 under PAGA. Class Counsel will submit notice of this Settlement to the LWDA, as required by
5 Labor Code § 2699(l)(2). The Parties agree that 75% of the PAGA Amount (\$45,000.00) will be
6 paid to the LWDA as the “LWDA Payment,” and the remaining 25% (\$15,000.00) will be
7 allocated to the Aggrieved Employees as the “PAGA Payment.” The portion of the PAGA
8 Payment allocated to each of the Aggrieved Employees will be calculated using the same formula
9 as set forth in Paragraph 44.e, but will be limited to weeks worked during the PAGA Period. Any
10 Class Members who worked during the PAGA Period and who opt out of the Settlement will still
11 be considered Aggrieved Employees for purposes of this Paragraph 44.d and, therefore, will
12 (i) receive their portion of the PAGA Payment (the Individual PAGA Payment); and (ii) release
13 all PAGA Claims against the Released Parties.

14 e. Individual Settlement Payments. The Individual Settlement Payments shall
15 consist of: (i) each Participating Class Member’s *pro rata* portion of the Net Class Settlement
16 Amount (the “Participating Class Member Payment”); and (ii) if applicable, each Aggrieved
17 Employee’s *pro rata* portion of the PAGA Payment (the Individual PAGA Payment).

18 i) Participating Class Member Payment: After deducting the approved
19 amounts specified in Paragraphs 44.a-44.d above, each Participating Class Member will be entitled
20 to a *pro rata* portion of the remaining amount. Participating Class Member Payments will be
21 calculated from the Net Class Settlement Amount based on the respective number of weeks worked
22 by each Participating Class Member in a non-exempt position during the Class Period, rounded up.
23 Each Participating Class Member’s share of the Net Class Settlement Amount will be calculated by
24 dividing the Participating Class Member’s weeks worked in a non-exempt position by the total
25 number of weeks worked by all Class Members in a non-exempt position during the Class Period
26 and multiplying this figure by the Net Class Settlement Amount. The Class Notice will include the
27 number of weeks that the Class Member worked during the Class Period and the amount the Class
28 Member is estimated to receive under the terms of the Settlement.

1 ii) Individual PAGA Payment: For each Aggrieved Employee, the
2 Individual Settlement Payment will also include the Class Member's *pro rata* share of the PAGA
3 Payment, as set forth in Paragraph 44.d (the Individual PAGA Payment).

4 f. The Parties acknowledge and agree that the formula used to calculate the
5 Individual Settlement Payments (including the Participating Class Member Payments and
6 Individual PAGA Payments) does not mean that all of the elements of damages, restitutionary
7 relief, and penalties alleged in the Action are not being taken into account. The above formula
8 was devised as a practical and logistical method to simplify the participation process.

9 g. Participating Class Member Payments shall be distributed only to
10 Participating Class Members. The portion of the Net Class Settlement Amount allocated to Class
11 Members who opt out of the Settlement will be distributed to Participating Class Members on a
12 *pro rata* basis based on the formula set forth in Paragraph 44.e. Individual PAGA Payments will
13 be distributed to all Aggrieved Employees.

14 h. The Parties agree that, under no circumstances shall Defendant be obligated
15 to pay any amount under this Agreement to any Class Member other than Participating Class
16 Members, with the exception of the Individual PAGA Payments which are not affected by a Class
17 Member opting-out of the Settlement. In addition, the Parties agree that, except as provided in
18 Paragraph 43, under no circumstances shall Defendant be obligated to pay more than the Gross
19 Settlement Amount in full settlement of the Action.

20 45. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
21 Participating Class Members under this Agreement, including the Individual PAGA Payments
22 made to Aggrieved Employees, will not be utilized to calculate any additional benefits under any
23 benefit plans to which any Participating Class Member or Aggrieved Employees may be eligible
24 including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans,
25 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
26 intention that this Agreement will not affect any rights, contributions, or amounts to which any
27 Participating Class Member or Aggrieved Employee may be entitled under any benefit plans.

28 46. Taxation Of Settlement Proceeds. All settlement payments paid to Participating

1 Class Members, Aggrieved Employees, and the Named Plaintiffs, will be paid in a net amount
2 after applicable state and federal tax withholdings, including payroll taxes, have been deducted.

3 a. The Participating Class Member Payments shall be reported as follows:

4 (i) 10% of the amount distributed to each Participating Class Member will be considered wages,
5 and will be reported as such to each Participating Class Member on a W-2 Form; (ii) 45% of the
6 amount distributed to each Participating Class Member will be considered interest on the unpaid
7 wages, and will be reported as such to each Participating Class Member on an IRS Form 1099;
8 and (iii) 45% of the amount distributed to each Participating Class Member will be considered
9 statutory penalties, and will be reported as such to each Participating Class Member on an IRS
10 Form 1099. The PAGA Payments distributed to each Aggrieved Employee will be considered
11 penalties and will be reported on an IRS Form 1099.

12 b. Prior to mailing the Individual Settlement Payments, the Settlement
13 Administrator will calculate, withhold from the Individual Settlement Payment, and remit to
14 applicable governmental agencies sufficient amounts as may be owed by Participating Class
15 Members for required withholdings and taxes, including all payroll taxes. The Settlement
16 Administrator will issue appropriate tax forms to each Participating Class Member and Aggrieved
17 Employee consistent with the foregoing breakdown. The Parties understand that the Named
18 Plaintiffs, Participating Class Members, and Aggrieved Employees who receive an Individual
19 Settlement Payment, including an Individual PAGA Payment, pursuant to this Agreement shall be
20 solely responsible for any and all tax obligations associated with such receipt.

21 c. The Parties stipulate that the Settlement Fund (as defined at Paragraph 51)
22 will qualify as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal
23 Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the federal income tax
24 regulations. Furthermore, the Settlement Administrator is designated as the “Administrator” of
25 the qualified settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations.
26 Accordingly, all taxes imposed on the gross income of the Settlement Fund and any tax-related
27 expenses arising from any income tax return or other reporting document that may be required by
28 the Internal Revenue Service or any state or local taxing body will be paid from the Settlement

1 Fund.

2 d. All Parties represent and acknowledge that nothing in this Agreement
3 constitutes tax advice regarding the tax treatment of payments under federal, state, or local law.
4 The Named Plaintiffs, Participating Class Members, and Aggrieved Employees will assume any
5 such tax obligations or consequences that may arise from this Agreement and Class Members shall
6 not seek any indemnification from the Parties or any of the Released Parties in this regard. In the
7 event that any taxing body determines that additional taxes are due from any Class Member or
8 Aggrieved Employee, including Named Plaintiffs, such Class Member or Aggrieved Employee
9 assumes all responsibility for the payment of such taxes.

