

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Settlement Agreement is between Plaintiffs Kevin McNeil and Guadalupe Romulo (“Plaintiffs”), on behalf of the Class (as defined below) and Defendants KIK International LLC, KIK Pool Additives, Inc., KIK Custom Products Inc. (“Defendants”). Plaintiffs and Defendants collectively are referred to in this Agreement as the “Parties.”

I. **DEFINITIONS**

The terms below have the following meaning:

- A. **Actions**: The litigation entitled *Kevin McNeil v. KIK International, LLC, et al.* San Bernardino County Superior Court - Case No. CIV DS 1915438 (the Class Action) and *Guadalupe Romulo v. KIK International, LLC, et al.* San Bernardino County Superior Court - Case No. CIV DS 2023661 (the PAGA Action) are collectively referred to as the Actions.
- B. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this Settlement, which are currently estimated at \$18,500, and which shall be paid from the Qualified Settlement Fund.
- C. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- D. **Attorneys’ Fee Award**: The amount finally approved by the Court and awarded to Class Counsel, not to exceed 35% of the Gross Settlement Amount or \$349,125. The Attorneys’ Fee Award shall be paid from the Qualified Settlement Fund. Class Counsel’s request consistent with the terms of this Agreement will not be opposed by Defendants. To the extent that the Court does not approve the requested attorneys’ fee award or approves a different attorneys’ fee award from the QSF, all of the remaining terms of this Agreement shall remain binding on the Parties, as the requested attorneys’ fee award set forth in this Paragraph is not a material term of this Agreement.
- E. **Class**: Any and all hourly-paid or non-exempt individuals who worked for Defendants (whether employees of Defendants or a third-party staffing agency) within the State of California during the Class Period.
- F. **Class Action**: The putative class action lawsuit filed by Plaintiff Kevin McNeil on May 21, 2019, entitled *Kevin McNeil v. KIK International, LLC, et al.*, Case No. CIVDS1915438 in the State of California, San Bernardino County Superior Court.
- G. **Class Counsel**: Douglas Han, Shunt Tatavos-Gharajeh, and Phillip Song of Justice Law Corporation.

- H. Class Data:** The Class Data means information regarding Class Members that Defendants will compile from its available, existing, electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet, or similar format, and shall include, to the extent available: (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; (iv) the Class Member's relevant dates of employment (relevant dates are dates that the Class Member worked for Defendants as non-exempt employees of Defendants or through a third-party staffing agency within the Class Period and/or PAGA Period); and (v) the number of work weeks worked by the Class Member. Defendants shall request this information from the third-party staffing agencies, and the Parties shall cooperate to obtain this information from the third-party staffing agencies for purposes of settlement administration. Defendants shall request this information within 10 business days of the execution of this agreement.
- I. Class Member:** Each person eligible to participate in this Settlement who is a member of the Class as defined above.
- J. Class Notice:** The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
- K. Class Period:** The time period from May 21, 2015, to the date the Court issues an order granting preliminary approval of the Settlement.
- L. Class Representatives or Plaintiffs:** Kevin McNeil and Guadalupe Romulo.
- M. Class Representative Enhancement Payment:** The amount the Court awards to Plaintiffs Kevin McNeil and Guadalupe Romulo for their services as a Class Representative, which will not exceed \$10,000 each. This payment shall be paid from the Qualified Settlement Fund. Class Counsel's request consistent with the terms of this Agreement will not be opposed by Defendants. This enhancement is subject to approval of the Court. To the extent that the Court does not approve the requested Class Representative Enhancement Payments or approves different Class Representative Enhancement Payments to Plaintiffs from the QSF, the remaining terms of this Agreement shall remain binding on the Parties, as the requested allocations set forth in this Paragraph are not material terms of this Agreement. To be eligible for the enhancements, Plaintiffs must provide the Settlement Administrator with updated IRS Forms W-9.
- N. Complaint:** The PAGA Action complaint filed by Plaintiff Romulo together with the class action complaint filed by Plaintiff McNeil, which includes the original *McNeil* complaint filed on May 21, 2019, and the First Amended Complaint which will be filed jointly by Plaintiffs Romulo and McNeil on or before the filing of the Motion for Preliminary Approval. The First Amended Complaint to be filed in the Class Action will consolidate the Actions into a single operative complaint and shall be deemed filed as of the date of

Preliminary Approval, pending approval by the Court.

- O. **Cost Award:** The amount that the Court awards Class Counsel for payment of actual litigation costs subject to proof, which shall not exceed \$25,000. The Cost Award will be paid from the Qualified Settlement Fund. Class Counsel's request consistent with the terms of this Agreement will not be opposed by Defendants. To the extent that the Court does not approve the requested cost award or approves a different award of costs from the QSF, the remaining terms of this Agreement shall remain binding on the Parties, as the requested cost award set forth in this Paragraph is not a material term of this Agreement.
- P. **Counsel for Defendants:** Attorneys Gerald L. Maatman, Jr., Kerry Friedrichs, and Shireen Yvette Wetmore of Seyfarth Shaw LLP
- Q. **Court:** The State of California, San Bernardino County Superior Court.
- R. **Defendants:** KIK International LLC, KIK Pool Additives, Inc., KIK Custom Products Inc., and KIK Custom Products, Inc.
- S. **Effective Final Settlement Date:** The Effective Final Settlement Date of the Settlement Agreement shall be the later of (a) the Court's final approval of the Settlement Agreement, if no objections have been filed, (b) the time to appeal has expired if an objection has been filed and no appeal was filed, (c) or the final resolution of any appeal that has been filed.
- T. **Eligible Aggrieved Employees:** The "aggrieved employees" eligible to recover the PAGA payment shall consist of any and all hourly-paid or non-exempt individuals who worked for Defendants (whether employees of Defendants or a third-party staffing agency) within the State of California during the PAGA Period.
- U. **Exclusion Form:** The Election Not To Participate or Opt-out Form, substantially similar to the form attached hereto as **Exhibit B**, subject to Court approval.
- V. **Judgment or Final Approval:** The final order entered by the Court finally approving this Agreement.
- W. **Gross Settlement Amount or GSA:** The Parties agree to a definitive settlement of all matters and issues related to the Actions for a total aggregate settlement amount of Nine Hundred Ninety Seven Thousand Five Hundred Dollars and Zero Cents (\$997,500) (the "Gross Settlement Amount" or GSA). This sum shall include all payments to the Class Members, administration expenses, attorneys' fees and costs, enhancement awards for Plaintiffs, the PAGA Payment, and, if applicable, related interest pursuant to California Code of Civil Procedure section 384. The Gross Settlement Amount does not include applicable employer payroll tax payments (including but not necessarily limited to FICA, FUTA, etc.). This Settlement shall be made on a non-claims-made basis and will be non-reversionary, except that for any class member who timely and validly submits a Request for Exclusion, that individual's share of the Net

Settlement Amount will be retained by Defendants. Defendants shall pay a total of no more than the Gross Settlement Amount.

