

JOINT STIPULATION AND SETTLEMENT AGREEMENT

The Parties identified herein intend this Agreement to memorialize the settlement of all of the claims stated in the complaint filed with the court in the Class Action identified below, subject to Final Approval by the Court. Specifically this Settlement Agreement is between Plaintiff, Juan Gomez (“Plaintiff”), on behalf of the Class (as defined below), and Defendant, IHI Power Services Corp. (“Defendant”). Plaintiff and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

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

- A. **Administration Costs:** The costs incurred by the Settlement Administrator to administer this Settlement in an amount not to exceed \$7,000 and shall be paid from the Qualified Settlement Fund.
- B. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement:** The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- C. **Attorney Fee Award (AFA):** The amount, not to exceed thirty-five percent (35%) of the Maximum Settlement Amount, or \$122,500, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and the AFA request will not be opposed by Defendant.
- D. **Class:** All persons who worked for Defendant in California as an hourly-paid or non-exempt employee during the Class Period.
- E. **Class Action:** The putative class action lawsuit filed by Plaintiff on September 11, 2020, entitled *Gomez v. IHI Power Services Corp.*, Case No. 20CV-02657 in the State of California, Merced County Superior Court.
- F. **Class Counsel:** Douglas Han, Shunt Tatavos-Gharajeh, and Phillip Song of Justice Law Corporation.
- G. **Class Data:** The Class Data means information regarding Class Members that Defendant will compile from its available, existing, electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: (i) each Class Member’s full name; (ii) each Class Member’s last-known address; (iii) each Class Member’s Social Security and Employee ID number, if any; (iv) the Class Member’s relevant dates of employment; (v) number of workweeks worked by the Class Member

during the Class Period (excluding weeks where the Class Member performed no work for Defendant).

- H. Class Member:** Each person eligible to participate in this Settlement who is a member of the Class as defined above.
- I. Class Notice:** The Notice of Class and Representative Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
- J. Class Period:** The time period from April 6, 2016 through September 23, 2021.
- K. Class Representative or Plaintiff:** Juan Gomez.
- L. Class Representative Enhancement Payment (CREP):** The amounts the Court awards to Plaintiff for his services as a Class Representative, which will not exceed \$10,000. This payment shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. This enhancement is subject to approval of the Court.
- M. Complaint:** The class action lawsuit filed by Plaintiff on September 11, 2020 in the State of California, Merced County Superior Court.
- N. Cost Award (CA):** The amount that the Court awards Class Counsel for payment of actual litigation costs subject to proof, which shall not exceed \$20,000. The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendant.
- O. Counsel for Defendant:** Attorneys Clint D. Robinson and John P. Allenza of O'Hagan Meyer, LLP.
- P. Court:** The State of California, Merced County Superior Court.
- Q. Defendant:** IHI Power Services Corp., a Delaware corporation.
- R. Effective Final Settlement Date:** The effective date of this Settlement shall be the date when Defendant fulfills its payment obligations under Section III(H)(8)(a) of this Agreement (i.e., Defendant's full funding of the Maximum Settlement Amount).
- S. Eligible Aggrieved Employees (EAE):** The aggrieved employees eligible to recover the PAGA payment shall consist of all current and former hourly-paid or non-exempt employees of Defendant in California during the PAGA Period.