10 47. Notice Procedure. Within 14 calendar days after entry of the Preliminary Approval
11 Order, Defendant will provide to the Settlement Administrator a list of Class Members that
12 identifies each Class Member by name, Social Security Number, and last-known address; and
13 specifies the number of weeks worked by each Class Member in a non-exempt position during the
14 Class Period and the PAGA Period (the "Class List"). Defendant will provide the Class List in an
15 Excel file or other format reasonably acceptable to the Settlement Administrator. The Settlement
16 Administrator will keep the list confidential, except it shall be provided to Class Counsel upon
17 request with Social Security Numbers and address information redacted, and Class Counsel agrees
18 to use such information only for the purposes described in this Agreement.

19 a. Upon receipt of the Class List, the Settlement Administrator shall perform
20 a search based upon the National Change of Address Database to update and correct any known
21 or identifiable address changes. The Settlement Administrator shall exercise its best judgment to
22 determine the current mailing address for each Class Member. Within 14 calendar days after
23 receipt of the Class List from Defendant, the Settlement Administrator will send the Class Notice
24 to each Class Member via First Class U.S. Mail. Receipt of the Class Notice shall be presumed as
25 to each and every Class Member whose Class Notice is not returned to the Settlement
26 Administrator as undeliverable within 14 calendar days after mailing.

27 b. The Settlement Administrator will re-mail any notice packet returned by the
28 United States Postal Service with a forwarding address on or before the expiration of the Notice

1 Period. It shall be conclusively presumed that those Class Members whose re-mailed Class Notice
2 is not returned to the Settlement Administrator as undeliverable within 14 calendar days after re-
3 mailing, received the Class Notice. Class Members who receive a re-mailed Class Notice shall
4 have either 45 days from the original mailing or 15 days from the re-mailing, whichever is later,
5 to object, opt out, or dispute the workweeks attributed to him or her.

6 c. The Settlement Administrator will use the appropriate skip tracing and
7 National Change of Address searches to increase the likelihood of delivery of the Class Notice to
8 Class Members, and to re-mail the notice packets returned by the Postal Service without a
9 forwarding address upon locating new or alternate addresses after a reasonable search.

10 d. Class Counsel will provide to the Court, in connection with seeking final
11 approval of the Settlement, a declaration from the Settlement Administrator confirming that the
12 Class Notice was mailed to all Class Members as required by this Agreement, as well as any
13 additional information Class Counsel deems appropriate to provide to the Court.

14 48. Dispute Procedure. The Class Notice will include a procedure by which a Class
15 Member may dispute the number of workweeks allocated to the Class Member by submitting a
16 written dispute sent via U.S. Mail to the Settlement Administrator postmarked no later than the
17 expiration of the Notice Period (“Workweek Dispute”). To be valid, a Workweek Dispute must
18 contain the following: (i) the Class Member’s full name, current address, and signature; (ii) the
19 Action name and case number; (iii) the number of workweeks the Class Member maintains is
20 correct; and (iv) documentary evidence sufficient to prove that Defendant’s calculation of the
21 workweeks for the Class Member is incorrect, if any. Upon receipt of notice of a Workweek
22 Dispute, the Settlement Administrator shall promptly serve Class Counsel and Defendant’s
23 counsel with a copy of the Workweek Dispute and any accompanying papers. No Workweek
24 Dispute shall be effective or considered for any purpose unless it is timely mailed by U.S. mail to
25 and received by the Settlement Administrator as provided above. Defendant shall have the right
26 to respond to the Workweek Dispute by any Class Member. All information and documents
27 relating to any such disputes will be provided to Class Counsel. The Settlement Administrator
28 will resolve the Workweek Dispute and make a final and binding determination without hearing

1 or right of appeal. The Settlement Administrator's determination will be subject to review by the
2 Court at the time of the Final Approval Hearing so long as the Participating Class Member submits
3 an objection to the Settlement Administrator's determination at or before the Final Approval
4 Hearing.

5 a. Within 14 calendar days after the close of the Notice Period, the Settlement
6 Administrator will provide Class Counsel and Defendant's counsel with a report listing the amount
7 of all Individual Settlement Payments, including Individual PAGA Payments, to be made to
8 Participating Class Members and Aggrieved Employees. The report to Class Counsel will not
9 include the names or contact information of Participating Class Members and Aggrieved
10 Employees.

11 49. Opt-Out Procedure. Unless a Class Member opts out of the settlement described in
12 this Agreement, the Class Member will be bound by the terms and conditions of this Agreement,
13 including the release of the Released Claims that arose during the Class Period. A Class Member
14 will not be entitled to opt out of the settlement established by this Agreement unless the Class
15 Member submits a valid opt-out request ("Opt-Out Request"). A valid Opt-Out Request must:
16 (i) contain the Class Member's full name, current address, and signature; (ii) the Action name and
17 case number; (iii) a written request clearly expressing the Class Member's desire to be excluded
18 from (or opt out of) the Settlement; and (iv) be returned so that it is postmarked on or before the
19 expiration of the Notice Period. Any Class Members who worked during the PAGA Period and
20 who opt out of the Settlement will still be considered Aggrieved Employees for purposes of this
21 Agreement.

22 a. Upon receipt of any Opt-Out Request within the Notice Period, the
23 Settlement Administrator shall review the Opt-Out Request to confirm that it complies with the
24 opt-out requirements of this Agreement.

25 b. Any Class Member who fails to submit a timely, complete, and valid Opt-
26 Out Request will be barred from opting out of this Agreement or the settlement, unless otherwise
27 ordered by the Court. If the Settlement Administrator receives a timely Opt-Out Request that is
28 incomplete, it will make reasonable attempts to contact the class member to cure the defect. The

1 Settlement Administrator will not consider any Opt-Out Request postmarked after the end of the
2 Notice Period, but will report its receipt of any such requests to Class Counsel and counsel for
3 Defendant. It shall be presumed that, if an Opt-Out Request is not postmarked on or before the
4 end of the Notice Period, the Class Member did not make the request in a timely manner. A
5 declaration submitted by any Class Member attesting to the mailing of an Opt-Out Request on or
6 before the expiration of the Notice Period shall be insufficient to overcome the conclusive
7 presumption that the Opt-Out Request was untimely. Under no circumstances shall the Settlement
8 Administrator have the authority to extend the deadline for Class Members to submit a request to
9 opt out of the settlement without the Parties' joint written consent.