- X. **Individual PAGA Payment(s)**: The amount payable to each Eligible Aggrieved Employee from the portion of the PAGA Payment allocated to the Eligible Aggrieved Employee under the terms of this Settlement Agreement. Eligible Aggrieved Employees are not required to submit a claim form to receive their Individual PAGA Payment.
- Y. **Individual Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement.
- Z. **LWDA**: California Labor and Workforce Development Agency.
- AA. **Net Settlement Amount or NSA**: The total amount of money available from the GSA for distribution to Participating Class Members, which is the GSA less the Attorney Fee Award, Cost Award, Class Representative Enhancements, the PAGA Payment, and Administration Costs.
- AA. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Cal.Labor Code §§ 2698 *et seq.*).
- BB. **PAGA Notice**: The PAGA Notice refers to the pre-filing notice of Labor Code violations served by Plaintiff Romulo on the LWDA on August 12, 2020.
- CC. **PAGA Payment**: The PAGA Payment consists of \$50,000 of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Class Action. Seventy-five percent (75%) of the PAGA Payment (\$37,500) shall be paid to the LWDA, and twenty-five percent (25%) (\$12,500) of the PAGA Payment shall be distributed to Eligible Aggrieved Employees, on a pro rata basis, as set forth below. To the extent that the Court does not approve the requested allocations or approves different allocations to the PAGA Payment from the QSF, the remaining terms of this Agreement shall remain binding on the Parties, as the requested allocations set forth in this Paragraph are not material terms of this Agreement.
- DD. **PAGA Period**: The period between August 12, 2019 through the date the Court issues an order granting preliminary approval of this Settlement.
- FF. **Participating Class Members**: All Class Members who do not submit a valid and timely Exclusion Form requesting to exclude themselves from the class action Settlement.
- GG. **Parties**: Plaintiffs Kevin McNeil and Guadalupe Romulo as individuals and as Class Representatives, and Defendants KIK International, LLC, KIK Pool Additives, Inc., and KIK Custom Products Inc.

- HH. Preliminary Approval or Preliminary Approval Order:** The Court's order preliminarily approving the proposed Settlement.
- II. 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, Plaintiffs and Class Counsel.
- JJ. Released Claims:** Upon final approval of the Settlement Agreement, except as to the right to enforce the terms and conditions of the Settlement Agreement, all Participating Class Members shall be deemed to have fully released the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, direct or indirect, contingent or accrued, that were brought or that reasonably could have been brought based on the facts alleged in the operative complaint during the Class Period, including the allegations in Plaintiff Romulo's PAGA Notice dated August 12, 2020, including, but not limited to, any claims under state law for alleged failure to pay wages, including failure to pay overtime wages, meal or rest break claims, claims for meal or rest break penalties, claims for unreimbursed business expenses, claims for liquidated damages, claims for unlawful deductions from wages, claims for conversion of wages, claims for record-keeping violations, wage-statement penalties, and "waiting time" penalties, and claims under the applicable Wage Order and Labor Code sections, including, without limitation, sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, 203, 204, 205.5, 218, 218.5, 221, 226, 226(a), 226(g), 226.3, 226.7, 510, 512, 512(a), 558, 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, as well as claims under Business and Professions Code section 17200 et seq. based on released claims set forth above. The Parties agree the Settlement and Judgment to be entered by the court following approval of this Settlement forever bars Plaintiff Romulo and the LWDA, directly or through any other proxy or agent, from any future prosecution of Labor Code section 2698 et seq. claims based on released claims during the PAGA Period against any of the Released Parties.
- KK. Released Parties:** Defendants, and all of Defendants' present and former subsidiaries, parents, affiliates, and joint ventures, and all of Defendants' shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them, KIK Custom Products, Inc, and Aerosols Danville Inc., and any individual or entity which could be jointly liable with Defendants for any of the Released Claims, including staffing agencies who hired, provided or assigned Class Members to perform work at Defendants within the Class Period ("Released Staffing Agencies"). Released Staffing Agencies includes, without limitation, Imperial Staffing & Associates, United Employment Solutions Inc., PriorityWorkforce, Inc., EmployBridge, LLC, Kamran Staffing, Inc., MLG Staffing Experts, LLC, Resource Employment Solutions, TSA Staffing (d/b/a Baron HR), and Adecco.

- LL. Response Deadline:** Forty-five (45) calendar days from the initial mailing of the Class Notice or fifty-five (55) calendar days from the initial mailing of the Class Notice for those individuals whose Notice Packets are re-mailed. The Response Deadline is the period of time during which Class Members may request to exclude themselves from or object to the Settlement. In the event any Notice Packets are re-mailed, for the purposes of calculating deadlines based on the Response Deadline, the fifty-five (55) calendar day period will be used.
- MM. Settlement Administrator:** The third-party administrator agreed upon by Parties to administer this Settlement is Phoenix Class Action Administration Solutions.

II. RECITALS

- A.** Prior to the mediation, the Parties conducted significant investigation and discovery of the facts and law both before and after the Class Action was filed. Prior to mediation, Defendants produced hundreds of documents relating to its policies, practices, and procedures regarding reimbursement of business expenses, paying non-exempt employees for all hours worked, overtime, meal and rest period policies, and payroll and operational policies. As part of Defendants' production, Plaintiffs also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiffs to understand the number of workweeks in the Class Period. Plaintiffs also interviewed dozens of Class Members who worked for Defendants 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.** Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendants through class certification, trial and through any possible appeals. Plaintiffs and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential impact of arbitration agreements with class action waivers signed by Plaintiffs and Class Members, the potential outcome at trial, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel have conducted extensive settlement negotiations, including a formal mediation on July 6, 2021. Based on the foregoing, Plaintiffs 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 and Eligible Aggrieved Employees.
- C. Defendants' Reasons for Settlement.** Defendants recognize that the defense of this litigation will be protracted and expensive. Substantial amount of time, energy, and resources of Defendants have been spent and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendants, therefore, have agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

- D. Defendants' Denial of Wrongdoing.** Defendants generally and specifically deny any and all liability or wrongdoing of any sort with regard to any of the claims alleged, make no concessions or admissions of liability of any sort, and contend that for any purpose other than settlement, the Actions are not appropriate for class or representative treatment. Defendants assert a number of defenses to the claims, and have denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Actions. 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 Defendants or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiffs can serve as adequate Class Representatives. There has been no determination by any court as to the merits of the claims asserted by Plaintiffs against Defendants or as to whether a class or classes should be certified.
- E. Plaintiffs' Claims.** 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 the Parties or their counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Class Action. This Agreement is a compromise of disputed claims. However, in the event that this Settlement is finally approved by the Court, none of Plaintiffs, Class Members, or Class Counsel will oppose Defendants' efforts to use this Agreement to prove that Plaintiffs and Class Members have resolved and are forever barred from re-litigating the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, excluding payroll taxes, that Defendants are obligated to pay under this Settlement Agreement is Nine Hundred Ninety Seven Thousand Five Hundred Dollars and Zero Cents (\$997,500).
- B. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the Class as defined in this Agreement. Should the Settlement not become final and effective as herein provided, class certification shall immediately be set aside the Parties will be returned to their original respective positions and the Actions will not be deemed consolidated.
- C. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiffs 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 the Actions, or any other judicial, arbitral, administrative, investigative or other forum or proceeding in any venue. If the Settlement does not become effective, Defendants reserve the right to contest any issues relating to the propriety of class certification, liability, and alleged damages.