- T. Exclusion Form:** The Election Not To Participate In (Opt Out From) Class Action Settlement Form, substantially similar to the form attached hereto as **Exhibit B**, subject to Court approval.
- U. Judgment or Final Approval:** The final order entered by the Court finally approving this Agreement.
- V. Maximum Settlement Amount (“MSA”):** The total value of the Settlement is a non-reversionary Three Hundred Fifty Thousand Dollars (\$350,000). This is the maximum amount Defendant can be required to pay under this Settlement Agreement, which includes: (1) the Net Settlement Amount (NSA) to be paid to Participating Class Members; (2) the Attorney Fee Award (AFA) and AFA to Class Counsel for attorneys’ fees and costs, as approved by the Court; (3) the CREP paid to the Class Representative, as approved by the Court; (4) Administration Costs paid to the Settlement Administrator, as approved by the Court; and (5) the PAGA Payment to the LWDA and to EAEs, as approved by the Court. Defendant’s portion of payroll taxes as the Class Members’ current or former employer is not included in the MSA and will be a separate obligation of Defendant. No portion of the Maximum Settlement Amount will revert to Defendant for any reason.
- W. Individual PAGA Payment(s):** The amount payable to each EAE from the portion of the PAGA Payment allocated to the EAEs under the terms of this Settlement Agreement. EAEs are not required to submit a claim form to receive their Individual PAGA Payment.
- X. Individual Settlement Share(s):** The amount payable to each Participating Class Member from the NSA under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement.
- Y. LWDA:** California Labor and Workforce Development Agency.
- Z. Net Settlement Amount (“NSA”):** The total amount of money available from the MSA for distribution to Participating Class Members, which is the MSA less the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, and the Administration Costs.
- AA. Notice Packet:** The Class Notice and the Exclusion Form.
- BB. PAGA:** The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).
- CC. PAGA Notice:** The PAGA Notice refer to the pre-filing notice of Labor Code violations served on the LWDA by Plaintiff on August 31, 2020.

- DD. PAGA Payment:** The PAGA Payment consists of \$25,000 of the Maximum Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Class Action. Seventy-five percent (75%) of the PAGA Payment (\$18,750) shall be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment (\$6,250) shall be distributed to Eligible Aggrieved Employees, on a pro rata basis, as set forth below.
- EE. PAGA Period:** The period from August 31, 2019 to September 30, 2021.
- FF. PAGA Released Claims:** PAGA Released Claims means all allegations and claims for civil penalties pursuant to PAGA based on any and all underlying claims asserted in the LWDA pre-filing notice dated August 31, 2020 arising during the PAGA Period.
- GG. Participating Class Members:** All Class Members who do not submit a valid and timely request to exclude themselves from the class action Settlement.
- HH. Parties:** Plaintiff, as an individual and as a Class Representative, and Defendant IHI Power Services Corp., a Delaware corporation.
- II. Preliminary Approval or Preliminary Approval Order:** The Court's order preliminarily approving the proposed Settlement.
- JJ. Qualified Settlement Fund or QSF:** A fund within the meaning of Treasury Regulation § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.* that is established by the Settlement Administrator for the benefit of Participating Class Members, Plaintiff, and Class Counsel.
- KK. Released Claims:** Any and all claims made or which could have been made based on the facts pled in the Complaint, including but not limited to state wage and hour claims for any and all violations of California's Labor Code and Unfair Competition Law based on Defendant's: (a) failure to pay for all hours worked (including minimum wages, straight time wages, and overtime wages); (b) failure to provide meal periods; (c) failure to authorize and permit rest periods; (d) failure to timely pay all wages due at the time of termination; (e) failure to furnish accurate, itemized wage statements; (f) failure to timely pay wages during employment; (g) failure to properly reimburse for all business-related expenses; (h) civil penalties under California's Private Attorneys General Act of 2004 based on the alleged Labor Code violations; (i) and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said causes of action under California law, to the extent permissible, including but not limited to the California Labor Code and the applicable Wage Orders. The release will occur only upon Defendant's fulfillment of its payment obligations under Section III(H)(8)(a) of this Agreement (i.e., Defendant's full funding of the Settlement). The period of the release shall run through the Class Period. As to individual Class Members, the release applies only to periods of time

when the Class Member was a member of the Class (i.e., excluding periods of time in exempt positions).

- LL. Released Parties:** Defendant and its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents, attorneys, and any entities that may be considered joint employers.
- MM. Response Deadline:** Forty-five (45) calendar days from the initial mailing of the Notice Packet.
- NN. Settlement Administrator:** The third-party administrator agreed upon by the Parties to administer this Settlement is Simplrui, Inc. (“Simplrui”).