10 c. At the close of the Notice Period, the Settlement Administrator shall report
11 the names of all individuals who opted out of the Agreement to the parties and include this
12 information in a Declaration regarding the distribution of the notice that will be provided in support
13 of Plaintiff's Motion for Final Approval.

14 d. If 10% or more Class Members timely opt out of the settlement, Defendant
15 will have the sole and absolute discretion to withdraw from this Agreement within ten (10)
16 calendar days after Defendant receives notice of the number of opt outs. Defendant will provide
17 written notice to Class Counsel if it intends to withdraw from this Agreement. In the event that
18 Defendant elects to so withdraw, the withdrawal shall have the same effect as a termination of this
19 Agreement for failure to satisfy a condition of settlement, and the Agreement shall become null
20 and void and have no further force or effect, and the class certified pursuant to this Agreement will
21 be decertified for all purposes. If Defendant chooses to terminate this Settlement Agreement under
22 this provision, it shall be responsible to pay the Settlement Administrator's fees and costs. If the
23 Settlement Agreement is terminated for any other reason, including the Court's failure to grant
24 final approval of the Parties' settlement, then Class Counsel and Defendant will be jointly
25 responsible for the Settlement Administrator's fees and costs.

26 50. Objections To Settlement. Any Class Member may object to the Settlement. Any
27 written objection must be mailed to the Settlement Administrator (who shall promptly provide a
28 copy to Class Counsel and counsel for Defendant) by the close of the Notice Period. Class Counsel

1 will ensure that any written objections get filed with the Court concurrently with the final approval
2 documents by having it attached to the Settlement Administrator's Declaration. Class Members
3 who have not objected in writing may still appear and be heard at the Settlement Hearing.

4 a. Written objections to the Settlement must contain at least the following:
5 (i) the objecting Class Member's full name, current address, and signature; (ii) a clear reference to
6 the Action; (iii) a statement of the specific reasons why the objector believes the Settlement is
7 unfair or objects to the Settlement; and (iv) a statement whether the objector intends to appear at
8 the final approval hearing, either in person or through counsel and, if through counsel, a statement
9 identifying that counsel by name, bar number, address and telephone number. All objections shall
10 be signed by the objecting Class Member or the Class Member's legally authorized representative.

11 b. Class Counsel or Defendant's counsel may, up to five (5) court days before
12 the Final Hearing Date, file responses to any written objections submitted to the Court.

13 c. Unless they opt out of the Settlement as specified in Paragraph 49, Class
14 Members who object to the proposed settlement or the Agreement will remain Participating Class
15 Members, and shall be deemed to have voluntarily waived their right to pursue an independent
16 remedy against Defendant and the other Released Parties. To the extent any Participating Class
17 Member objects to the proposed settlement or Agreement and such objection is overruled in whole
18 or in part, such individuals will be bound by the Court's Final Approval Order.

19 d. In the event that any person objects to or opposes this proposed settlement
20 or the Agreement, or attempts to intervene in or otherwise enter the Action, the Parties and Class
21 Counsel will use their best efforts to defend the Settlement.

22 e. A Class Member cannot both opt out and object to the Settlement. If a Class
23 Member both objects and opts out of the Settlement, the opt-out will control and the objection will
24 be deemed invalid.

25 51. Funding And Distribution Of Settlement.

26 a. Within ten (10) calendar days of the close of the Notice Period, the
27 Settlement Administrator will provide a draft declaration to Class Counsel and Defendant's
28 counsel setting forth: the number of Participating Class Members and Aggrieved Employees; the

1 identity of those individuals who opted out of the Settlement; the total amount payable to all
2 Participating Class Members and Aggrieved Employees; and the total PAGA Amount, Attorneys'
3 Fees and Costs, Enhancement Award, Settlement Administration Costs, Net Class Settlement
4 Amount, and the appropriate applicable employer's taxes for any portion of the Individual
5 Settlement Payments designated as wages.

6 b. Within ten (10) calendar days after the Effective Date, Defendant shall remit
7 to the Settlement Administrator: (i) the Gross Settlement Amount of \$525,000.00 and (ii) the
8 employer's taxes for any portion of the Individual Settlement Payments designated as wages (the
9 collectively, "Settlement Fund"). The delivery by Defendant of the Settlement Fund to the
10 Settlement Administrator will constitute the full and complete discharge of the entire obligation of
11 Defendant under this Agreement, unless anything further is requested by the Settlement
12 Administrator to ensure timely and proper disbursement. No Released Party will have any further
13 obligation or liability to the Named Plaintiffs, Participating Class Members, Aggrieved
14 Employees, or Class Counsel under this Agreement, in connection with the claims released herein,
15 regardless of whether the Named Plaintiffs, Participating Class Members, Aggrieved Employees,
16 or Class Counsel receive the payments from the Settlement Administrator set forth in this
17 Agreement.

18 c. The distribution of Individual Settlement Payments to Participating Class
19 Members and Aggrieved Employees will occur no later than ten (10) calendar days after receipt
20 of the Settlement Fund from Defendant ("Settlement Proceeds Distribution Deadline"). The
21 Settlement Administrator shall be deemed to have timely distributed Individual Settlement
22 Payments, including Individual PAGA Payments, if it places in the mail Individual Settlement
23 Payments for all Participating Class Members and Individual PAGA Payments for all Aggrieved
24 Employees by the Settlement Proceeds Distribution Deadline. No person will have any claim
25 against the Settlement Administrator, Defendant, Class Counsel, Defendant's counsel, or any other
26 agent designated by the Named Plaintiffs or Class Counsel based upon the distribution of
27 Individual Settlement Payments made substantially in accordance with this Agreement or further
28 orders of the Court.

1 d. The distribution of the LWDA Payment, Attorneys' Fees and Costs, and the
2 Enhancement Award shall occur no later than ten (10) calendar days after the Settlement
3 Administrator receives the Settlement Fund from Defendant.

4 e. If a Participating Class Member's or Aggrieved Employee's check is
5 returned to the Settlement Administrator, the Settlement Administrator will make reasonable
6 efforts to re-mail it to the Participating Class Member or Aggrieved Employee at the correct
7 address. It is expressly understood and agreed that the checks for the Individual Settlement
8 Payments, including the Individual PAGA Payments, will become void and no longer available if
9 not cashed within 180 days after mailing. The funds from uncashed and voided checks will be
10 transferred to the State of California's Unclaimed Property Fund in the name of the Participating
11 Class Member/Aggrieved Employee.