- D. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiffs shall be appointed as the representatives for the Class.
- E. Appointment of Class Counsel.** Solely for the purposes 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 Gross Settlement Amount as follows:
 - 1. To the Plaintiffs, Kevin McNeil and Guadalupe Romulo.** In addition to their respective Individual Settlement Share, and subject to the Court's approval, Plaintiffs Kevin McNeil and Guadalupe Romulo will each receive up to Ten Thousand Dollars and Zero Cents (\$10,000) as a Class Representative Enhancement Payment. The Settlement Administrator will pay the Class Representative Enhancement Payments out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payments. An IRS Form 1099 will be issued to Plaintiffs with respect to their Class Representative Enhancement Payments. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payments and shall hold harmless Defendants and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payments. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payments, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants 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 Plaintiffs, the difference shall become part of the NSA and will be distributed to Participating Class Members. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payments, Plaintiffs shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiffs seek, request, or demand an increase in the Gross Settlement Amount on that basis. To the extent that the Court does not approve the requested Class Representative Enhancement Payments or approves different Class Representative Enhancement Payments to Plaintiffs from the QSF, the remaining terms of this Agreement shall remain binding on the Parties, as the requested allocations set forth in this Paragraph are not material terms of this Agreement.
 - 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendants agree not to oppose, a total Attorneys' Fee Award not to exceed thirty-five percent (35%) or \$349,125 of the GSA and a Cost Award not to

exceed \$25,000. The Settlement Administrator will pay the Court-approved amounts for the Attorneys' Fee Award and Cost Award out of the Gross Settlement Fund. The Settlement Administrator may purchase an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Attorneys' Fee and Cost Awards. In the event the Court does not approve the entirety of the application for the Attorneys' Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants nor the Settlement Administrator nor any other Party 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 Attorneys' Fee Award and/or Cost Award, the difference shall become part of the NSA and will be distributed to Participating Class Members. The Parties agree that, other than the Court-approved Attorneys' Fee and Cost Award, each of the Parties, including all Class Members, shall bear their own fees and costs, including, but not limited to, those related to the investigation, filing, prosecution, or Settlement of the Class Actions; the negotiation, execution, or implementation of this Agreement; and/or the process of obtaining, administering, or challenging an Preliminary Approval Order and/or Final Approval Order and Judgment. In the event that the Court reduces or does not approve the requested Attorneys' Fee and Cost Awards, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, and the Settlement will remain binding, nor will Plaintiffs or Class Counsel seek, request, or demand an increase in the Gross Settlement Amount on that basis. To the extent that the Court does not approve the requested attorneys' fee or cost allocations or approves different allocations to Class Counsel from the QSF, the remaining terms of this Agreement shall remain binding on the Parties, as the requested allocations set forth in this Paragraph are not material terms of this Agreement.

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 calculate the amount of the Participating Class Members' and Defendants' portion of payroll withholding taxes. The Settlement Administrator will submit Defendants' portion of payroll withholding tax calculation to Defendants 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 \$18,500. Administration Costs 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. Regardless of the amount of Administration Costs approved by the Court, no portion of Administration Costs shall be the responsibility of Defendants, except as described herein. If the actual amount of Administration Costs approved by the Court are more than \$18,500, the total Administration Costs will be paid out of the Qualified Settlement Fund.

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

6. 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 he or she worked for Defendants as a non-exempt employee of Defendants or through a third-party staffing agency during the Class Period, divided by (ii) the total number of weeks worked by all Class Members collectively during the Class Period, which is then multiplied by the Net Settlement Amount. Defendants will include the number of workweeks worked by Class Members in the Class Data which will be used by the Settlement Administrator for purposes of this calculation.

a. Tax Treatment for Individual Settlement Shares. Each Participating Class Member's Individual Settlement Share will be apportioned as follows: (1) 33% shall be treated as back wages, subject to applicable withholdings, for which a Form W-2 will be issued; (2) 33% will be treated as non-wages, including interest and (3) 34% will be treated as penalties, for which an IRS Form 1099 shall be issued to the extent required by the tax code. The Participating Class Members' share of payroll tax withholdings shall be withheld from each Participating Class Member'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.

7. To Eligible Aggrieved Employees. The Settlement Administrator shall pay each Eligible Aggrieved Employee according to their proportional share, which will be based upon the total number of work weeks he or she worked 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 work weeks during the PAGA Period as follows: (i) the number of work weeks he or she worked for Defendants as a non-exempt employee of Defendants or through a third-party staffing agency during the PAGA Period, divided by (ii) the total number of work weeks 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. Defendants will include the

number of workweeks worked by Class Members in the Class Data which will be used by the Settlement Administrator to calculate the number of weeks worked by each Eligible Aggrieved Employee for purposes of this calculation.

- b. Tax Treatment for Individual PAGA Payments.** Each Eligible Aggrieved Employee's Individual PAGA Payment will be apportioned as 100% penalties and shall be subject to all authorized and required withholdings 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 Parties agree that the Settlement Administrator shall be responsible for all distributions, consistent with this Agreement and the allocations awarded by the Court; preparing, printing, and mailing the Class Notice to the Class Members; keeping track of any objections or requests for exclusion from Class Members; performing skip traces and re-mailing Class Notices and Individual Settlement Shares to Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's Individual Settlement Share; calculating Eligible Aggrieved Employees' Individual PAGA Payment; providing weekly status reports to Defendants' Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing Individual Settlement Shares to Participating Class Members; mailing Individual PAGA Payments to Eligible Aggrieved Employees; mailing the portion of the PAGA Payment due to the LWDA to the LWDA; distributing the Attorneys' Fee Award and Cost Award to Class Counsel; printing and providing Class Members, Eligible Aggrieved Employees, Class Counsel, and Plaintiffs with W-2s and 1099 forms as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Superior Court upon the completion of the Settlement; providing any funds remaining in the QSF as a result of uncashed checks to the California State Controller in accordance with California Unclaimed Property Law, including the administration of related tax reimbursements; and for such other tasks as the Parties mutually agree. The Settlement Administrator will perform only one skip trace on returned mail only, and it will send a second notice mailing to a second address for anyone identified through the skip trace. The Parties each represent that they do not have any financial interest in Phoenix Class Action Administration Solutions or otherwise have a relationship with Phoenix Class Action Administration Solutions that could create a conflict of interest.

H. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a.** Plaintiffs will move for an order conditionally certifying the Class

for settlement purposes only, consolidating the Actions through the First Amended Complaint 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. Plaintiffs' counsel will submit a draft of their proposed settlement approval pleadings no later than seven (7) days before their filing with the Court and Defendants shall provide comments and feedback to Plaintiffs' counsel on the draft pleadings within five days (5) days of receipt which Plaintiffs' counsel will consider in good faith in terms of finalizing the pleadings for filing with the Court.

- b. At the Preliminary Approval hearing, Plaintiffs will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval hearing.
- c. In the event that: (i) the Court does not approve the Settlement Agreement as provided herein; or (ii) the Settlement Agreement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions and the Actions will not be deemed consolidated. Provided, however, that the amounts of the Attorneys' Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorneys' Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement shall not operate to terminate or cancel this Settlement Agreement.

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

- a. Within fifteen (15) business days after entry of the Preliminary Approval Order, Defendants 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 and shall not provide Class Data to Class Counsel or any other Party without the express, written consent of Defendants and on the condition that such data be reviewed on a strictly confidential basis.

- c. Within fourteen (14) calendar days after Defendants' deadline to provide the Class Data to the Settlement Administrator, the Settlement Administrator will mail the Class Notice to all identified Class Members via first-class U.S. Mail.
- d. If a Class Notice is returned because of an incorrect address, within ten (10) days from receipt of the returned Class Notice, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the National Change of Address Database and no more than one skip trace to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Class Notice shall be re-mailed to the original address. If the Class Notice is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or forwarded mail, will have an additional ten (10) days from the Response Deadline to postmark an Exclusion Form, or file and serve an objection to the Settlement. The Settlement Administrator shall mark on the envelope whether the Class Notice is a re-mailed notice.
- e. Class Members may dispute the information provided in their Class Notice, but must do so in writing, via first class mail, and it must be postmarked by the Response Deadline. To the extent Class Members dispute the number of weeks to which they have been credited or the amount of their Individual Settlement Share, Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendants' records, Defendants' 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 jointly 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. 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 Defendants' Counsel of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of Exclusion Forms received.
- g. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval hearing. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. Objections to Settlement.

- a. **Class Notice.** The Class Notice 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 on their own behalf 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.
- d. **Fees.** Defendants shall not be responsible for the attorneys' fees,

costs, or expenses incurred by Plaintiffs, Class Counsel, Participating Class Members, or any third party, arising from or related to any objection to the Settlement Agreement or related to any appeals thereof.

4. Request for Exclusion from the Settlement (“Opt-Out”).

- a. Class Notice.** The Class Notice 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, address, and last four digits of the 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 The PAGA Portion Of The Settlement.** Eligible Aggrieved Employees will not be able to exclude themselves from receiving their portion of the PAGA Payment. The Class Notice 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 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 Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.
- e. Defendants’ Option to Terminate.** If five percent (5%) or more

of the Class Members submit Exclusion Forms, Defendants, at its sole option, may withdraw from the Settlement and this Agreement is null and void.

5. No Solicitation of Objection or Requests for Exclusion. Neither the Parties nor their respective counsel or agents 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 Attorneys' Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Participating Class Members and the Eligible Aggrieved Employees. Plaintiffs' counsel will submit a draft of their proposed final settlement approval pleadings no later than seven (7) days before their filing with the Court and Defendants shall provide comments and feedback to Plaintiffs' counsel on the draft pleadings within five (5) days of receipt, for which Plaintiffs' counsel will consider in good faith in terms of finalizing the pleadings for filing with the Court.
- b. If the Court denies Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should Final Approval not 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 that sought by Plaintiffs and Class Counsel for the Class Representative Enhancement, the Attorneys' 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 Actions for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.

7. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Participating Class Members who do not timely object to the Settlement, Plaintiffs, and Class Counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.
8. **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 Defendants can be required to pay under this Settlement for any purpose is the Gross Settlement Amount. The Settlement Administrator shall keep Defendants' Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendants' Counsel and Class Counsel. No person shall have any claim against Defendants, Defendants' Counsel, Plaintiffs, 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 Effective Final Settlement Date, Defendants shall deposit the Gross Settlement Amount of Nine Hundred Ninety Seven Thousand Five Hundred Dollars and Zero Cents (\$997,500) needed to pay the entire GSA and the employer's share of payroll taxes by wiring the funds to the Settlement Administrator. Defendants shall also at this time provide any tax information that the Settlement Administrator may need to calculate each Participating Class Members' Individual Settlement Shares.
 - b. **Disbursement:** No later than fourteen (14) calendar days after the funding of the Settlement, the Settlement Administrator shall calculate and disburse all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorneys' Fee Award, the Cost Award, the Class Representative Enhancements, the PAGA Payment, and the Administration Costs. The Settlement Administrator will forward a check for 75% of the PAGA Payment to the LWDA for settlement of the PAGA claim. Defendants shall have no liability for PAGA claims by or on behalf of Eligible Aggrieved Employees during the PAGA Time Period, which are released under this Agreement.

- c. **QSF:** The Parties agree that the QSF is intended to be a “Qualified Settlement Fund” under Section 468B of the Code and Treasury Regulations § 1.468B-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 (which may be issued as a single check) within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will 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. 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 Unclaimed Property Division 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. The Parties and their Counsel do not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks.

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.

I. Release of Claims. As of the Effective Final Settlement Date, in exchange for the consideration set forth in this Agreement, Plaintiffs and the Participating Class Members shall be deemed to have released the Released Parties from the Released Claims for the Class Period.

J. Limited Civil Code §1542 Waiver for Settlement Class Members. With regard to the Released Claims only, Participating Class Members waive all rights and benefits afforded by section 1542 of the Civil Code of the State of California and do so understanding the significance of that waiver. Section 1542 provides: “A general release does not extend to claims that the creditor or releasing party does

not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

K. PAGA Release. As of the Effective Final Settlement Date and upon Defendants’ fully funding of the Settlement, the Parties agree the settlement and judgment to be entered by the court following approval of this settlement forever bars Plaintiff Romulo and the LWDA, directly or through any other proxy or agent, from any future prosecution of Labor Code section 2698 et seq. claims based on released claims during the PAGA Period against any of the Released Parties.