II. RECITALS

- A. Discovery and Investigation.** Prior to the mediation and both before and after the Class Action was filed, the Parties conducted significant investigation and discovery of the facts and law. Prior to the mediation, Defendant produced hundreds of documents relating to its policies, practices, and procedures regarding reimbursement of business expenses, paying non-exempt employees for all hours worked, meal and rest period policies, and payroll and operational policies. As part of Defendant’s production, Plaintiff also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiff to understand the number of workweeks in the Class Period. Plaintiff also interviewed several Class Members who worked for Defendant throughout the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties’ positions and to compromise the issues on a fair and equitable basis.
- B. Benefits of Settlement to Class Members.** Plaintiff and Class Counsel recognize the expense and length of additional proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Class Counsel have also taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel have conducted extensive settlement negotiations, including a formal mediation on July 9, 2021. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement and is in the best interests of the Class Members.
- C. Defendant’s Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of

Defendant's time, energy, and resources have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore in order to avoid such costs and efforts, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

- D. Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any and all of the claims alleged, makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Class Action is not appropriate for class or representative treatment. Defendant asserts a number of defenses to the claims, and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Class Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiff can serve as adequate Class Representative. There has been no determination by any court as to the merits of the claims asserted by Plaintiff against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.
- E. Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Class Action. However, in the event that this Settlement is finally approved by the Court, none of Plaintiff, Class Members, or Class Counsel will oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Class Members have resolved and are forever barred from re-litigating the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- A. Maximum Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum amount, "Maximum Settlement Amount," excluding payroll taxes, that Defendant is obligated to pay under this Settlement Agreement is Three Hundred Fifty Thousand Dollars (\$350,000).
- B. Class Certification.** Solely for the purposes of this Settlement and for no other purpose, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.

- C. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Class Action or in any other lawsuit or venue or for any other purpose. If the Settlement does not become effective, Defendant reserves the right to contest any and all issues relating to class certification, liability and damages.
- D. Appointment of Class Representative.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff shall be appointed as the representative for the Class.
- E. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.
- F. Settlement Disbursement.** Subject to the terms and conditions of this Agreement, and the approval of the Court, the Settlement Administrator will disburse the Maximum Settlement Amount as follows:
- 1. To the Plaintiff Juan Gomez.** In addition to his Individual Settlement Share, and subject to the Court's approval, Plaintiff will receive up to \$10,000 as a Class Representative Enhancement Payment. The Settlement Administrator will pay the Class Representative Enhancement Payment out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payment. An IRS Form 1099 will be issued to Plaintiff with respect to his Class Representative Enhancement Payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payment and shall hold harmless Defendant, Class Counsel and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payment. If the Court does not approve the entirety of the application for the Class Representative Enhancement Payment, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff, the difference shall become part of the NSA and will be distributed to Participating Class Members. If the Court reduces or does not approve the requested Class Representative Enhancement Payment, Plaintiff shall not have the right to revoke the Settlement, and it will remain binding, nor will

Plaintiff seek, request, or demand an increase in the Maximum Settlement Amount on that basis or any basis.

- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees not to oppose, a total Attorney Fee Award not to exceed thirty-five percent (35%) or \$122,500 of the MSA and a Cost Award not to exceed \$20,000. The Settlement Administrator will pay the Court-approved amounts for the Attorney Fee Award and Cost Award out of the Maximum Settlement Amount. The Settlement Administrator may purchase an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Attorney Fee and Cost Awards. If the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay only whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the NSA and will be distributed to Participating Class Members. If the Court reduces or does not approve the requested Attorney Fee Award, Plaintiff shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiff seek, request, or demand an increase in the Maximum Settlement Amount on that basis or any basis.
- 3. To the Responsible Tax Authorities.** The Settlement Administrator will withhold the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. The Settlement Administrator will also calculate the amounts of the Participating Class Members' and Defendant's portions of payroll withholding taxes. The Settlement Administrator will submit Defendant's portion of payroll withholding tax calculation to Defendant for additional funding and forward those amounts along with each person's Individual Settlement Share withholdings to the appropriate taxing authorities.
- 4. To the Settlement Administrator.** The Settlement Administrator will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$7,000. This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and will be distributed to Participating Class Members.