12 f. Defendant will not be obligated to make any payments contemplated by this
13 Agreement unless and until the Court enters the Final Order and Judgment, and after the Effective
14 Date of the Agreement.

15 g. Within sixty (60) calendar days of the Settlement Proceeds Distribution
16 Deadline, the Settlement Administrator will provide written certification of completion of
17 settlement administration to Class Counsel and to Defendants' Counsel.

18 52. Binding Effect Of Agreement On Class Members. Subject to final Court approval
19 and the occurrence of the Effective Date, and unless otherwise provided in this Agreement, all
20 Participating Class Members will be bound by this Agreement.

21 53. Binding Effect Of Agreement On Aggrieved Employees and State of California.
22 The Aggrieved Employees and the State of California, to the extent permitted by law, shall be
23 deemed by operation of the Final Order and Judgment to have agreed not to sue or otherwise make
24 a claim against Defendant or any of the Released Parties for any of the PAGA Claims and to be
25 bound by the release of the PAGA Released Claims as set forth in this Agreement.

26 54. Provisional Approval Of Settlement. Named Plaintiffs will file a motion in the
27 Action requesting that the Court enter the Preliminary Approval Order shortly after complete
28 execution of this Agreement. Defendant will not oppose Class Counsel's motion for preliminary

1 approval of the settlement so long as the motion and supporting papers are consistent with the
2 terms of this Agreement. Class Counsel will aim to provide Defendant's counsel with a reasonable
3 opportunity to review, and provide comments to, the motion for preliminary approval of the
4 settlement before the motion and supporting papers are filed with the Court. Notwithstanding the
5 foregoing, Defendant may, without opposing the preliminary approval motion, advise the Court if
6 Defendant disagrees with any of the factual statements included by the Named Plaintiffs in the
7 motion and supporting papers. Defendant's counsel will meet and confer with Class Counsel
8 regarding any disputed factual statements before notifying the Court of any disputes.

9 55. Non-Interference With Claims Procedure. The Parties and their counsel agree that
10 they will not advise, solicit, or otherwise encourage any Class Members to submit requests for
11 exclusion or objections to the settlement or to appeal from the Final Order or Final Judgment.

12 56. Final Order and Judgment. The Named Plaintiffs will request that the Court enter,
13 after the Settlement Hearing finally approving this Agreement, a Final Order and Judgment.
14 Named Plaintiffs will request that the Final Order and Judgment certify the Participating Class;
15 find that this Agreement is fair, just, equitable, reasonable, adequate and in the best interests of the
16 Class and the Aggrieved Employees; list the employees (if any) who opted-out of the settlement;
17 order that the Participating Class Members release the Released Parties from the Released Claims;
18 order that the Aggrieved Employees and the State of California release the Released Parties from
19 the PAGA Claims as set forth in this Agreement (to the extent permitted by law); and require the
20 Parties to carry out the provisions of this Agreement.

21 57. Automatic Voiding Of Agreement If Settlement Not Finalized. If for any reason
22 the settlement set forth in this Agreement does not become final, the settlement will be null and
23 void and the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be
24 vacated, and the Parties will be returned to the status quo prior to entering this Agreement with
25 respect to the Action, as if the Parties had never entered into this Agreement, and the class certified
26 pursuant to this Agreement will be decertified for all purposes. In addition, in such event, the
27 Agreement and all negotiations, court orders, and proceedings relating to this Agreement shall be
28 without prejudice to the rights of any and all parties to this Agreement, and evidence relating to

1 the Agreement and all negotiations shall not be admissible or discoverable in the Action or
2 otherwise.

3 58. No Double Recovery. No person who has already released, assigned, or otherwise
4 forfeited the claims asserted in the Action will be considered a Class Member or be entitled to
5 recover under this Agreement.

6 59. No Publicity. The Named Plaintiffs and Class Counsel agree that they shall not
7 publicize the filing of the Action, the Parties' settlement, this Agreement and its terms, or the
8 negotiations leading to this Agreement with anyone other than the Court, Class Members, or those
9 individuals necessary to effectuate the terms of the Agreement. The prohibition set forth in this
10 Paragraph 59 includes, but is not limited to: (i) publication by Named Plaintiffs or Class Counsel
11 on any website (including, without limitation, publishing on any Twitter account, Facebook, other
12 social media, or blog, or business website) of the amount or terms of the settlement, with or without
13 identifying information; and (ii) the submission of information to Verdicts & Settlements or any
14 other publication that summarizes the results of jury verdicts and settlements.

15 a. Notwithstanding the foregoing, Class Counsel may respond to questions
16 received from, and discuss any aspect of this Agreement with the Class Members or their legal
17 representatives, the Settlement Administrator, the Court, and representatives of the California
18 Labor and Workforce Development Agency.

19 b. Notwithstanding the forgoing, nothing in this Paragraph shall prohibit the
20 filing of information with the Court or the LWDA relating to the Settlement that is necessary to
21 effectuate this Agreement, or the online posting of documents relating to the Action by the
22 Settlement Administrator as permitted by this Agreement including the Judgment entered by the
23 Court.

24 c. The Named Plaintiffs and Class Counsel agree that all data and information
25 informally produced by Defendant in connection with the settlement of this Action will be
26 maintained in confidence, and will not be shared with any other persons or entities.

27 60. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes
28 material changes to the material terms or conditions of Paragraphs 1 through 59 of this Agreement

1 that are not agreed to by the Parties, either Party shall have the right to terminate this Agreement,
2 in which case Defendant would not be obligated to make any payments to any Class Member, to
3 Class Counsel, or to the Named Plaintiffs. The Parties shall meet and confer in good faith and
4 involve mediator Lynn Frank as necessary before exercising such right.

5 61. Modification In Writing. This Agreement may be altered, amended, modified or
6 waived, in whole or in part, only in a writing signed by all signatories to this Agreement. This
7 Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

8 62. Ongoing Cooperation. The Named Plaintiffs and Defendant will execute all
9 documents and perform all acts necessary and proper to effectuate the terms of this Agreement.
10 In the event the Parties are unable to reach agreement on the form or content of any document
11 needed to implement the Settlement, or any supplemental provisions that may become necessary
12 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the mediator
13 (Lynn Frank) and, if still unable to resolve their dispute, the Court.