L. Plaintiffs’ Release of Claims and General Release. Upon the Effective Final Settlement Date, and as a condition of receiving any portion of their Class Representative Enhancement Payment, Plaintiffs shall fully and finally release the Released Parties from any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, including but not limited to claims arising from or related to his or her employment with and/or work for Defendants and his or her compensation while an employee of and/or performing work for Defendants. Plaintiffs’ Released Claims include, but are not limited to, all claims arising from or related to the Actions. Plaintiffs’ Released Claims include all claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged illegal time rounding; missed meal period and rest-period wages; reimbursement for all necessary business expenses; payment for all hours worked, including off-the-clock work; wage statements; deductions; failure to keep accurate records; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys’ fees and costs. Plaintiff’s Released Claims include all claims arising under the Labor Code (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 et seq., 2699 et seq., and 2802); all claims arising under: the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (PAGA); California Business and Professions Code section 17200, et seq.; the California Civil Code, to include sections 3287, 3336 and 3294; 12 CCR § 11040; 8 CCR § 11060; California Code of Civil Procedure § 1021.5; the California common law of contract; the FLSA, 29 U.S.C. § 201, et seq. and all regulations implementing and interpreting the FLSA, federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. (ERISA). Plaintiffs’ Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys’ fees and costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in

Employment Act (ADEA), and the California Fair Employment and Housing Act (FEHA); and the law of contract and tort. This release excludes the release of claims not permitted by law, including claims related to Workers Compensation. Plaintiffs' Released Claims include all claims, whether known or unknown. Even if Plaintiffs, and each of them, discover facts in addition to or different from those that he or she now knows or believes to be true with respect to the subject matter of Plaintiffs' Released Claims, those claims will remain released and forever barred. Thus, Plaintiffs, and each of them, expressly waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

M. Miscellaneous Terms

- 1. No Admission of Liability.** The Parties expressly recognize that the making of this Settlement Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendants. Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the Actions, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement Agreement or any orders or judgments of the Court entered into in connection therewith.
- 2. No Effect on Employee Benefits.** The Class Representative Enhancement Payments, Individual Settlement Shares and/or Individual PAGA Payments paid to Plaintiffs, 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 Plaintiffs, Participating Class Members or Eligible Aggrieved Employees. The Parties agree that any Class Representative Enhancements, Individual Settlement Shares and/or Individual PAGA Payments paid to Plaintiffs, Participating Class Members and/or the Eligible Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiffs', 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 Defendants.

- 3. Publicity.** Class Counsel and Plaintiffs agree to discuss the terms of this Settlement only in declarations submitted to the Court to establish Class Counsel's adequacy to serve as class counsel in the Actions, in declarations submitted to the Court in support of motions for preliminary approval in the Actions, Final Approval, for attorneys' fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. With respect to this Settlement, Plaintiffs and Class Counsel agree not to publicize or contact the media or disclose any information about the Settlement or the negotiation process in any manner, including on social media. With respect to the terms of this Settlement, Class Counsel agrees not to post the terms of the Settlement on their website or initiate contact with the media about its terms or the negotiations. If asked by the media, Class Counsel and Plaintiffs agree to state, "The matter was amicably settled. The Court did not find Defendants liable." Plaintiffs and Class Counsel agree that they will not circumvent this agreement by facilitating or encouraging any actual or putative Settlement Class Member to do what Plaintiffs and Class Counsel have agreed not to do .
- 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 And Cooperation Regarding Settlement Agreement.** Class Counsel and Defendants' Counsel warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
- 6. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are

inserted for convenience of reference only and do not constitute a part of this Agreement.

- 7. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Actions 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 Defendants and 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.** Plaintiffs hereby represent, covenant, and warrant 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 Actions and have arrived at this Agreement through arms-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 Plaintiffs, 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 that Plaintiffs, 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 Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable. If any provision of this Settlement Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of this Settlement Agreement which can be given effect without the invalid provisions or application and, to this end, the provisions of this Settlement Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable party.
- 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 Counterparts.** 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. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 18. Escalator Clause.** The settlement was reached based on a total number of workweeks of approximately 66,600 workweeks, including Class and PAGA claims for employees of Defendants and PAGA claims for individuals who worked for Defendants on assignment for staffing agencies. This number would be expected to increase proportionately to reflect the passage of time between the effective date of the Memorandum of Understanding of the settlement (“MOU”) and the date the Court enters an order approving the settlement. If the workweeks as of the date the Court enters an order preliminarily approving the settlement exceed these figures by more than 10% or 73,200 workweeks, Defendants, at their sole discretion, agree to elect one of two possible options: (a) the first option is to increase the Gross Settlement Amount on a pro rata basis according to the number of additional compensable workweeks over 73,200 workweeks; or (b) the second option is that Defendants may elect to close the PAGA and/or Class Period before the date the workweeks exceed the 73,200 workweek limit. It is in Defendants’ sole discretion whether to choose

option (a) or (b) as set forth herein. In the event of a dispute regarding the application of these options, the Parties will address the issue with Mr. David Rotman. If the Parties are unable to resolve the difference, Defendants may withdraw from the settlement.

19. Enforcement. If, following Final Approval, a Party to this Agreement institutes any legal action, arbitration, or other proceeding against any other Party or Parties to enforce the provisions of this Agreement or to declare rights or obligations under this Agreement, then the prevailing Party shall recover from the unsuccessful Party, reasonable attorneys' fees and costs.

20. Return of Defendants' Confidential Records. Following the Effective Final Settlement Date, Plaintiffs and Class Counsel agree to return or destroy all confidential documents produced by Defendants in the Actions (whether produced in electronic or paper form) within ten (10) days of Defendants' request. Should Class Counsel elect to destroy those documents, upon request by Defendants, Class Counsel shall certify under penalty of perjury that such documents have been destroyed. To the extent any information is provided during the Settlement process concerning Class Members, it shall be designated Confidential under the terms of the Stipulated Protective Order entered in the *McNeil* Action and shall not be used except as provided herein.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 09/07/2021, 2021

KEVIN McNEIL



Dated: _____, 2021

GUADALUPE ROMULO

option (a) or (b) as set forth herein. In the event of a dispute regarding the application of these options, the Parties will address the issue with Mr. David Rotman. If the Parties are unable to resolve the difference, Defendants may withdraw from the settlement.

19. Enforcement. If, following Final Approval, a Party to this Agreement institutes any legal action, arbitration, or other proceeding against any other Party or Parties to enforce the provisions of this Agreement or to declare rights or obligations under this Agreement, then the prevailing Party shall recover from the unsuccessful Party, reasonable attorneys' fees and costs.

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IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: _____, 2021

KEVIN McNEIL

Dated: 09/07/2021, 2021

GUADALUPE ROMULO



Dated: September 3, 2021

**KIK INTERNATIONAL LLC, KIK POOL
ADDITIVES, INC., KIK CUSTOM PRODUCTS INC.**

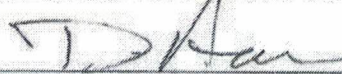


Isabelle Pierre

On behalf of KIK International LLC, KIK Pool
Additives, Inc., KIK Custom Products Inc.

Dated: 9/8, 2021

JUSTICE LAW CORPORATION

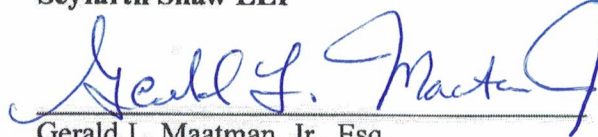


Douglas Han, Esq.