5. To Participating Class Members. The Settlement Administrator will pay each Participating Class Member an Individual Settlement Share from the NSA.

a. Individual Settlement Share Calculation. The Individual Settlement Share is calculated based on each Participating Class Member's pro rata share of the Net Settlement Amount based on workweeks during the Class Period as follows: (i) the number of weeks in which he or she worked as a hourly-paid or non-exempt employee during the Class Period, divided by (ii) the total number of weeks in which he/she worked by all Participating Class Members collectively during the Class Period, which is then multiplied by the Net Settlement Amount. The Settlement Administrator will use the Class Data to calculate the number of workweeks worked by each Class Member based on their dates of employment for purposes of this calculation.

b. Tax Treatment for Individual Settlement Shares. Each Participating Class Member's Individual Settlement Share will be apportioned as follows: thirty-three percent (33%) wages and sixty-seven percent (67%) interest, penalties, and reimbursements. The portion paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' shares of payroll tax withholdings shall be withheld from each person's Individual Settlement Share. Participating Class Members will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Shares and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual Settlement Shares.

6. To Eligible Aggrieved Employees. The Settlement Administrator shall pay each Eligible Aggrieved Employee according to his or her proportional share, which will be based upon the total number of pay periods he or she was employed during the PAGA Period.

a. Individual PAGA Payment Calculation. The Individual PAGA Payment is calculated based on each Eligible Aggrieved Employee's pro rata share of the PAGA Payment allocated to the Eligible Aggrieved Employees based on pay periods during the PAGA Period as follows: (i) the number of pay periods he or she worked as a hourly-paid or non-exempt employee during the

PAGA Period, divided by (ii) the total number of pay periods worked by all Eligible Aggrieved Employees collectively during the PAGA Period, which is then multiplied by the PAGA Payment allocated to the Eligible Aggrieved Employees. The Settlement Administrator will use the Class Data to calculate the number of periods worked by each Eligible Aggrieved Employee based on their dates of employment for purposes of this calculation.

- b. Tax Treatment for Individual PAGA Payments.** Each Eligible Aggrieved Employee's Individual PAGA Payment will be apportioned as one hundred percent (100%) penalties and shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Eligible Aggrieved Employees will be responsible for the payment of any taxes and penalties assessed on the Individual PAGA Payments and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual PAGA Payments.

- G. Appointment of Settlement Administrator.** The Settlement Administrator shall be responsible for but not limited to, the following: (a) preparing, translating into Spanish, printing, and mailing Notice Packets to the Class Members; (b) keeping track of any objections or requests for exclusion from Class Members; (c) performing skip traces and re-mailing Notice Packets and Individual Settlement Shares to Class Members; (d) calculating any and all payroll tax deductions as required by law; (e) calculating each Class Member's Individual Settlement Share; (f) calculating each Eligible Aggrieved Employee's Individual PAGA Payment; (g) providing weekly status reports to Counsel for Defendant and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; (h) providing a due diligence declaration for submission to the Court prior to the Final Approval Hearing; (i) mailing Individual Settlement Shares to Participating Class Members; (j) mailing Individual PAGA Payments to Eligible Aggrieved Employees; (k) mailing the portion of the PAGA Payment due to the LWDA to the LWDA; (l) distributing the Attorney Fee Award and Cost Award to Class Counsel; (m) printing and providing Class Members, Eligible Aggrieved Employees and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; (n) providing a due diligence declaration for submission to the Superior Court upon the completion of the Settlement; (o) providing any funds remaining in the QSF as a result of uncashed checks to the California State Controller's Office in accordance with California Unclaimed Property Law so that the Participating Class Member and/or Eligible Aggrieved Employee will have his or her Individual Settlement Share and/or Individual PAGA Payment available to him or her per the applicable claim procedure to request that money from the State of California, including the administration of related tax reimbursements; and (p) for such other tasks as the Parties mutually

agree. The Parties each represent that they do not have any financial interest in Simplruiis or otherwise have a relationship with Simplruiis that could create a conflict of interest.

H. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a.** Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice and Exclusion Form.
- b.** At the Preliminary Approval Hearing, Plaintiff will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representative, Class Counsel, and Settlement Administrator; approving the Notice Packet; and setting the Final Approval Hearing.
- c.** Should the Court decline to conditionally certify the Class or to preliminarily approve all material aspects of the Settlement with prejudice, the Settlement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment shall not operate to terminate or cancel this Agreement.

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

- a.** Within fifteen (15) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver the Class Data to the Settlement Administrator.
- b.** Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address

Database to update and correct any known or identifiable address changes. The Settlement Administrator shall maintain the Class Data as private and confidential and take reasonable and necessary precautions to maintain the confidentiality of the Class Data. The Settlement Administrator shall not distribute or use the Class Data or any information contained therein for any purpose other than to administer this Settlement. This provision is necessary to preserve the privacy rights of Class Members and will not impede Class Counsel's ability to discharge fiduciary duties, including effectuating the terms of this Settlement.

- c. Within fourteen (14) calendar days after Defendant's deadline to provide the Class Data to the Settlement Administrator, the Settlement Administrator will mail the Notice Packet to all identified Class Members via first-class regular U.S. Mail.
- d. If a Notice Packet is returned because of an incorrect address, within ten (10) calendar days from receipt of the returned Notice Packet, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Notice Packet to the Class Member. The Settlement Administrator will use the National Change of Address Database and conduct skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Notice Packet shall be re-mailed to the original address. If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip trace or forwarded mail, will have an additional ten (10) calendar days to postmark an Exclusion Form, or file and serve an objection to the Settlement or dispute the information provided in their Notice Packet. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a re-mailed packet.
- e. Class Members may dispute the information provided in their Notice Packet, but must do so in writing, via first-class mail, and it must be postmarked by the Response Deadline. To the extent Class Members dispute the number of weeks to which they have been credited or the amount of their Individual Settlement Shares,

Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible weeks that should be applied and/or the Individual Settlement Share to which the Class Member may be entitled.

- f. If any Exclusion Form received is incomplete or deficient, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and allow fourteen (14) calendar days to cure the deficiency. If, after the cure period, the Exclusion Form is not cured, it will be determined that the Class Member did not exclude himself or herself from the Settlement and will be bound by the Settlement.
- g. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Counsel for Defendant of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of Exclusion Forms received.
- h. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval Hearing. Before the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. Objections to Settlement.

- a. **Notice Packet.** The Notice Packet will provide that the Class Members who wish to object to the Settlement may do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline.
- b. **Format.** Any written objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in

clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval Hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval Hearing.

- c. **Objector Appearances.** Participating Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel. The failure to file and serve a written objection does not waive a Participating Class Member's right to appear at and make an oral objection at the Final Approval Hearing.

4. Request for Exclusion from the Settlement ("Opt Out").

- a. **Notice Packet.** The Notice Packet will provide that Class Members who wish to exclude themselves from the class action Settlement must mail to the Settlement Administrator an Exclusion Form. The written request for exclusion must: (a) include the Class Member's name and address, and the last four digits of his or her Social Security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member; and (d) be postmarked no later than the Response Deadline.
- b. **No Opt Out From PAGA.** Eligible Aggrieved Employees will not be able to exclude themselves from receiving their portion of the PAGA Payment. The Notice Packet will inform Eligible Aggrieved Employees that they cannot opt out of the PAGA portion of the settlement and explain that they will not be permitted to pursue any action under PAGA against the Released Parties for any claim that arose during the PAGA Period, even if they elect to opt out of the class action Settlement.
- c. **Validity and Effect.** Any Class Member who returns a timely, valid, and executed Exclusion Form will not participate in or be bound by the Settlement and Judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely Exclusion Form will be included in the Settlement, will receive an Individual Settlement Share, and will be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement.
- d. **Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notice

Packets mailed to Class Members, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed to Class Members, the number of re-mailed Notice Packets returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

- e. **Defendant's Option to Terminate.** If five percent (5%) or more of the Class Members opt out of the Settlement, prior to the Final Fairness Hearing, Defendant, at its sole discretion, may revoke the Settlement and its stipulation to class certification, and this Agreement will become null and void.