14 63. Notices. All notices, requests, demands, and other communications required or
15 permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered
16 personally or by first class mail to the Settlement Administrator approved by the Court and the
17 undersigned persons at their respective addresses as set forth below:

18 **CLASS COUNSEL**

19 BIBIYAN LAW GROUP, P.C.
20 David D. Bibiyan, Esq.
21 Sara Ehsani-Nia, Esq.
22 Diego Aviles, Esq.
23 8484 Wilshire Blvd, Ste. 500
24 Beverly Hills, California 90211
25 Telephone: 310-438-5555

26 **COUNSEL FOR DEFENDANT**

27 RUTAN & TUCKER, LLP
28 Maria Z. Stearns, Esq.
Kimberly A. Nayagam, Esq.
18575 Jamboree Road, 9th Floor
Irvine, California 92612
Telephone: (714) 641-5100

1 64. Binding on Successors. This Agreement will be binding upon and will inure to the
2 benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and
3 legal representatives.

4 65. Entire Agreement. This Agreement constitutes the full, complete, and entire
5 understanding, agreement, and arrangement between the Named Plaintiffs, the Class Members,
6 and the Aggrieved Employees, on the one hand, and Defendant, on the other hand, with respect to
7 the settlement of the Action. This Agreement supersedes any and all prior oral or written
8 understandings, agreements and arrangements between the Parties with respect to the settlement
9 of the Action. Except for those set forth expressly in this Agreement, there are no other
10 agreements, covenants, promises, representations or arrangements between the Parties with respect
11 to the settlement of the Action, the PAGA Claims, and the Released Claims against Defendant and
12 the Released Parties. The Parties explicitly recognize California Civil Code § 1625 and California
13 Code of Civil Procedure § 1856(a), which provide that a written agreement is to be construed
14 according to its terms, and may not be varied or contradicted by extrinsic evidence, and agree that
15 no such extrinsic oral or written representations or terms shall modify, vary, or contradict the terms
16 of this Agreement.

17 66. Execution In Counterparts. This Agreement may be signed in one or more
18 counterparts. All executed copies of this Settlement Agreement, and photocopies of the
19 Agreement (including facsimile and e-mail copies of the signature pages), shall have the same
20 force and effect and shall be as legally binding and enforceable as the original.

21 67. Captions. The captions, section numbers, and paragraph numbers, in this
22 Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or
23 describe the scope or intent of the provisions of this Agreement.

24 68. Governing Law. This Agreement shall be interpreted, construed, enforced, and
25 administered in accordance with the laws of the State of California, without regard to conflict of
26 law rules.

27 69. Reservation Of Jurisdiction. Notwithstanding the dismissal of the Action and entry
28 of the Final Order and Judgment, the Court shall retain jurisdiction for purposes of interpreting

1 and enforcing the terms of this Agreement.

2 70. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
3 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
4 against one Party than another merely by virtue of the fact that it may have been prepared by
5 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
6 between the Parties, all Parties have contributed to the preparation of this Agreement.

7 71. Representation and Warranties. Class Counsel and the Named Plaintiffs represent
8 and warrant to Defendant that they are not aware of any attorneys beyond those named as Class
9 Counsel who have claims for fees arising out of the Action or the Settlement contemplated by this
10 Agreement.

11 72. Authorization to Act. Each Party to this Agreement covenants and warrants that
12 (a) such Party has full power and authority to enter into and consummate all transactions
13 contemplated by this Agreement and have duly authorized the execution, delivery and performance
14 of this Agreement and (b) the person executing this Agreement for such Party has the full right,
15 power and authority to enter into this Agreement on behalf of such Party, and the full right, power
16 and authority to execute any and all necessary instruments in connection with the Settlement, and
17 to fully bind such Party to the terms and obligations of this Agreement.

18 73. Representation By Counsel. The Parties acknowledge that each of them has been
19 represented by their respective counsel throughout all negotiations that preceded the execution of
20 this Agreement, and that this Agreement has been executed with the consent and advice of their
21 respective counsel. Further, the Named Plaintiffs and Class Counsel warrant and represent that
22 there are no liens on the Settlement Agreement, and that after entry by the Court of the Final Order
23 and Judgment, the Settlement Administrator may distribute funds to Participating Class Members,
24 Aggrieved Employees, Class Counsel, the LWDA, the Settlement Administrator, and the Named
25 Plaintiffs as provided by this Agreement.

26 74. Representation By The Named Plaintiffs. The Named Plaintiffs agree not to request
27 to be excluded from the Class and not to object to any terms of this Agreement. Any such request
28 by the Named Plaintiffs for exclusion or objection shall be void and of no force or effect.

1 75. Additional Attorneys' Fees and Costs. No Participating Class Member, Aggrieved
2 Employee, or Class Counsel, or any other attorney acting for any Participating Class Member or
3 Aggrieved Employee, may recover or seek to recover any amounts for fees, costs, or disbursements
4 arising from the Action or the Gross Settlement Amount from the Released Parties except as
5 expressly provided in this Agreement.

6 76. No Reliance on Representations. The Parties have made such investigations of the
7 facts and the law pertaining to the matters described in this Agreement as they deem necessary,
8 and have not relied, and do not rely, on any statement, promise, or representation of fact or law,
9 made by any other Party, or any of their agents, employees, attorneys, or representatives, with
10 regard to any of their rights or asserted rights, or with regard to the advisability of making and
11 executing this Agreement, or with respect to any such matters. No representations, warranties, or
12 inducements have been made to any Party concerning this Agreement.

13 77. No Collateral Attack. This Agreement will not be subject to collateral attack by
14 any Class Member or any recipient of the Class Notice after the Final Order and Dismissal. Such
15 prohibited collateral attacks shall include but not be limited to claims that the Class Member failed
16 for any reason to receive timely notice of the procedure for disputing the calculation of their
17 Individual Settlement Payment, or for opting out of the Settlement.

18 IT IS SO AGREED:
19

20
21
22 Dated: Apr 1, 2022

PLAINTIFF FERNANDO VIGIL

By: *Fernando Vigil*
Fernando Vigil (Apr 1, 2022 18:30 PDT)

Fernando Vigil
Named Plaintiff

PLAINTIFF DOUGLAS R. HERNANDEZ

23
24
25
26 Dated: _____

By: _____
Douglas R. Hernandez
Named Plaintiff

75. Additional Attorneys' Fees and Costs. No Participating Class Member, Aggrieved Employee, or Class Counsel, or any other attorney acting for any Participating Class Member or Aggrieved Employee, may recover or seek to recover any amounts for fees, costs, or disbursements arising from the Action or the Gross Settlement Amount from the Released Parties except as expressly provided in this Agreement.