Attorneys for Plaintiffs Kevin McNeil and
Guadalupe Romulo, on behalf of themselves and all
others similarly situated

Dated: 9/8, 2021

Seyfarth Shaw LLP



Gerald L. Maatman, Jr., Esq.

Kerry Friedrichs, Esq.

Shireen Yvette Wetmore, Esq.

Attorneys for KIK International LLC, KIK Pool
Additives, Inc., KIK Custom Products Inc.

EXHIBIT A

NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you, and you are not being sued.
However, your legal rights are affected by whether you act or don't act.*

TO: All non-exempt individuals who performed work for KIK International LLC, KIK Pool Additives, Inc., KIK Custom Products, and KIK Custom Products, Inc. (whether employees of Defendants or a third-party staffing agency) (“Defendants”) within the State of California from May 21, 2015 , through [Insert Date].

The California Superior Court, County of San Bernardino, has granted preliminary approval of a proposed settlement (“Settlement”) of the above-captioned class and PAGA actions, consolidated under Case No. CIVDS 1915438 (referred to in this Notice as the “Class Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class and Representative Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All hourly-paid or non-exempt individuals who worked for Defendants (whether employees of Defendants or a third-party staffing agency) within the State of California from May 21, 2015, through [INSERT DATE].

The purpose of this Notice is to provide a brief description of the claims alleged in the Class Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS AND REPRESENTATIVE ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice?	Page 2
2. What Is This Case About?	Page 2
3. Am I a Class Member?	Page 2
4. How Does This Class Action Settlement Work?	Page 3
5. Who Are the Attorneys Representing the Parties?	Page 3
6. What Are My Options?	Page 4
7. How Do I Opt-Out or Exclude Myself From This Settlement?	Page 4
8. How Do I Object to the Settlement?	Page 4
9. How Does This Settlement Affect My Rights?	Page 5
10. How Much Can I Expect to Receive From This Settlement?	Page 6
11. What is the PAGA Payment, and Am I Eligible for It?	Page 7
12. How Will the Attorneys for the Class and the Class Representative Be Paid?	Page 7
13. Final Approval Hearing and Remote Appearance.....	Page 8

1. Why Have I Received This Notice?

The personnel records of Defendants indicate that you may be a Class Member. The Settlement will resolve all Class Members' Released Claims, as described below, from May 21, 2015, through [Insert Date] (the "Class Period").

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of San Bernardino. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court has determined that there is sufficient evidence to suggest that the proposed settlement may be fair, adequate, and reasonable and that any final determination of those issues will be made at the Final Approval Hearing.

The Court will hold a Final Approval Hearing concerning the proposed settlement on [the date of final approval hearing], 2021 at [time a.m./p.m.], before the Honorable Bryan F. Foster, at the Superior Court for the County of San Bernardino, located at 247 West Third Street, San Bernardino, California 92415, Department S-22.

2. What Is This Case About?

Plaintiffs Kevin McNeil and Guadalupe Romulo commenced separate actions in the San Bernardino County Superior Court, *Kevin McNeil, et al. v. KIK International, LLC, et al.* Case No. CIVDS1915438 *Guadalupe Romulo v. KIK International, LLC, et al.* Case No. CIVDS 2023661, which were consolidated under Case No. CIVDS 1915438.

Plaintiffs Kevin McNeil and Guadalupe Romulo are referred to in this Notice as "Plaintiffs." Plaintiffs' actions against Defendants sought damages, restitution, statutory penalties, civil penalties interest, costs, attorney's fees and other relief based on the following alleged causes of action: 1) failure to pay overtime; 2) failure to provide meal period premiums; 3) failure to provide rest break premiums; 4) failure to pay minimum wages; 5) failure to timely pay final wages to terminated employees; 6) failure to comply with employee wage statement provisions of the California Labor Code; 7) failure to reimburse business expenses; 8) violations of the Labor Code Private Attorneys General Act of 2004; and 9) a violation of the Unfair Competition Law.

The Court has not made any determination as to whether the claims advanced by Plaintiffs have any merit. Nor has it decided whether this case could proceed as a class or representative action.

In other words, the Court has not determined that Defendants violated any laws, nor has it decided in favor of Plaintiffs or Defendants; instead, both sides have agreed to resolve the Class Action with no decision or admission of who is right or wrong. By agreeing to resolve the Class Action, the parties avoid the risks and costs of a trial.

Defendants deny all allegations made by Plaintiffs, individually and on behalf of Class Members, in the Class Action and deny liability for any wrongdoing with respect to the alleged facts or causes of action asserted in the Class Action. The settlement is not an admission by Defendants of any wrongdoing or an indication that any law was violated.

3. *Am I A Class Member?*

You are a Class Member if you are currently or formerly performed hourly-paid, non-exempt work for Defendants (whether as an employee or through a third-party staffing agency) in California at any time from May 21, 2015, through [Insert Date] (the “Class Period”). If you qualify as a Class Member, you could receive money from the Class Action Settlement.

If you qualify as an Eligible Aggrieved Employee, meaning you performed hourly-paid or non-exempt work for Defendants (whether as an employee or through a third-party staffing agency) at any time from August 12, 2019, through [INSERT DATE], you will receive money from the Settlement of the PAGA claim.

4. *How Does The Class Action Settlement Work?*

In their Class Action, Plaintiffs sued on behalf of themselves and all other hourly-paid or non-exempt individuals who worked for Defendants (whether employees of Defendants or a third-party staffing agency) within the State of California at any time during the Class Period. Plaintiffs together with these individuals comprise a “Class” and each are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiffs and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Class. The Court file has the Settlement documents, which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is below, and they will provide you with a copy free of charge.

5. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiffs and the Class	Attorneys for Defendants
JUSTICE LAW CORPORATION Douglas Han Shunt Tatavos-Gharajeh Phillip Song 751 N. Fair Oaks Avenue, Suite 101 Pasadena, California 91103 Telephone: (818) 230-7502	SEYFARTH SHAW LLP Gerald L. Maatman, Jr. Kerry Friedrichs Shireen Yvette Wetmore 560 Mission Street, 31st Floor San Francisco, California 94105

The Court has decided that Justice Law Corporation is qualified to represent the Class Members simultaneously for the purposes of this Settlement.

Class Counsel is working on your behalf. If you want your own attorney, you may hire one at your own cost.

6. *What Are My Options?*

The purpose of this Notice is to inform you of the proposed Settlement and your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: *Defendants will not retaliate against you in any way for either participating or not participating in this Settlement.*

• **DO NOTHING:** **You do not have to do anything in order to receive payment under this Settlement.**

If you do nothing and the Court grants final approval of the Settlement, you will become part of the Class Action Settlement and will receive an Individual Settlement Payment (explained below) based on the total number of workweeks you worked for Defendants in California during the Class Period. In turn, you will release all of the Released Claims, as defined in Section No. 9 below, and you will give up your right to pursue the Released Claims, as defined in Section No. 9 below.

• **OPT-OUT:** If you do not want to participate as a Class Member **and do not want to receive a class action settlement payment**, you may “opt-out,” which means you will not be part of this Class Action Settlement. If the Court grants final approval of the Settlement, you will **not** receive an Individual Settlement Share payment, and you will not give up the right to sue the Released Parties, including Defendants, for any the Released Claims as defined in Section No. 9 below. Please note, if you are eligible to receive an Individual PAGA Payment (explained below) and you do “opt-out” of the Class Action Settlement you will still receive an Individual PAGA Payment. Your right to pursue a claim pursuant to PAGA will be extinguished regardless of whether you opt-out.

• **OBJECT:** You can ask the Court to deny approval of this Settlement by filing an objection. You cannot ask the Court to order a larger or different settlement; the Court can only approve or deny the settlement. In order to object, you must remain in the Settlement and not opt-out. You cannot both object to the Settlement and opt out of the case.

The procedures for opting out and objecting are set forth below in the sections entitled “How Do I Opt-Out or Exclude Myself From This Settlement” and “How Do I Object To The Settlement?”

7. *How Do I Opt Out Or Exclude Myself From This Class Action Settlement?*

If you do not wish to participate in the Class Action Settlement, **and do not want to receive an Individual Settlement Share payment**, you can exclude yourself from the Settlement (*i.e.*, “opt-out”) by sending an opt-out form by the date and to the address stated below. A form (“ELECTION NOT TO PARTICIPATE IN (‘OPT-OUT’ FROM) CLASS ACTION SETTLEMENT”) (the “Exclusion Form”) has been provided to you along with this Notice, which can be used for this purpose; alternatively, you can submit your own written document that includes all of the

same information. If you opt-out of the Settlement, you will not be bound by the Class Action Settlement and therefore you will not release the claims set forth in Section No. 9. The Exclusion Form must be complete, signed, dated, and mailed by First-Class U.S. Mail, **postmarked no later than _____, 2021 to: Kevin McNeil, et al. v. KIK International, LLC, C/O Phoenix Class Action Administration Solutions, [INSERT ADDRESS].**

If you received a re-mailed Class Notice, whether, by skip-trace or forwarded mail, you will have an additional ten (10) days to postmark an Exclusion Form, until _____, 2021, as stamped on the envelope you received with this Class Notice. The envelope that you received with this Class Notice should indicate whether the Class Notice has been forwarded or re-mailed.

We encourage you to keep copies of all documents, including the envelope, in the event your compliance with the deadline is challenged.

The Court will exclude from the Class Action Settlement any Class Member who submits a complete and timely Exclusion Form as described in the paragraph above. Exclusion Forms that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Any Class Member who fails to submit a valid and timely Exclusion Form on or before the above-specified deadline shall be bound by all terms of the Settlement, release, and any Judgment entered in the Action if the Settlement receives final approval from the Court.

8. *How Do I Object To The Settlement?*

If you are a Class Member who does not opt-out of the Settlement, you may object to the Settlement, personally or through an attorney.

You may mail a written objection to the Settlement Administrator at [address] by [the Response Deadline]. If you received a re-mailed Class Notice, whether, by skip-trace or forwarded mail, you will have an additional ten (10) days to postmark a written objection, until _____, 2021. If you choose to object in writing your objection must: (a) state the objecting person's full name, address, and telephone number; (b) include 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 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.

Class Members may appear at the Final Approval Hearing, either on their own behalf or through the objector's own counsel even if they did not submit a written objection. Class Members' timely and valid objections to the Settlement will be considered even if the objector does not appear at the Final Approval Hearing.

If the Court approves the settlement over objections, objecting Class Members will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

9. *How Does This Class Action Settlement Affect My Rights? What are the Released Claims?*

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt-out of the Settlement will be bound by the Court's Final Judgment and will fully release and discharge Defendants, and all of Defendants' present and former subsidiaries, parents, affiliates, and joint

ventures, and all of Defendants' shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them ("Released Parties"). The Released Claims are as follows:

A. Released Claims.

Upon final approval of the Settlement Agreement, except as to the right to enforce the terms and conditions of the Settlement Agreement, all Participating Class Members shall be deemed to have fully released the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, direct or indirect, contingent or accrued, that were brought or that reasonably could have been brought based on the facts alleged in the operative complaint during the Class Period, including the allegations in Plaintiff Romulo's PAGA Notice dated August 12, 2020, including, but not limited to, any claims under state law for alleged failure to pay wages, including failure to pay overtime wages, meal or rest break claims, claims for meal or rest break penalties, claims for unreimbursed business expenses, claims for liquidated damages, claims for unlawful deductions from wages, claims for conversion of wages, claims for record-keeping violations, wage-statement penalties, and "waiting time" penalties, and claims under the applicable Wage Order and Labor Code sections, including, without limitation, sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, 203, 204, 205.5, 218, 218.5, 221, 226, 226(a), 226(g), 226.3, 226.7, 510, 512, 512(a), 558, 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, as well as claims under Business and Professions Code section 17200 et seq. based on released claims set forth above. The Parties agree the Settlement and Judgment to be entered by the court following approval of this Settlement forever bars Plaintiff Romulo and the LWDA, directly or through any other proxy or agent, from any future prosecution of Labor Code section 2698 et seq. claims based on released claims during the PAGA Period against any of the Released Parties.

The Released Parties include Defendants, and all of Defendants' present and former subsidiaries, parents, affiliates, and joint ventures, and all of Defendants' shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them, KIK Custom Products, Inc, and Aerosols Danville Inc., and any individual or entity which could be jointly liable with Defendants for any of the Released Claims, including staffing agencies who hired, provided or assigned Class Members to perform work at Defendants within the Class Period ("Released Staffing Agencies"). Released Staffing Agencies includes, without limitation, Imperial Staffing & Associates, United Employment Solutions Inc., PriorityWorkforce, Inc., EmployBridge, LLC, Kamran Staffing, Inc., MLG Staffing Experts, LLC, Resource Employment Solutions, TSA Staffing (d/b/a Baron HR), and Adecco.

With regard to the Released Claims only, Participating Class Members waive all rights and benefits afforded by section 1542 of the Civil Code of the State of California and do so understanding the significance of that waiver. Section 1542 provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

10. How Much Can I Expect to Receive From This Settlement?

Defendants will pay, subject to Court approval, a Maximum Settlement Amount of \$997,500 to cover: (1) the Individual Settlement Payments to all Settlement Class Members; (2) the Class Representative Enhancement Payment to Plaintiffs in an amount up to \$10,000 each; (3) the Administration Costs to the Settlement

Administrator estimated to be an amount up to \$18,500; (4) the Class Counsel Award for attorneys' fees of \$349,125.00 and costs of up to \$25,000 supported by a declaration; (5) a PAGA Payment for settlement of claims under PAGA for \$50,000, with 75% of that portion (\$37,500) to be paid to the Labor Workforce and Development Agency ("LWDA"), and the remaining 25% to be distributed to Eligible Aggrieved Employees as Individual PAGA Payments.

After deducting the Enhancement Payment to Plaintiffs, Settlement Administration Costs, Class Counsel Award and PAGA Payment the remaining sum, estimated at \$_____ is the "Net Settlement Fund", which shall be distributed to all Participating Class Members. The Settlement Administrator will calculate the Individual Settlement Payments for Participating Class Members. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked in a non-exempt capacity based on the Class data provided by Defendants, divided by (ii) the total number of weeks worked by all Class Members based on the same Class data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Participating Class Member's Individual Settlement Share ties directly to the number of weeks that he or she worked.

Although your exact share of the Net Settlement Amount cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$_____, less taxes. This is based on Defendants' records, which show you worked _____ workweeks during the Class Period.

If you believe the number of eligible workweeks records are incorrect, you may provide documentation and/or an explanation to show contrary information to the Settlement Administrator at [address] on or before [the Response Deadline]. Any evidence submitted will be carefully weighed, and the Class Counsel and Defendants' Counsel will make a final determination.

Thirty-three percent (33%) of your Individual Settlement Share shall be treated as back wages, subject to applicable withholdings, for which a Form W-2 will be issued; 33% will be treated as non-wages, including interest and (3) 34% will be treated as penalties, for which an IRS Form 1099 shall be issued to the extent required by the tax code.

Defendants are expected to fund the Gross Settlement Amount within fourteen (14) days after the Settlement becomes final. Your Individual Settlement share payment will be distributed approximately fourteen (14) days after the funding of the entire Gross Settlement Amount.

It is strongly recommended that upon receipt of your Individual Settlement Share check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Share to the California State Controller in accordance with California Unclaimed Property Law.

11. What is the PAGA Payment, and Am I Eligible for it?

Under the terms of the Settlement, \$50,000 has been set aside as the PAGA Payment. This portion is the total amount of civil penalties collected on behalf of the State of California. Of that sum, \$37,500 will be sent to the

State of California. Aggrieved employees will share \$12,500 based on the number of work weeks they worked during the PAGA Period.

You are an “aggrieved employee” (“Eligible Aggrieved Employee”) eligible to share the PAGA payment under the settlement if you are a current or former hourly-paid or non-exempt individual who worked for Defendants (whether as an employee of Defendants or a third-party staffing agency) within the State of California between August 12, 2019, and [INSERT DATE](“PAGA Period”).

The individual share will be calculated by determining the total number of work weeks the Eligible Aggrieved Employees worked during the PAGA Period (i.e., the sum of all work weeks for each eligible aggrieved employee), and dividing that number into the \$12,500 amount allocated to Eligible Aggrieved Employees to determine the monetary value assigned to each work week. That number will then be multiplied by the individual Eligible Aggrieved Employee’s total number of work weeks worked during the PAGA Period to determine that individual’s Individual PAGA Payment. Individual PAGA Payments shall be designated as 100% penalties, for which an IRS Form 1099 will issue.

Based on your total number of work weeks during the PAGA Time Period, your Individual PAGA Payment is estimated to be \$ [REDACTED]. You are responsible for paying any federal, state, or local taxes owed as a result of this Individual PAGA Payment.

Because these penalties can only be sought by the State of California, you cannot exclude yourself from the PAGA portion of the settlement if the Court gives final approval. Even if you exclude yourself from the class action portion of the settlement, you will still be paid your portion of the civil penalties described above and will be bound by the PAGA Released Claims provision.

If you are not an Eligible Aggrieved Employee, this Section does not apply to you.

12. How Will the Attorneys for the Class and the Class Representative Be Paid?

Class Counsel will be paid from the Gross Settlement Amount. Subject to Court approval, Class Counsel shall be paid an amount not to exceed 35% of the Gross Settlement Amount (or \$349,125) for attorneys’ fees, and up to \$25,000 for litigation costs.

Defendants are responsible for their own attorneys’ fees and costs.

As set forth in Section No. 10 above, the Plaintiffs will also be paid a Class Representative Enhancement Payment, subject to Court approval.

13. How Do I Get More Information?

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS OR WOULD LIKE ELECTRONIC COPIES OF DOCUMENTS RELATING TO THE CLASS ACTION OR THE SETTLEMENT, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll-free. Please refer to the “KIK International, LLC class action settlement.”

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court at

247 West Third Street, San Bernardino, California 92415, between 8:30 a.m. and 4:00 p.m.

You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

EXHIBIT B

ELECTION NOT TO PARTICIPATE IN (“OPT OUT” FROM) CLASS ACTION SETTLEMENT

Superior Court of the State of California, County of San Bernardino

Kevin McNeil, et al. v. KIK International, LLC, et al.

Case No. CIVDS1915438

ONLY SIGN AND MAIL THIS DOCUMENT IF YOU WISH TO EXCLUDE YOURSELF FROM THE CLASS ACTION SETTLEMENT.

IF YOU EXCLUDE YOURSELF, YOU WILL NOT RECEIVE A PAYMENT FROM THE CLASS ACTION SETTLEMENT.

This document must be postmarked no later than _____, 2021 and sent via U.S. Mail to:

KIK International, LLC, et al. Settlement Administrator, C/O Phoenix Class Action Administration
Solutions

[Insert Administrator Address]

[City, State ZIP]

By signing and mailing this form to exclude yourself from the class action settlement, you are agreeing to and confirming the following:

It is my decision **not** to participate in the class action settlement in *McNeil et al. v. KIK International, LLC, et al.* . I understand that by excluding myself I will not receive a settlement payment from the class action settlement. However, if I qualify for an “Individual PAGA Payment,” I will receive that payment regardless of whether I exclude myself from the class action settlement.

I confirm that I currently perform and/or performed hourly-paid, non-exempt work in California for KIK International LLC, KIK Pool Additives, Inc., KIK Custom Products, or KIK Custom Products, Inc. (either as an employee or on assignment through a third-party staffing agency) during some part of the period of May 21, 2015, and [INSERT DATE]. I confirm that I have received and reviewed the Notice of Class Action Settlement in this action. I have decided to be excluded from the class, and I have decided **not** to participate in the proposed settlement.

Dated: _____

(Signature)

(Last Four Digits of Social Security Number)

(Type or print name and former name(s))

(Telephone Number)

(Address)

(Address continued)

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is aokada@justicelawcorp.com

On October 13, 2021, I served the foregoing document described as

JOINT STIPULATION AND SETTLEMENT AGREEMENT

for the following case: **McNeil v. KIK International, LLC, et al.**
LWDA/Court Case No.: **LWDA Case No.: CM- 802260-20**
Court Case No.: CIVDS1915438
San Bernardino County Superior Court

on interested parties in this action by electronically submitting as follows:

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

[X] BY ELECTRONIC SUBMISSION

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.

[X] STATE

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

Executed on October 13, 2021, at Pasadena, California.



Anna Okada