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

6. Motion for Final Approval.

- a. Class Counsel will file unopposed motions and memoranda in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) the Administration Costs; (4) the Class Representative Enhancement Payment; and (5) the PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Participating Class Members and the PAGA Released Claims of the Eligible Aggrieved Employees.
- b. If the Court denies Final Approval of the Settlement with prejudice, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Maximum Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement Payment, the Attorney Fee Award, and/or the Cost Award, will not constitute a

material modification to the Settlement within the meaning of this paragraph.

- c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the Class Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.
 - d. The Settlement Administrator will create a website to notify Class Members of any change to the date or location of the Final Approval Hearing and to give Class Members notice of Final Judgement.
- 7. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Maximum Settlement Amount.
- 8. **Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Superior Court's Final Approval Order and Judgment. The maximum amount Defendant can be required to pay under this Settlement for any purpose is the Maximum Settlement Amount. The Settlement Administrator shall keep Counsel for Defendant and Class Counsel apprised of all distributions from the Maximum Settlement Amount. The Settlement Administrator shall respond to questions from Counsel for Defendant and Class Counsel. No person shall have any claim against Defendant, Counsel for Defendant, Plaintiff, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.
 - a. **Funding the Settlement:** No later than fourteen (14) calendar days after the execution of this Agreement, Defendant shall fund one-third (1/3) of the Maximum Settlement Amount of Three Hundred Fifty Thousand Dollars (\$350,000) into the Qualified Settlement Fund set up by the Settlement Administrator by wiring the funds. No later than fourteen (14) calendar days after the court grants final approval, Defendant shall fund another one-third (1/3)

of the Maximum Settlement Amount of Three Hundred Fifty Thousand Dollars (\$350,000) into the Qualified Settlement Fund. Finally, within one hundred eighty (180) days after the court grants final approval, Defendant shall: (a) fund the remaining one-third (1/3) of the Maximum Settlement Amount into the Qualified Settlement Fund, including any share of its payroll taxes; and (b) provide any tax information that the Settlement Administrator may need to calculate each Participating Class Members' Individual Settlement Share.

- b. Unsecured Note:** Defendant agrees to an unsecured note after funding two-thirds (2/3) of the Maximum Settlement Amount.
 - c. Disbursement:** Within fourteen (14) calendar days after the deadline to fund the Settlement, the Settlement Administrator shall calculate and disburse all payments due under the Settlement Agreement, including all Individual Settlement Shares, Individual PAGA Payments, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, and the Administration Costs. The Settlement Administrator will forward a check for seventy-five percent (75%) of the PAGA Payment to the LWDA for settlement of the PAGA claim. After such payment, Defendant shall have no liability for PAGA claims by or on behalf of Eligible Aggrieved Employees during the PAGA Period, which are released under this Agreement.
 - d. QSF:** The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.* and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.
- 9. Uncashed Checks.** Participating Class Members and Eligible Aggrieved Employees must cash or deposit their Individual Settlement Share and Individual PAGA Payment checks within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are returned as undeliverable and without a forwarding address, the Settlement Administrator will conduct a skip trace search to find the most up-to-date mailing addresses and re-mail the checks promptly. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar

days, it will expire and become non-negotiable, and offering to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Share or Individual PAGA Payment (as applicable) to the California State Controller's Office in accordance with California Unclaimed Property Law so that the Participating Class Member and/or Eligible Aggrieved Employee will have his or her Individual Settlement Share and/or Individual PAGA Payment available to him or her per the applicable claim procedure to request that money from the State of California.

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

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

12. Plaintiff's Legal Fees. Plaintiff is responsible for paying for all of Plaintiff's own legal fees, costs, and expenses incurred in this Class Action outside of the Maximum Settlement Amount. Except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys' fees and expenses against Defendant arising from or related to the Class Action.

I. Release of Claims. Upon Defendant's fulfillment of its payment obligations under Section III(H)(8)(a) of this Agreement, in exchange for the consideration set forth in this Agreement, Plaintiff and the Participating Class Members release the Released Parties from the Released Claims arising during the Class Period.

J. PAGA Release. Upon Defendant's fulfillment of its payment obligations under Section III(H)(8)(a) of this Agreement, the LWDA and each Eligible Aggrieved Employee, including Plaintiff, individually and on behalf of his heirs, executors, administrators, representatives, attorneys, successors and assigns hereby voluntarily and knowingly is barred from bringing any action for the PAGA Released Claims during the PAGA Period. The release of the PAGA Released Claims is effective, regardless of whether the Eligible Aggrieved Employee submits a timely and valid request for exclusion.

K. Plaintiff's Release of Claims and General Release. Upon Defendant's fulfillment of its payment obligations under Section III(H)(8)(a) of this

Agreement, and in exchange for the Class Representative Enhancement Payment to the Plaintiff in amounts not to exceed \$10,000, in recognition of his work and efforts in obtaining the benefits for the Class, and undertaking the risk for the payment of costs in the event this matter had not successfully resolved, Plaintiff hereby provides a general release of claims for himself and his spouse, heirs, successors and assigns, and forever release, remise, and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, arising from the beginning of time through the date the Court grants Preliminary Approval, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to their employment with Defendant or the remuneration for, or termination of, such employment. Plaintiff's Release of Claims also includes a waiver of California Civil Code section 1542, which provides as follows:

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.

L. Miscellaneous Terms.

- 1. No Admission of Liability.** Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Class Action, or that but for the Settlement, a Class should be certified in the Class Action or could proceed on a representative basis. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle the Class Action will have no bearing on, and will not be admissible in connection with, any litigation, administrative proceeding or other special proceeding (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The Class Representative Enhancement Payment, Individual Settlement Shares and/or Individual PAGA Payments paid to Plaintiff, Participating Class Members and/or the Eligible Aggrieved Employees shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee

benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiff, Participating Class Members or Eligible Aggrieved Employees. The Parties agree that any Class Representative Enhancement Payment, Individual Settlement Shares and/or Individual PAGA Payments paid to Plaintiff, Participating Class Members and/or the Eligible Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiff's, Participating Class Members', or Eligible Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

- 3. Publicity.** Class Counsel and Plaintiff agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as class counsel, in declarations submitted to a court in support of motions for preliminary approval, final approval, attorneys' fees and costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. Class Counsel and Plaintiff agrees to decline to respond to any media inquiries concerning the Settlement.
- 4. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- 5. Authorization to Enter Into Settlement Agreement.** Class Counsel and Counsel for Defendant warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
- 6. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral

part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

- 7. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Class Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.
- 8. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors in interest.
- 9. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- 10. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 11. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
- 12. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class Action and have arrived at this Agreement through arm's-length negotiations, taking into account all relevant factors, current and potential.
- 13. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Plaintiff, Class Counsel, Eligible Aggrieved Employees and Participating Class Members will assume any such tax obligations or consequences that may arise from any disbursements made under this Agreement, and Plaintiff, Class Counsel, Eligible Aggrieved Employees and Participating Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are

due from any recipient of a disbursement under this agreement, such recipient assumes all responsibility for the payment of such taxes.

14. Jurisdiction of the Superior Court. The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.

15. Invalidity of Any Provision; Severability. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

16. 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.

17. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 10/11/2021, 2021

JUAN GOMEZ



Dated: 10/19/, 2021

IHI POWER SERVICES CORP.

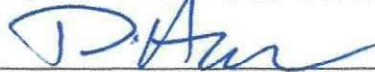


By: STEPHEN B GROSS

Title: CEO

Dated: 10/11/, 2021

JUSTICE LAW CORPORATION



Douglas Han, Esq.

Attorneys for Plaintiff Juan Gomez, on behalf of
himself and all others similarly situated

Dated: October 21, 2021

O'HAGAN MEYER, LLP



Clint D. Robinson, Esq.

John P. Allenza, Esq.

Attorneys for Defendant IHI Power Services Corp.

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On November 5, 2021, I served the foregoing document described as

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 5, 2021, at Pasadena, California.

An Am

Anna Okada