76. No Reliance on Representations. The Parties have made such investigations of the facts and the law pertaining to the matters described in this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any other Party, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters. No representations, warranties, or inducements have been made to any Party concerning this Agreement.

77. No Collateral Attack. This Agreement will not be subject to collateral attack by any Class Member or any recipient of the Class Notice after the Final Order and Dismissal. Such prohibited collateral attacks shall include but not be limited to claims that the Class Member failed for any reason to receive timely notice of the procedure for disputing the calculation of their Individual Settlement Payment, or for opting out of the Settlement.

IT IS SO AGREED:

PLAINTIFF FERNANDO VIGIL

Dated:

By: _____
Fernando Vigil
Named Plaintiff

PLAINTIFF DOUGLAS R. HERNANDEZ

Dated: Apr 4, 2022

By: 
doug.hernandez (Apr 4, 2022 11:26 PDT)

Douglas R. Hernandez
Named Plaintiff

1 Dated: MARCH 22, 2022

DEFENDANT CAPSTONE TURBINE
CORPORATION

2
3 By: FSL

4 Title: CFD

5
6 APPROVED AS TO FORM ONLY AND AGREE TO BE
7 BOUND BY PARAGRAPH 59:

8 Dated: _____

BIBIYAN LAW GROUP, P.C.

9
10 By: _____
11 David D. Bibiyan
12 Attorney for Plaintiffs

13 APPROVED AS TO FORM ONLY:

14 Dated: _____

RUTAN & TUCKER, LLP

15
16 By: _____
17 Maria Z. Stearns
18 Attorney for Defendant

1 Dated: _____
2
3

DEFENDANT CAPSTONE TURBINE
CORPORATION

4 By: _____
5

6 Title: _____
7

8 APPROVED AS TO FORM ONLY AND AGREE TO BE
9 BOUND BY PARAGRAPH 59:

10 Dated: 4/4/2022
11

BIBIYAN LAW GROUP, P.C.

12 By: Vedang J. Patel
13 David D. Bibiyan ; Vedang J. Patel
14 Attorney for Plaintiffs

15 APPROVED AS TO FORM ONLY:
16

17 Dated: April 5, 2022
18

RUTAN & TUCKER, LLP

19 By: Maria Z. Stearns
20 Maria Z. Stearns
21 Attorney for Defendant
22
23
24
25
26
27
28

Exhibit “A”

Exhibit “A”

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, SPRING STREET COURTHOUSE

FERNANDO VIGIL and DOUGLAS R.
HERNANDEZ, as individuals and on behalf of
all others similarly situated,

Plaintiffs,

vs.

CAPSTONE TURBINE CORPORATION, a
Delaware corporation; KIRK PETTY, an
individual; LEAH HAYS, an individual; and
DOES 1 through 100, inclusive,

Defendant.

Case No. 20STCV41495

ASSIGNED FOR ALL PURPOSES TO:
HON. DANIEL BUCKLEY, DEPT. 1

NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT AND FINAL
FAIRNESS HEARING

YOU MAY BE ENTITLED TO BENEFITS FROM THIS SETTLEMENT. YOUR ESTIMATED CLASS MEMBER SETTLEMENT PAYMENT IS \$ _____ AND YOUR ESTIMATED PAGA SETTLEMENT PAYMENT IS \$ _____. PLEASE CONTINUE READING TO LEARN HOW THIS SETTLEMENT AFFECTS YOUR RIGHTS.

Notice is hereby given that a proposed Settlement Agreement And Stipulation To Resolve Class Action And PAGA Claims (the “**Settlement**” or “**Settlement Agreement**”) has been reached between plaintiffs Fernando Vigil and Douglas R. Hernandez in *Fernando Vigil, et al. v. Capstone Turbine Corporation*, Los Angeles County Superior Court Case No. 20STCV41495 (the “**Action**”) (collectively “**Plaintiffs**”) on the one hand, and Defendant Capstone Turbine Corporation (“**Defendant**”) on the other hand.

The Action is a class action and PAGA representative action lawsuit. Plaintiffs and Defendant have reached a settlement of the Action, and the Los Angeles County Superior Court (the “**Court**”) has granted preliminary approval of the settlement.

The proposed Settlement will resolve all Released Claims made against Defendant and other Released Parties (defined below and in the Settlement Agreement) on behalf of all “**Class Members**” or the “**Class**,” defined as: all current and former employees who worked in a non-exempt, hourly-paid position for Capstone Turbine Corporation (“**Capstone**”) within the State of California at any time during the period beginning on October 29, 2016 and extending through December 6, 2021 (the “**Class Period**”). If you satisfy this criteria, you are eligible to participate in the class action settlement.

The proposed Settlement will also resolve all PAGA Claims made against Defendant and other Released Parties on behalf of all “**Aggrieved Employees**,” defined as: Class Members who worked during the period from July 28, 2019 to December 6, 2021 (the “**PAGA Period**”) as non-exempt, hourly-paid employees. Any Class Member who worked during the PAGA Period will be considered an Aggrieved Employee and therefore, regardless of how they respond to this Notice, all Aggrieved Employees will (i) receive their portion of the PAGA settlement payment; and (ii) release all PAGA Claims against the Released Parties as set forth in the Settlement Agreement.

A. PURPOSE OF THIS NOTICE

The Court has ordered that this Class Notice be sent to you because Defendant’s records reflect that

you are a potential member of the Class, as defined above.

The purpose of this Notice is to: (a) provide a brief description of the Action; (b) inform you of the proposed Settlement; and (c) discuss your rights and options with respect to the Action and the Settlement.

B. DESCRIPTION OF THE ACTION

The Action was filed by Plaintiffs on behalf of all non-exempt, hourly-paid employees who worked at Capstone during the Class Period. As alleged in the Action, Plaintiffs claim that Class Members were wrongfully denied wages and overtime compensation, meal and rest breaks, accurate wage statements, and other rights guaranteed under the California Labor Code.

The Action asserts class allegations against Defendant for (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest breaks; (5) waiting time penalties; (6) wage statement violations; (7) violations of applicable sick leave laws; (8) violation of state and federal background check laws; and (9) unfair competition. The Action also asserted claims for civil penalties under the Private Attorneys General Act (“PAGA”) based on the foregoing alleged violations by Defendant, including penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699.

The Court has made no ruling on the merits of Plaintiffs’ claims or Defendant’s defenses. The Court has, however, preliminarily approved the proposed Settlement between Plaintiffs and Defendant. The Court will decide whether to give final approval to the Settlement at a hearing scheduled for _____, 2022, at _____:_____ a.m., in Department 1 of the Los Angeles County Superior Court, located at Los Angeles County Superior Court, Spring Street Courthouse, 312 N. Spring St., Los Angeles, CA 90012.

Attorneys for the Class (“**Class Counsel**”) in the Action are:

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Defendant’s counsel in the Action are:

RUTAN & TUCKER, LLP
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C. YOUR OPTIONS

If you fit within the above description of the Class, you have several options. Your rights regarding each option, and the procedure you must follow to select each option, are explained below.

1. OPTION 1: Do Nothing and Remain a Member of the Class and Participate in the Class Settlement.

If you want to participate in the Settlement and receive a Participating Class Member Payment (defined below), DO NOT TAKE ANY ACTION. You will automatically be included in the Settlement and will receive a Participating Class Member Payment and if you are an Aggrieved Employee, a portion of the PAGA Payment as detailed below. If you move, make sure you contact the Settlement Administrator

at the following address or phone number:

SETTLEMENT ADMINISTRATOR
[INSERT ADDRESS AND PHONE NUMBER]

YOUR ESTIMATED PARTICIPATING CLASS MEMBER PAYMENT IS \$ [REDACTED]. This amount is based on the number of workweeks during which you worked during the Class Period, based on the best information available, which is [REDACTED] workweeks. Your estimated share of the Net Class Settlement Amount was calculated by dividing the number of workweeks you worked in a non-exempt, hourly-paid position during the Class Period by the total number of workweeks worked by all Class Members during the Class Period for Capstone in California and multiplying this figure by the Net Class Settlement Amount (the Gross Settlement Amount of \$525,000 minus Class Counsel's attorneys' fees and costs, any enhancement payments to Plaintiffs, the PAGA Amount, and settlement administration fees and costs).

If you believe the number of workweeks stated above is incorrect and you wish to challenge it, you must send the enclosed dispute form to the Settlement Administrator, stating what you believe is the correct number of workweeks, and providing any documents or other back-up you have for what you believe is the correct number. This form must be postmarked no later than [date]. You must also provide your name and telephone number. The Parties will have the right to respond to any challenge by a Class Member. The Settlement Administrator will resolve the challenge and make a final and binding determination without hearing or right of appeal. The Settlement Administrator's determination will be subject to review by the Court at the time of the final approval hearing. If you want confirmation that your correspondence has been received by the Settlement Administrator, you may send your letter by certified U.S. Mail with a return receipt request.

If you choose to participate in the Class Settlement, you will be bound by all the terms set forth in the Class Settlement, including a full release of claims for the matters being settled in the Action.

2. OPTION 2: Opt Out of the Class and Receive Nothing Under the Class Settlement.

If you do not want to remain a member of the Class, you can request exclusion from the Class (i.e., "opt out"). In order to opt out of the Class and the Settlement, you must mail a written, signed request for exclusion to the Settlement Administrator at [insert Settlement Administrator's address], such that it is postmarked no later than [date]. This request for exclusion must contain the following information:

- (a) your printed full name (and any other names used while employed by Defendant);
- (b) a clear reference to the Action; and
- (c) language indicating that you want to opt out of the Settlement (for example: "I want to opt out of the class action settlement described in the Class Notice I received.").

This request must be **signed** by you.

If you opt out of the Class, you will no longer be a member of the Class, you will be barred from participating in the class action portion of the Settlement, and you will not receive a Participating Class Member Payment. By opting out of the Class, you will retain whatever individual rights or claims you may have, if any, against Defendant, and you will be free to pursue them on an individual basis, if you choose to do so. If you opt-out of the Settlement, and you are an Aggrieved Employee, you will still receive a payment representing PAGA penalties as an Aggrieved Employee, in which case you would still be bound by the PAGA portion of the Settlement.

3. OPTION 3: Object to the Settlement.

If you are a Class Member who does not opt out of the Class, you may object to the Settlement, personally or through an attorney, by submitting your objection to the Settlement Administrator (ILYM Group, Inc.), at [insert Settlement Administrator's address]. Your objection **must be signed** and must include the following:

- (a) your printed full name (and any other names used while employed by Defendant);
- (b) your full current address;
- (c) a clear reference to the Action;
- (d) language clearly explaining why you believe the Settlement is unfair or why you are objecting to it; and
- (e) a statement whether you intend to appear at the final approval hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address and telephone number.

All written objections must be postmarked on or before [date]. Failure to submit a written objection does not waive any Class Member's right to appear at the Final Fairness Hearing to object orally to the Settlement. If you object to the Settlement and if the Court approves the Settlement as set forth in the Settlement Agreement, you will be bound by the terms of the Settlement in the same way as a Class Member who does not object.

D. SUMMARY OF TERMS OF SETTLEMENT

The principal terms of the Settlement reached between Plaintiffs and Defendant are summarized below.

1. Settlement Terms

The Settlement provides that (a) Defendant will pay at least \$525,000 (the "**Gross Settlement Amount**") to resolve all claims asserted in the Action, including Plaintiffs' enhancement awards, Class Counsel's attorneys' fees and costs, and the costs of settlement administration, as described more fully below; and (b) Defendant will stipulate to the certification of the Class for settlement purposes only, conditioned upon the Court granting final approval of the Settlement.

- Attorneys' Fees and Costs. Class Counsel will apply to the Court for an award of attorneys' fees of no more than 35% of the Gross Settlement Amount, which, unless escalated pursuant to the Settlement Agreement, will amount to \$183,750. In addition, Class Counsel will seek reimbursement of actual costs of no more than \$25,000, as well as settlement administration costs not to exceed the amount of \$12,000. The attorneys' fees and costs will be paid out of the Gross Settlement Amount.
- Named Plaintiff Enhancement Award. Plaintiffs will request enhancement awards of \$7,500 each, for a total of \$15,000 in enhancement awards. The enhancement awards will be paid out of the Gross Settlement Amount.
- PAGA Amount. Plaintiffs will request a payment pursuant to the Private Attorneys General Act ("**PAGA**") of \$60,000, of which 75% (or \$45,000) will be paid to the Labor & Development Workforce Agency ("**LWDA**"), and 25% (or \$15,000) will be paid to Aggrieved Employees, as defined by the Settlement Agreement. This PAGA payment will be paid out of the Gross Settlement Amount.
- Payments To Participating Class Members. After the deductions from the Gross Settlement Amount, the remaining amount of approximately \$[redacted] will remain to be distributed to Participating Class Members on a *pro rata* basis based on each Class Member's workweeks worked as a non-exempt employee during the Class Period.

- Payments To Aggrieved Employees. Aggrieved Employees will also receive a *pro rata* portion of \$15,000 (the “**PAGA Payment**”), based on the formula set forth above, limited to workweeks worked during the PAGA Period. The PAGA Payment represents penalties under the Labor Code Private Attorneys General Act. Class Members who opt out of the Settlement and are Aggrieved Employees will still receive their portion of the PAGA Payment and will release all PAGA Claims against the Released Parties.

2. Settlement Payment To You

Section C of this Notice includes the estimated amount that you are entitled to receive under the Class Settlement. The individual settlement payments to Class Members will vary based on a number of factors, including the number of Class Members who participate. If you change your address, please notify the Settlement Administrator.

3. Taxes

For purposes of this Settlement, Participating Class Member Payments shall be reported as follows: (i) 10% of the amount distributed to each Participating Class Member will be considered wages, and will be reported as such to each Participating Class Member on a W-2 Form; (ii) 45% of the amount distributed to each Participating Class Member will be considered interest on the unpaid wages, and will be reported as such to each Participating Class Member on an IRS Form 1099; and (iii) 45% of the amount distributed to each Participating Class Member will be considered statutory penalties, and will be reported as such to each Participating Class Member on an IRS Form 1099. The PAGA Payments distributed to each Aggrieved Employee will be considered penalties and will be reported on an IRS Form 1099. Prior to mailing your Individual Settlement Payment, the Settlement Administrator will calculate and deduct from your Individual Settlement Payment an amount necessary to pay the required withholdings and taxes, including all payroll taxes. The Settlement Administrator will remit that money to the appropriate governmental agencies. The Settlement Administrator will also issue you appropriate tax forms, including an IRS Form 1099 and W-2 Form. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

4. Release

The Settlement provides that each Class Member who does not opt out of the Settlement fully releases and discharges Defendant and the Released Parties from, for the duration of the Class Period, any and all claims against Defendant and the Released Parties that arise from the facts, matters, transactions or occurrences alleged in the Action or that could have been alleged in the Action based on such facts. Without limiting the foregoing, and in addition to the foregoing, the Released Claims include claims for failure to pay the minimum wage; failure to pay regular wages; failure to pay overtime compensation and other premium wages; off-the-clock work; failure to provide and maintain complete and accurate itemized wage statements that included all information required by the California Labor Code; failure to keep accurate time records; failure to provide meal periods and rest breaks or additional pay in lieu thereof; failure to provide employees with rates of pay and overtime rates applicable to their employment; failure to reimburse employees for costs incurred in furtherance of work duties; untimely payment of wages; violations of applicable sick leave laws; violation of state and federal background check laws; violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 246.5, 510, 512, 1174, 1194, 1194.2, 1197, 1197.5, 1198.5, 1199, and 2802; related violations of the applicable California Wage Orders; violations of all related or corresponding federal laws; and violation of California Business and Professions Code section 17200, *et seq* in connection with the alleged Labor Code violations alleged (or that could be alleged based on the facts pled) in the Action (the “**Released Claims**”).

Moreover, in exchange for the PAGA Amount recited in this Agreement, all Aggrieved Employees (to the extent permitted by law), and on behalf of their current, former, and future heirs, executors, administrators, attorneys, agents, and assigns will, upon payment of the Gross Settlement Amount and the Employer’s Taxes necessary to effectuate the settlement to the Settlement Administrator, forever completely release and

discharge Defendant and each of the Released Parties from the PAGA Claims that arose during the PAGA Period. The Aggrieved Employees and the State of California will be deemed by operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim against Defendant and any of the Released Parties for the PAGA Claims that arose during the PAGA Period, to the extent permissible by law.

The **Released Parties** include Capstone Turbine Corporation and its past, present, and future predecessors, successors, assigns, affiliates, shareholders, members, owners, officers, directors, investors, employees, managers, managing agents, partners, affiliated companies or entities, parents, subsidiaries, holding companies, agents, attorneys, insurers, and representatives.

Participating Class Members will be barred from prosecuting any and all Released Claims released pursuant to the Settlement Agreement against the Released Parties. A complete statement of the release of claims is contained in the Settlement Agreement and is binding on all Class Members who do not opt out of the Settlement. A copy of the Settlement Agreement may be obtained from the Settlement Administrator.

5. Conditions Of The Settlement

The Settlement is conditioned upon the Court entering an Order at or following the Final Fairness Hearing approving the Settlement as fair, reasonable, and adequate and in the best interests of the Class.

6. No Admission Of Liability

Defendant does not admit any wrongdoing or liability, and specifically denies any liability or wrongdoing. The proposed Settlement reflects a compromise of disputed claims and does not mean that Defendant violated any state wage requirements or is liable for any of the allegations made by Plaintiffs.

E. FAIRNESS HEARING ON PROPOSED SETTLEMENT

You are not required to attend the Final Fairness Hearing or file an objection, although you may do both. The Final Fairness Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, costs of administration, the enhancement awards to Plaintiffs, and Class Counsel's request for attorneys' fees and costs will be held on _____ a.m., in Department 1 of the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 N Spring St., Los Angeles, CA 90012. The Final Fairness Hearing may be continued to another date without further notice. If you plan to attend the Final Fairness Hearing, you may contact Class Counsel to confirm the date and time.

Any Class Member who does not object in the manner provided above shall be deemed to have approved the Settlement and to have waived any objections, and shall be forever foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the plan of distribution, the payment of attorneys' fees and costs, the administration process, the enhancement award to Plaintiffs, or any other aspect of the Settlement. If the Settlement is not approved, the Action will continue to be prepared for class certification, trial, or other judicial resolution.

F. ADDITIONAL INFORMATION

This Class Notice only summarizes the Action, the Settlement, and related matters. You may inspect the Court files at the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 N Spring St., Los Angeles, CA 90012, from 8:30 a.m. to 3:00 p.m., Monday through Friday, except Court holidays. The Department is closed for lunch between 12:00 p.m. and 1:30 p.m. Alternatively, you can view the case records online at the court's website: <https://www.lacourt.org/website/FindaCase.aspx>. For the *Fernando Vigil, et al. v. Capstone Turbine Corporation* case, enter the Case Number 20STCV41495 into the "Case Access" search bar, and click "Access Case" to view the case record.

Any questions regarding this Class Notice or the Action may be directed to the Settlement Administrator at [insert Settlement Administrator's address and telephone number]. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the address

and telephone number set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE.