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Attorneys for Plaintiffs and the Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

MAYRA OSORIO, on behalf of herself and all others similarly situated; Plaintiff, v. ISC ENGINEERING, LLC, a Delaware Limited Liability Company; MUSTARD SEED TECHNOLOGIES, INC., a California Company, and DOES 1 through 50 inclusive, Defendants.	CASE NO.: 30-2021-01188961-CU-OE-CXC *Assigned to Hon. Peter Wilson* **DECLARATION OF MEHRDAD BOKHOUR IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** **<u>HEARING INFO</u>** Date: August 24, 2023 Time: 2:00 p.m. Dept.: CX101

DECLARATION OF MEHRDAD BOKHOUR

I, Mehrdad Bokhour, say and declare, as follows:

1. I am an attorney at law, duly licensed to practice before all the Courts of the State of California and I am the principal of Bokhour Law Group, P.C. and I serve as attorney of record for Plaintiffs Mayra Osorio and Troy Blanton ("Plaintiffs") and the Putative Class. I am familiar with the file in this matter and if called as a witness I could and would competently testify to the following facts of my own personal knowledge.

2. I submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

3. I have been a member, in good standing, of the State Bar of California since 2012. I am admitted to practice before all California state courts, and the United States District Court of California for each district and have litigated class action and Private Attorneys General Act ("PAGA') representative action cases in various courts in California.

4. I graduated from the University of California, Berkeley in 2007 with a Bachelor of Arts in Political Science. I received my Juris Doctorate from Loyola Law School, Los Angeles in 2012.

5. I began my legal career focusing on plaintiff-side employment litigation with an emphasis on disability discrimination and harassment matters under the Fair Employment and Housing Act. After practicing for several years practicing in an amorphous range of civil litigation on behalf of both plaintiffs and defendants, I opened my law firm in 2014 with an exclusive concentration in representation of employees against employers to recover unpaid wages and vindicate harassment, discrimination, and retaliation claims in various contexts. The vast majority of my cases have been litigated as class actions, representative PAGA actions, or a combination of the two.

6. I am also an active member of the California Employment Lawyers' Association ("CELA") and have attended various Continuing Legal Education courses pertaining to advocacy on behalf of employees.

7. My firm has the experience, resources, and means necessary to allow us to provide adequate representation as Class Counsel to all aggrieved employees in this litigation. Currently, my firm is acting as lead counsel in at least twenty-five wage-and-hour class actions and co-counsel in at least twenty other wage-and-hour class action.

8. I have been selected as a "Super Lawyer Rising Star" in Employment Litigation during the years 2017, 2018, 2019, 2020, and 2021, and in 2022, I was selected as a "Super Lawyer", a distinction that is reserved for the top 2.5% of lawyers in the practice area.

9. I have also been recognized by TopVerdicts.com for achieving several of the top wage and hour class and PAGA action settlements in California.

10. Through a contested but productive mediation, Plaintiffs and Defendants ISC Engineering, LLC and Mustard Seed Technologies, Inc. ("Defendant") (collectively, the "Parties") entered into a Class Action and PAGA Settlement Agreement resolving the wage and hour claims of the Class ("Agreement"), which is attached hereto as **Exhibit "A"**. The Settlement Agreement seeks to fully release and discharge it from the claims brought against it in this matter in exchange for Defendant's agreement to pay $850,000 on a non-reversionary, non-claim made basis (each Class Member will receive his/her share of the Net Settlement Amount without having to submit a claim form or taking action, except for those who opt-out). Plaintiffs seek to represent a Class of all persons who were employed by Defendants in California in non-exempt, hourly paid positions at any time during the Class Period March 15, 2017 through May 31, 2023. ("Class Period"). Likewise, the Aggrieved Employees include all persons who were employed by Defendants in California in non-exempt, hourly paid positions at any time during September 25, 2019 through May 31, 2023 ("Aggrieved Employees").

11. Under the terms of the Settlement Agreement, Defendants will not oppose application for a reasonable award of attorneys' fees not to exceed one third of the Gross Settlement Amount by Mehrdad Bokhour of Bokhour Law Group, P.C. and Jake D. Finkel of The Finkel Firm ("Class Counsel"), Class Counsel's litigation costs not to exceed $20,000, Settlement Administration Costs not to exceed $10,000, PAGA penalties of $25,000 (of which $18,750 or 75% will be paid to the Labor Workforce Development Agency (LWDA) and the remaining $6,250 or 25% will be paid to the Settlement Class Members), and a Service Payment not to exceed $7,500 to each named Plaintiff

(S.A. ¶ 47(a)-(h)), as follows:

	Total Amount
Gross Settlement Amount	$850,000.00
Attorneys' Fees (not to exceed 1/3 of GSA)	$283,333.33
Litigation Costs (not to exceed)	$20,000.00
Administrator Costs (not to exceed)	$10,000.00
PAGA payment to LWDA (75% of $10k award)	$18,750.00
Plaintiffs' Service Payment	$15,000.00
Net Settlement Amount	**$502,916.67**

12. The Class includes approximately 359 non-exempt employees who worked approximately 32,402 workweeks in California during the Class Period. Plaintiffs contend that, regardless of their roles, all non-exempt employees worked under the same workplace policies and scheduling practices, and therefore, the Individual Settlement Payments, as calculated pursuant to paragraph 47(d) of the Settlement Agreement, will be paid on a pro-rata basis based on the number of compensable workweeks during the Class Period. Assuming a total class size of 359 Settlement Class Members, the average payment to each Settlement Class Member will be approximately $1,428 and the highest payment estimated to be approximately $4,440. Of course, those with more compensable workweeks stand to recover proportionally more from the Settlement.

13. The Settlement is non-reversionary, and Class Members will not be required to submit claim forms to receive payment, but each Class Member will be mailed the Class Notice containing detailed information about his/her share, the opportunity to dispute the number of Workweeks worked by the Class Member, and the opportunity to opt-out or object to the Settlement. All Class Members who do not affirmatively opt out will receive a settlement check upon the Court granting final approval of the Settlement. All Class Members who do not affirmatively opt-out will receive a settlement check upon the Court granting final approval.

14. My office has performed considerable work and diligently investigated and prosecuted this case to a successful conclusion. Our work has resulted in the creation of a significant Settlement Amount for the benefit of the Class. We effectively communicated and exchanged information informally with Defense counsel, which enabled the Parties to successfully settle the case at mediation before Hon. Margaret Nagle (Ret.), Esq. Because of the risks involved in litigating

the case and the contested legal and factual issues, Plaintiffs' counsel believes this Settlement to be fair, reasonable, and adequate.

15. Because the Settlement is fair and reasonable and was negotiated at arm's length by experienced counsel and an experienced mediator following a sufficient exchange of information and documents in advance of mediation, it should be preliminarily approved. Plaintiffs respectfully requests that the Court enter an order preliminarily approving the Settlement, conditionally certifying the Class under Code of Civil Procedure § 382 for settlement purposes, approving the proposed Notice Packet, appointing Plaintiffs' counsel as Class Counsel, appointing Simpluris, Inc. as the Settlement Administrator, and scheduling a hearing for the final approval of the Settlement.

16. During the Class Period, Plaintiffs and the putative class members consisted of manufacturing employees working at Defendants' facilities located at Orange, California. Plaintiffs and other non-exempt employees were responsible for certain aspects of Defendants' business operations. However, in these roles, the Plaintiffs and the putative class members were allegedly subjected to numerous violations of the Labor Code and Wage Orders.

17. On or about March 15, 2021, Plaintiff Mayra Osorio filed a Class Action Complaint in the Court against Defendants, including causes of action asserting: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) meal period violations, (4) rest period violations, (5) wage statement violations, (6) waiting time penalties, (7) unfair competition, and (8) PAGA penalties. On December 21, 2022, Plaintiffs filed the First Amended Complaint that added Troy Blanton as a named class representative and a failure to pay all sick time wages claim.

18. Shortly thereafter, Defendants retained counsel, denied the allegations, and vowed to vigorously defend against it. However, before engaging in protracted litigation, the Parties agreed to explore resolution through private mediation. In preparation for mediation, the Parties agreed to an informal discovery process where information was exchanged relating to the applicable policies and procedures, payroll and time keeping records, size of the Class, compensation policies and practices, and potential value of the case. The sampling enabled Plaintiffs' counsel and their expert to fully evaluate the potential claims and extrapolate the data to the entire Class. During this process, Plaintiffs and his counsel analyzed, researched, and investigated the potential claims of all similarly

situated employees.

19. On September 26, 2022, and February 17, 2023, the parties participated in mediation before Hon. Margaret Nagle (Ret.), a highly experienced class and PAGA/representative action mediator. After two full-days of mediation and the issuance of a mediator's proposal, the parties reached a settlement and then memorialized the terms of the settlement in a long-form Settlement Agreement.

20. Plaintiffs allege numerous wage and hour violations on behalf of the non-exempt employees who worked for Defendants during the Class Period.

21. First, Plaintiffs claim that employees were not paid for all hours worked or when they were subject to the control of Defendants due to Defendants' allegedly unlawful rounding policy and practice, which rounded all time entries to the nearest 15-minute interval.

22. Further, Plaintiffs claim they and other non-exempt employees were not properly paid at the correct overtime and sick pay rate for all hours worked in excess of eight hours per workday or 40 hours per workweek due to Defendants' alleged failure to properly calculate the "regular rate of pay".

23. Moreover, Plaintiffs claim Defendants maintained deficient meal and rest period policies and practices that allegedly failed to allow and permit Class Members to take timely and code-compliant meal and rest periods or pay compensation in lieu thereof at the "regular rate of pay." Plaintiffs further contend that Defendants failed to timely pay non-exempt employees their final wages upon separation from employment.

24. Finally, Plaintiffs allege that Defendants failed to provide accurate itemized wage statements and additionally seek civil penalties under the PAGA claims arising out of the alleged Labor Code violations set forth above.

25. Defendants contested and denied each of Plaintiffs' material allegations on the merits and as to the propriety of the class and PAGA action.

26. First, Defendants argued that its pay practices were neutral, and that any underpayment as a result of rounding was *de minimis*. Defendants further argued that its meal and rest period policies and practices were compliant with California law, and that non-exempt employees

were at all times allowed and permitted to take their meal and rest periods.

27. Defendants further contended that Plaintiffs' waiting time penalty and wage statement claims based on the underlying meal and rest period violations were unfounded as these violations did not entitle employees to pursue the derivative penalties under Labor Code sections 203 and 226.

28. Defendants also contended that Plaintiffs' claims were not suitable for class certification because individualized inquiries would be required to establish, amongst other things, which employees, if any, took meal periods of less than 30-minutes and why a particular employee received a meal period of less than 30-minutes on a particular shift.

29. Based upon detailed data obtained through informal discovery and information exchanges, and factoring in claim certification probabilities and liability probabilities, Class Counsel formulated detailed damages models to evaluate the claims in preparation for mediation and in order to reach a realistic and reasonable resolution as further detailed below.

Failure to Pay Wages Due to Rounding

30. First, Plaintiffs alleged that Defendants' allegedly non-neutral rounding practice/policy results in a systemic failure to pay all wages due. Based on Plaintiffs' analysis of the payroll records and data produced, Plaintiffs conclude that the rounding policy resulted in several putative class members being underpaid, for a net average of 1.5 minutes of unpaid time per shift for a total of approximately 1,145 hours of unpaid time. This results in a total of $61,616.96 in unpaid wage damages (1,145 hours x $24.55 (OT hourly rate) = $28,109.

31. However, this maximum figure ignores Defendants' defenses to Plaintiffs' rounding claim. In this regard, Defendants argued that this constituted precisely the type of individualized inquiry that is not appropriate for certification because the court would have to conduct a person-by-person analysis to determine if the Class Member was correctly paid.

32. Based on this argument, and others, Plaintiffs assigned a 25% risk that the Court would deny class certification on Plaintiffs' rounding claim. Additionally, Defendants alleged that, if certification were granted, it would defeat the rounding claim on the merits at summary judgment or at trial because its policies and/or practices were, always, facially neutral in compliance with *See's I*.

33. Therefore, Plaintiffs assigned an additional 35% discount for risks at the merits stage, resulting in a total risk-adjusted value for the rounding claims of $13,703.

Failure to Pay for Overtime and Sick Time Wages at the Correct Rate

34. Further, Plaintiffs alleged that Defendants failed to account for non-discretionary bonuses and other incentive pay when calculating the "regular rate of pay" when paying overtime and sick time wages. However, Defendants argued that it correctly calculated the "regular rate of pay," and that any underpayment was in good faith and *de minimums,* if any.

35. Indeed, Defendants' sampling of pay records revealed that any such underpayment of minimum and overtime wages was minimal.

36. Due to this and in light of Defendants' other defenses, Plaintiffs completely discounted this claim keeping in mind that the true significant value of these unpaid wages claims lies in the derivative claims for waiting time penalties under Labor Code § 203 and wage statement violations under Labor Code § 226 as discussed below.

Waiting Time Penalties

37. With respect to Plaintiffs' waiting time penalty claim, there were approximately 198 putative class members that separated from their employment with Defendants during the relevant statutory period. As such, the maximum potential penalty under Labor Code § 201 – 203 is $365,378 (93 employees x 8.0 hours per day x average rate of $16.37 x 30 days).

38. In response, Defendants argued that it would defeat the waiting time penalty claim as to Plaintiffs' rounding claim because any failure to pay wages was not willful and occurred prior to the waiting time penalty liability period. Further, Defendants contended that it complied with the law because it had an alleged facially neutral rounding policy/practice.

39. Defendants further argued that it would defeat liability as to waiting time penalties arising out of Plaintiffs' meal and rest period claims.

40. Therefore, Plaintiffs applied a 40% risk of defeat at the class certification stage, and an additional 35% risk of defeat at the summary judgment stage or on the merits, resulting in the risk-adjusted value of $142,497 for Plaintiffs' waiting time penalty claim.

Failure to Provide Meal and Rest Periods

41. With respect to Plaintiffs' meal and rest period violation claims, the putative class members worked 110,966 shifts during the Class Period. Based on an alleged 50% violation rate for the meal period claims and an alleged 33% violation rate for the rest period claims, as extrapolated from the pre-mediation sampling of Defendants' payroll and timekeeping records, the maximum potential damages totalled $908,256 for the meal period claim and $599,449 for the rest period claim, respectively.

42. However, Defendants vehemently opposed these claims based on the following arguments: (1) Plaintiffs' meal and rest period claims fall directly into the category of "individualized issues," (2) that its written policies and practices were compliant with California law, and (3) putative class members had ample latitude regarding whether, when, and how they took their meal and rest breaks. Therefore, Defendants asserted that a factfinder would have to determine for each Class Member whether a break was missed and why, and why a break was noncompliant/nonexistent, because if it was by the employee's choice, no liability attaches to the Defendant. Based on these arguments, Plaintiffs believe there is a 35% risk that the Court would deny class certification on these meal periods and rest break claims.

43. Defendants further argued that, even if certification were granted, it would defeat these claims on the merits because Defendants utilized compliant meal and rest period policies and practices and it would present sufficient evidence that the putative class members were properly provided with all breaks or paid compensation in lieu thereof. Moreover, Defendants argued that Plaintiffs would be unable to present sufficient evidence establishing the number of meal and rest period violations to allow a factfinder to appropriately determine damages. Plaintiffs acknowledged the risks and incorporated a further 25% reduction. Plaintiffs therefore calculates the risk-adjusted value of the meal period claims to be $438,481 and rest period claims to be $292,231.

Failure to Provide Accurate Itemized Wage Statements

44. Plaintiffs estimate that the maximum potential penalties for the derivative wage statement claim as $291,900 (based on approximately 5,838 allegedly violative wage statements issued during the Class Period). In calculating Defendants' exposure, Plaintiffs gave Defendants

the benefit of assuming Plaintiffs could only obtain the "initial" wage statement penalty of $50 per violation, for a total of $330,700 in potential wage statement penalties. *Id.*, Lab. Code § 226(e) (providing for $50 penalty for "initial" violations); *Amaral v. Cintas Corp*. No. 2, 163 Cal.App.4th 1157, 1207 (2008) (finding that "initial" violation rate applies until the employer has been notified that it is violating a Labor Code provision.)

45. In response to Plaintiffs' wage statement violation claim, Defendants contended that any alleged violations were not "knowing and intentional," that Plaintiffs could not establish that he or anyone else suffered "injury" because of any alleged wage statement violations. Further, Defendants relied on its defenses to Plaintiffs' underlying claims both on the merits and to class certification.

46. As such, Plaintiffs discounted the calculated maximum exposure by 30% for risk of non-certification, and by an additional 20% for risk of being unsuccessful on the merits, to arrive at an estimated total of $163,464.

47. Plaintiffs also sought PAGA penalties for each violation for which they are available and alleged that these penalties can be "stacked." *See Gonzalez v. Corecivic of Tennessee, LLC*, No. 1:16-cv-01891-DAD-JLT, 2018 WL 4388425 (E.D. Cal. Sept. 12, 2018) ("'stacking' PAGA penalties is not inappropriate under California law"). Assuming that a PAGA penalty is available in the default amount of $100 per pay period and is not reduced, the maximum potential PAGA penalty would be $583,800 for the pay periods in the PAGA period. *See* Cal. Lab. Code. § 2699(f)(2).

48. However, this maximum figure fails to account for numerous unclear issues relating to PAGA claims. First, it is unclear whether stacking is permissible and/or whether the court would award penalties in such a way (especially for purely derivative penalties). Second, the maximum figure fails to acknowledge that courts have wide latitude to reduce the amount of civil penalties "based on the facts and circumstances of a particular case" and if "to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Labor Code § 2699(h); *Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016) (noting in the context of approving settlement that a reduction in PAGA penalties would be "appropriate" based on the

"unjust, arbitrary and oppressive, or confiscatory" factors because (i) the employer did not "deliberately evad[e] a clear obligation to provide legally required pay and benefits to employees," (ii) the employer did not "negligently fail to learn about its obligations under the wage and hour laws," and (iii) the employer's obligations were "genuinely unclear" because "there is no straight answer to the question.").

49. Here, there were approximately 5,838 pay periods within the applicable PAGA period. Assuming a $100.00 initial violation for each pay period results in a total maximum value for this claim of $583,800. However, considering Defendants' defenses to the PAGA claim, Plaintiffs ascribed the very real risk of a court reducing the amount of awarded PAGA penalties, especially considering that the PAGA penalties themselves rival the amount of wages actually owed. For that reason, Plaintiffs followed *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 529 and ascribed a settlement value of $5.00 per pay period for a total realistic exposure of $29,190. For these reasons, the p arties submit that the agreed-upon PAGA allocation of $25,000 is fair and reasonable.

50. In sum when factoring in defenses and risks of ongoing litigation, Plaintiffs estimate the risk-adjusted class recovery as follows:

- Rounding Claim: $13,703
- Regular Rate Claim: $0
- Labor Code §§ 201 – 203 Claims: $142,497
- Meal Period Claims: $438,481
- Rest Break Claims: $292,231
- Wage Statement Claims: $163,464
- PAGA Penalties $29,190
- **Total Risk-Adjusted Penalties and Damages**: **$1,079,566**

Given the realistic value of Plaintiffs' claims, the $850,000 Settlement Amount is an excellent result for the Class considering that the Settlement Amount totals approximately 78% of Plaintiffs' risk-adjusted value of the case. Preliminary approval is appropriate since the Settlement will provide significant monetary relief to the Class.

51. The Settlement was the product of extensive arm's length negotiations between counsel and was facilitated by an experienced wage-and-hour class action mediator. Though cordial and professional, the Settlement negotiations were adversarial and non-collusive in nature. The Settlement reached is the product of substantial effort by the Parties and their counsel. Although Plaintiffs and Class Counsel believed that there was a possibility of certifying the claims, they recognized the potential risk, expense, and complexity posed by litigation, such as unfavorable decisions on class certification, summary judgment, at trial and/or on the damages awarded, and/or on an appeal that can take several more years to litigate. In addition, if Defendants prevailed on any of its defenses, the Class Members may not have received any substantial monetary recovery.

52. The Settlement will result in a fair payment to each Settlement Class Member based on the number of Workweeks worked during the Class Period. As set forth hereinabove, Plaintiffs and his counsel have diligently investigated the claims and defenses on behalf of the Class Members and worked to achieve a resolution of the claims to maximize the recovery by avoiding further expenditure of attorneys' fees and costs. After evaluating the significant risks attendant with further litigation described above and weighing them against the benefits of a known compromise and settlement as set forth in the Settlement Agreement, settlement on the terms agreed to is believed to be in the best interest of Plaintiffs and the Class and is a fair and reasonable resolution of the claims alleged.

53. Plaintiffs' counsel brought to bear a great deal of collective experience in negotiating the settlement of this case. As detailed herein, Plaintiffs' counsel engaged in necessary informal discovery, investigation, sampling and expert evaluation, making it possible to exercise informed judgment throughout the settlement process, including significant document review (e.g., documents pertaining to Defendant's policies and procedures, personnel documents, wage statements, time records, among others) and conducted an extensive analysis and extrapolation of the sampling of class-wide data provided by Defendant.

54. Based on our experience in other cases, including wage and hour matters, I believe Jake Finkel and I are qualified to evaluate the class claims and viability of defenses in this class action. In this case, the recovery for each Class Member is reasonable, fair and adequate, and a

settlement at this time is in the best interest of the Class. The Settlement provides each Class Member with compensation for the alleged violations when viewed in relation to the costs and risks inherent in obtaining class certification and proceeding to trial.

55. Plaintiffs' counsel, as well as Defendants' counsel, fully endorse the terms and conditions of the Settlement as set forth in the abovementioned Settlement Agreement.

56. Of course, the Settlement Amount represents a compromise figure, taking into account the various risks surrounding class certification and the merits of Defendant's asserted defenses. Nevertheless, the Settlement provides for fair and adequate payments to the Class Members, with no reversion to Defendant.

57. Plaintiffs seek a Service Awards in an amount not to exceed $7,500 each, which we believe is fair and warranted. Plaintiffs agreed to come forward in an effort to effectuate a policy and practice change that benefitted all other Class Members, and to recover unpaid wages and penalties. They assumed significant risk in bringing this litigation, namely, had they lost, they would have been ordered to pay Defendants' costs.

58. Plaintiffs provided invaluable assistance to the investigation and prosecution of this case, including providing factual background for the class and PAGA Complaint; reviewing the litigation documents; providing information and documentation about Defendants' policies and practices; participating in phone calls to discuss litigation and settlement strategy; and reviewing the settlement documents. Plaintiffs agreed to participate in this case with no guarantee of personal benefit. Plaintiff's comprehensive declaration setting forth all of the reasons why he believes that the Service Award should be approved has been filed herewith.

59. As set forth above, I have handled upwards of 100 class and representative actions, have been appointed as class counsel and have successfully litigated and resolved several class actions, and many others remain pending.

60. When this case was taken on a contingency fee basis, with our firms agreeing to assume responsibility for all litigation costs, the ultimate result was far from certain. In the course of this litigation, we paid all costs including the filing fees, court costs, research/database fees, mediation costs, and expert costs. There was never a guarantee that our firms would recoup these expenditures.

61. It is our experience that attorneys' fee awards of one-third of a common fund settlement are the standard in California. Once the Court grants preliminary approval of the Settlement Agreement and the Notice Packet is disseminated, Plaintiff's counsel will submit a request for attorneys' fees and costs with its final approval motion. Defendants do not oppose this fee request. The fee is further warranted because it is within the range of reasonableness and will be based on the actual amount incurred at the time of final approval.

62. Subject to the Court's approval, the parties stipulated to ILYM Group, Inc. to serve as the Settlement Administrator. ILYM Group, Inc. is experienced in administering class action settlements and will no more than $10,000.00 to administer this class action Settlement.

63. Attached hereto as **Exhibit "B"** is the Class Notice subject to Court approval.

64. Plaintiffs have concurrently submitted the Settlement to the LWDA in accordance with Labor Code Section 2699(1)(2). The proof of submission is attached hereto as **Exhibit "C"**.

65. Attached hereto as **Exhibit "D"** is a true and correct copy of Plaintiffs' PAGA notice letter to the LWDA.

66. For the foregoing reasons, it is respectfully requested that the Court grant preliminary approval of the Settlement as being fair, reasonable, and in the best interests of the Class, as well as preliminarily approve the requested attorneys' fees and costs, and service award to the Class Representative.

67. The proposed Notice Packet and proposed plan for the Settlement Administrator to mail the Notice Packet to the last known address of all Class Members complies with all the requirements of California Rule of Court 3.79(f) and 3.766(b). The contents of the proposed Notice Packet include (1) the material terms of the Settlement; (2) the proposed attorneys' fees and costs and the Settlement Administration Costs; (3) details about the final fairness hearing and how Class Members may elect to exclude themselves or make an objection; and (4) how Class Members can obtain additional information.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct on this 23rd of June 2023, at Los Angeles, California.

By:______________________________

Mehrdad Bokhour, Esq

EXHIBIT "A"

<u>CLASS ACTION AND PAGA SETTLEMENT AGREEMENT</u>

This Class Action and PAGA Settlement Agreement is entered into by and between Plaintiffs Mayra Osorio and Troy Blanton, individually and on behalf of all others similarly situated, and Defendants ISC Engineering, LLC and Mustard Seed Technologies, Inc., and is approved by their respective counsel of record, subject to the terms and conditions hereof and the Court's approval.

A. <u>Definitions</u>

1. "Action" or "Lawsuit" means and refers to the case entitled *Osorio, et al. v. ISC Engineering, LLC, et al.,* Case No. 30-2021-01188961-CU-OE-CXC, filed in the Orange County Superior Court.

2. "Allegedly Aggrieved Employees" means all non-exempt, hourly employees who work or worked for Defendants in California during the PAGA Period, as defined below.

3. "Agreement," "Settlement Agreement," "Settlement," or "Stipulation" shall mean this Class Action and PAGA Settlement Agreement, including any attached Exhibits.

4. "Class Claims" or "Released Class Claims" will include all claims that were pled in the original Complaint and First Amended Complaint based on the facts alleged therein, or that could have been alleged based upon the facts asserted therein or that arise from, are attributable to, or are related to the facts asserted therein, except the claim under the PAGA, including claims for (1) failure to pay minimum wages, (2) failure to pay overtime wages and/or failure to pay such wages at the correct rate(s) of pay, (3) failure to pay all sick time wages and/or failure to pay such wages at the correct rate(s) of pay, (4) meal and rest break violations, failure to pay meal and rest break premium pay and/or failure to pay such premium pay at the correct rate(s) of pay, (6) failure to provide accurate itemized wage statements, (7) failure to timely pay all wages upon separation of employment, and (8) unfair and unlawful business practices.

5. "Class Counsel" refers to Mehrdad Bokhour of Bokhour Law Group, P.C. and Jake D. Finkel of The Finkel Firm.

6. "Class Data" means a complete list that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator and shall include:

each respective Settlement Class Member's full name; last known address; last known telephone number; Social Security number; and dates of employment and/or number of Workweeks worked during the Class Period and the number of PAGA Periods worked during the PAGA Period, if applicable. At no time during the Settlement process will any Class Member's identifying information, as described in this paragraph above, be filed with the Court, except under seal and only if ordered by the Court.

7. "Class Period" and "Class Release Period" shall mean March 15, 2017 through May 31, 2023, or upon the execution of this Agreement, whichever occurs first.

8. "Class Representatives" or "Plaintiffs" means and refers to Mayra Osorio and Troy Blanton, individually and jointly.

9. "Complaint" refers to the First Amended Complaint filed in Orange County Superior Court action entitled *Osorio, et al. v. ISC Engineering, LLC, et al.,* Case No. 30-2021-01188961-CU-OE-CXC.

10. "Court" means the California Superior Court, County of Orange or any Court of competent jurisdiction.

11. "Defendants" means and refers to Interconnect Solutions Company, LLC, formerly known as ISC Engineering, LLC and Mustard Seed Technologies, Inc.

12. "Defendants' Counsel" or "Defense Counsel" means and refer to counsel identified in paragraph 92 below on behalf of each defendant.

13. "Effective Date" means the latter of (a) the Court's final approval of the settlement if no objection(s) by or on behalf of Class Members have been filed and not withdrawn; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or has been filed and withdrawn; (c) the time for the Class Representatives and Plaintiffs' Counsel to appeal as contemplated by paragraphs 47(f) and 47() has expired; or (d) the final resolution of any appeal that has been filed. In no event shall the Effective Date occur before the judgment of the Court granting final approval of the settlement documented by this Agreement is final and no longer subject to appeal.

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14. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Settlement on substantially the same terms provided herein or as may be modified by subsequent agreement of the Parties or order of the Court.

15. “Final Settlement Class” means, collectively, all Participating Class Members and all Allegedly Aggrieved Employees.

16. “First Amended Complaint” means the First Amended Complaint filed in this Action.

17. “Individual Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(d) below.

18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(c) below.

19. “Notice” means the Notice of Proposed Class Action Settlement and Final Approval Hearing that will be sent to the Settlement Class Members and Allegedly Aggrieved Employees and is attached to this Agreement as Exhibit “A”.

20. “Notice Response Deadline” is sixty (60) calendar days from the date the Notice is mailed to the Settlement Class Members.

21. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with respect to the Class Claims pursuant to Paragraph 69(c) below.

22. “PAGA” shall refer to the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698–2699.5.

23. “PAGA Claims” or “Released PAGA Claims” shall include any and all claims for civil and statutory penalties pursuant to PAGA based on the allegations stated in the PAGA Notice and that were or could have been pled in the Complaint, as defined above, based on the facts alleged therein, including claims for (1) failure to pay minimum wages, (2) failure to pay overtime wages and/or failure to pay such wages at the correct rate(s) of pay, (3) failure to pay all sick time wages and/or failure to pay such wages at the correct rate(s) of pay, (4) meal and rest break

violations, (5) failure to pay meal and rest break premium pay and/or failure to pay such premium pay at the correct rate(s) of pay, (6) failure to provide accurate itemized wage statements, (7) failure to timely pay all wages upon separation of employment, and (8) unfair and unlawful business practices.

24. "PAGA Notice" shall refer to the notices sent by Plaintiff, by and through counsel, on or about September 25, 2020, to the Labor and Workforce Development Agency ("LWDA") and to Defendants, alleging that Defendants engaged in violations of the California Labor Code and California Wage Order(s).

25. "PAGA Period" and "PAGA Release Period" shall mean September 25, 2019 through May 31, 2023, or upon the execution of this Agreement, whichever occurs first.

26. "Participating Class Member" means any and all Settlement Class Members who are deemed to participate and who do not opt-out of the settlement of the Class Claims by submitting timely valid Requests for Exclusion.

27. "Parties" or "Settling Parties" mean Plaintiffs, the Settlement Class Members, the Allegedly Aggrieved Employees, and Defendants, collectively.

28. "Preliminary Approval Date" means the date the Court preliminarily approves the Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

29. "Preliminary Approval Order" means the judicial Order to be entered by the Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement and providing for the issuance of the Notice to the Settlement Class Members, an opportunity to opt out of settlement of the Class Claims, an opportunity to submit timely objections to the terms of this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of Settlement, including approval of attorneys' fees and costs.

30. "QSF" means the Qualified Settlement Fund set up by the Settlement Administrator for the benefit of the Final Settlement Class, and from which the settlement payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue Code Section 468.

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31. “Released Parties” shall refer to Defendants, and each of them, and each of their parent, subsidiary, and affiliated entities, and each of their predecessors, successors, and assigns, and each of their former and present directors, officers, shareholders, owners, members, employees, investors, attorneys, insurers, agents, and representatives, as well as any alleged joint employer of Plaintiffs, the Settlement Class Members, and the Allegedly Aggrieved Employees.

32. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 69(a) below.

33. “Service Payment” or “Service Award” means the amount approved by the Court to be paid to each Class Representative in addition to their Individual Settlement Amount as a Participating Class Member.

34. “Settlement Administration Costs” means the costs payable from the Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties and the Court. The Settlement Administration Costs shall be paid from the Settlement Amount.

35. “Settlement Administrator” means and refers to ILYM Group, Inc., which the Parties have mutually agreed will provide the Notice to the Class Members and distribute the settlement amounts as described in this Agreement.

36. “Settlement Amount” or “Gross Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(a) below.

37. “Settlement Class Member” or “Class Member” refers to individual members of the Settlement Class.

38. “Settlement Class” and “Settlement Class Members” refers to all persons who are or were previously employed by Defendants in California classified as a non-exempt, hourly employee during the Class Period.

39. “Workweeks Worked” and “PAGA Pay Periods Worked” for each Settlement Class Member and Aggrieved Employee means any workweek during the Class Period and/or

pay period during the PAGA Period, as applicable, in which the Settlement Class Member and/or Aggrieved Employee was employed by Defendants as a non-exempt, hourly employee in California and worked at least one shift during the workweek or pay period, respectfully, for or on behalf of Defendants for which a prior release of claims has not been signed. Workweeks Worked and PAGA Pay Periods Worked shall not include weeks or pay periods where a Settlement Class Member and/or Aggrieved Employee only had sick time, vacation time, was on leave, or otherwise did not record any actual work time in Defendants' timekeeping system. Workweeks Worked and PAGA Pay Periods Worked will be calculated based on Defendants' business records.

B. <u>General Terms</u>

40. On or about March 15, 2021, Plaintiff Mayra Osorio filed a Class Action Complaint in the Court against Defendants, including causes of action asserting: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) meal period violations, (4) rest period violations, (5) wage statement violations, (6) waiting time penalties, (7) unfair competition, and (8) PAGA penalties. On December 21, 2022, Plaintiffs filed the First Amended Complaint that added Troy Blanton as a named class representative and a failure to pay all sick time wages claim.

41. Defendants deny Plaintiffs' claims and allegations in the PAGA Notice, the original Class Action Complaint and the First Amended Complaint in their entirety and contends that the Action is meritless and is not suitable for class certification and/or representative treatment. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Action have merit or that Defendants bear any liability to Plaintiffs, the Settlement Class Members or the Allegedly Aggrieved Employees on those claims or any other claims. Nevertheless, Defendants have taken into account the uncertainty and risks inherent in any litigation and concluded that further defense of the Action would be protracted and expensive. Defendants, therefore, have determined that it is desirable and beneficial that the Action be settled in a manner and upon the terms and conditions set forth in this Settlement Agreement.

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42. Class Representatives believe they can proceed with their class and representative claims, that the Action is meritorious, and that class certification is appropriate. Nevertheless, Plaintiffs also have taken into account the uncertainty and risks inherent in any litigation and concluded that further litigation of the Action would be protracted and expensive. Plaintiffs, therefore, have determined that it is desirable and beneficial that the Action be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

43. The Parties conducted a thorough investigation into the facts of the Action. This includes conducting extensive exchange of informal discovery, including Defendants' written policies and practices and the production of all available payroll and timekeeping records for Settlement Class Members and Allegedly Aggrieved Employees. Class Counsel is both knowledgeable about and has done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Class Members and Allegedly Aggrieved Employees. Class Counsel has diligently pursued an investigation of the Class Members' claims against Defendants. Based on the foregoing data and on their own independent investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class Members and Allegedly Aggrieved Employees in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendants, and numerous potential appellate issues.

44. On September 26, 2022, and February 17, 2023, the Parties participated in mediation before Hon. Margaret Nagle (Ret.), a highly experienced class and PAGA/representative action mediator. After two mediations and subsequent negotiations, the Parties reached a settlement. The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arms-length negotiations between the Parties supervised by a highly experienced class and representative action mediator. This Agreement represents a compromise and settlement of highly disputed claims, and is intended to settle, compromise and discharge the Released Claims against the Released Parties fully, finally, and forever.

45. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts to be performed or judgments to be entered pursuant to the terms of the Settlement and Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation of any statute or law or liability on the claims or allegations in the Action.

46. Stipulation for Class Certification and Representative Treatment. For settlement purposes only, Defendants will stipulate that the Settlement Class Members described herein who do not submit a Request for Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the Allegedly Aggrieved Employees are appropriate for representative treatment for purposes of settlement. This stipulation to certification and representative treatment is in no way an admission that class action certification and/or representative treatment is proper and shall not be admissible in this or in any other action except for the sole purposes of enforcing this Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties' stipulation to class certification and representative treatment as part of the Settlement shall become null and void *ab initio* and shall have no bearing on and shall not be admissible in connection with the issue of whether or not class certification and/or representative treatment would be appropriate in a non-settlement context. Defendants expressly reserve their right and declare that they will continue to oppose class certification, representative treatment, and the substantive merits of the case should the Court fail to issue Final Approval. Plaintiffs expressly reserve their rights and declare that they will continue to pursue class certification and representative treatment and a trial should the Court fail to issue Final Approval.

C. Terms of Settlement

47. The financial terms of the Settlement are as follows:

(a) Gross Settlement Amount: The Parties agree to settle this Action for Eight Hundred Fifty Thousand Dollars ($850,000.00) ("the Gross Settlement Amount"). The Gross Settlement Amount is the maximum amount that will be paid by Defendants, and includes Individual Settlement Amounts, attorneys' fees of Class Counsel, costs and expenses, the Service Payment to Class Representatives, all Settlement Administration Costs, and payment to the Labor Workforce Development Agency (LWDA) for PAGA penalties. Defendants shall separately pay the employers' share of applicable payroll taxes, to be calculated by the Settlement Administrator.

(b) The Gross Settlement Amount is based on Defendants' representation that there are approximately 32,402 total workweeks in the Class Period. In the event that the actual number of workweeks worked by all Class Members during the Class Period increases by more than 10%, then there shall be a pro rata upward adjustment to the Gross Settlement Amount.

(c) Net Settlement Amount: The "Net Settlement Amount" is defined as the Gross Settlement Amount less attorneys' fees and litigation costs as approved and awarded by the Court, the Service Payment to Class Representatives as approved and awarded by the Court, the Settlement Administration Costs as approved and awarded by the Court, and the Twenty-Five Thousand Dollars ($25,000.00) allocated to payment for PAGA penalties as described in paragraph 47(d) below. In the event that the Court reduces the attorneys' fees and litigation costs, Service Awards, or Settlement Administration Costs, or either increases or decreases the amount allocated to PAGA penalties, the Net Settlement Sum shall be increased or decreased accordingly.

(d) Individual Settlement Amounts for the Settlement Class: The Settlement Administrator will use the Class Data provided by Defendants to calculate each Participating Class Member's and Aggrieved Employee's Individual Settlement Amounts based on the following formula:

i. PAGA Amount: $25,000 of the Gross Settlement Amount has been designated to the PAGA claims. Twenty-five percent (25%), or $6,250, shall be paid out to Allegedly Aggrieved Employees, while seventy-five percent (75%), or $18,750, will be paid to the LWDA. Each Aggrieved Employee shall receive a portion of the $6,250 proportionate to the number of PAGA Pay Periods Worked by the Allegedly Aggrieved Employees during the PAGA Period compared to the total number of PAGA Pay Periods Worked by all Allegedly Aggrieved Employees during the PAGA Period. Allegedly Aggrieved Employees shall have their settlement amount for the Released PAGA claims paid one hundred percent (100%) as civil penalties for which no taxes will be withheld and for which a Form 1099 will be issued by the Settlement Administrator.

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ii. Class Amount: The Net Settlement Amount shall be allocated to each Participating Class Member based on his/her/their proportionate Workweeks Worked during the Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the numerator of which is the Participating Class Member's total Workweeks Worked during the Class Period, and the denominator of which is the total Workweeks Worked by all Participating Class Members during the Class Period. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Amounts for each Participating Class Member so that the amount actually distributed to Participating Class Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

(e) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts will be allocated for tax purposes based on the allegations in the Action as follows: one third (33.33%) will be paid as wages subject to withholding of all applicable local, state, and federal taxes; one third (33.33%) will be paid as interest; and one third (33.34%) will be paid as penalties. Pursuant to, *e.g.*, California Labor Code Sections 203 and 226, no taxes will be withheld from the two thirds (66.67%) that will be paid as interest and as civil penalties. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation, and a Form 1099 with respect to the civil penalties and interest allocations.

(f) Service Payment to Class Representatives: The amount awarded to each Class Representative as a Service Payment will be set by the Court in its discretion, not to exceed Seven Thousand Five Hundred Dollars ($7,500) to each Plaintiff. Defendants agree not to oppose this request. The Service Payments to the Class Representatives will be paid out of the Gross Settlement Amount. Class Representatives will be issued IRS Form 1099 in connection with these payments. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiffs less than the requested amount shall not be a basis for Plaintiffs or Class Counsel to void this Agreement. Should the Court approve a lesser amount for the Service Payments, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class

Members. In the event of any appeal of the amount of the service awards (if any) approved by the Court, if, after the exhaustion of any such appellate review, additional amounts not awarded to the Class Representatives shall be added to the Net Settlement Amount to be distributed to the Participating Class Members.

(g) Attorneys' Fees and Costs: Defendants agree not to oppose a request by Class Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Gross Settlement Amount (approximately Two Hundred Eighty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents ($283,333.33), plus reasonable litigation costs not to exceed Twenty Thousand Dollars ($20,000) ("Attorneys' Fees and Cost Award"). For purposes of this Settlement only, Defendants agrees not to oppose any request by Class Counsel that attorneys' fees should be based on the common fund theory. The Attorneys' Fee and Cost Award shall be paid from the Gross Settlement Amount, and except for this award, Defendants shall have no further obligation to pay any attorneys' fees, costs, or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. Any Court order awarding less than the amount sought by Class Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the Settlement. In the event of any appeal of the amount of the awards of attorneys' fees and costs (if any) approved by the Court, final funding and administration of the portion of the attorneys' fees and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review, additional amounts not awarded to as attorneys' fees and costs shall be added to the Net Settlement Amount to be distributed to the Participating Class Members and/or Allegedly Aggrieved Employees. The Settlement Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class Counsel and any other attorney representing or claiming to represent the Class Members shall be the sole responsibility of Class Counsel.

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(h) Settlement Administration Costs: The fees and other charges of the Settlement Administrator will be paid from the Gross Settlement Amount, not to exceed $10,000 subject to Court approval, unless an increase in fees and/or charges is approved by all Parties and the Court. Any such increase shall be paid from the Gross Settlement amount and reduce the Net Settlement Amount.

(j) Tax Liability: Class Counsel, Defendants, and Defendants' Counsel make no representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder, and Plaintiffs and the Settlement Class Members are not relying on any statement or representation by Class Counsel, Defendants, or Defendants' Counsel in this regard. Plaintiffs and Final Settlement Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Settlement Amounts described herein. Income tax withholding will also be made pursuant to applicable federal, state, and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Settlement Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, are changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendants into compliance with any such changes.

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

48. No Credit Towards Benefit Plans. The Individual Settlement Payments and Individual PAGA Payments made to Participating Class Members and/or Allegedly Aggrieved Employees under this Settlement Agreement, as well as any other payment made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Participating Class Members and/or Allegedly Aggrieved Employees may be eligible, including but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather,

it is the Parties' intention that this Settlement Agreement will not affect the rights, contributions, or amounts to which any Participating Class Member and/or Allegedly Aggrieved Employees may be entitled under benefit plans.

49. <u>"Non-Reversionary" Settlement</u>. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Settlement Amount revert to Defendants. Final Settlement Class Members will not have to make a claim to receive an Individual Settlement Amount. Distributions, in the form of Individual Settlement Amounts, will be made directly to each Final Settlement Class Member. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Final Settlement Class Member not cashing an Individual Settlement Amount by the check cashing deadline, as set forth herein.

50. Class Counsel and Plaintiffs believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

D. <u>Release by Plaintiffs and the Final Settlement Class</u>

51. Upon the Effective Date of this Settlement, Plaintiffs and each Participating Class Member, for themselves and for their respective agents, spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, predecessors, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Release Period.

52. Each Participating Class Member will be deemed to have made the foregoing Release as if by manually signing it.

53. Upon the Effective Date of this Settlement, Plaintiffs, the LWDA, and each Allegedly Aggrieved Employee, for themselves and for their respective agents, spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, predecessors, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released PAGA Claims for the PAGA Release Period.

54. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

55. Plaintiffs and Defendants intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims. The Settlement Class Members shall be notified in the Notice. This paragraph does not apply to any Settlement Class Member who timely and validly opts out of the Settlement for purposes of Class Claims.

56. Plaintiffs and Defendants intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Allegedly Aggrieved Employees and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the Released PAGA Claims. The Allegedly Aggrieved Employees and the LWDA shall be so notified in the Notice.

57. Class Representative, on behalf of themselves and the Participating Settlement Class Members, acknowledges and agrees that the Class Claims or Released Class Claims are disputed, and that the payments set forth herein constitute payment of all sums allegedly due to him. Class Representative, on behalf of themselves and the Participating Settlement Class Members, acknowledges and agrees that California Labor Code Section 206.5 is not applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:

> An employer shall not require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.

E. <u>Release by Class Representatives</u>

58. As a material inducement to Defendants to enter into this Settlement Agreement, in addition to Class Representatives' release of the Released Class Claims and Released PAGA Claims, as discussed in Paragraphs 51 and 53 above, Class Representatives do hereby, for

themselves and for their respective agents, spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, predecessors, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, forever completely release and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including for back wages, meal and rest break premium pay, statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this Settlement Agreement, whether known or unknown, suspected or unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon, or relating to Class Representatives' employment with Defendants or the remuneration for or termination of such employment (collectively, the "Class Representatives' Claims").

59. Without limiting the generality of the foregoing release, Class Representatives, and each of them, also expressly release all claims or rights against Released Parties arising out of or relating to alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith and fair dealing (express or implied); any tort, including but not limited to, negligence, fraud, misrepresentation and violation of California Labor Code Section 970, negligent infliction of emotional distress, intentional infliction of emotional distress, defamation, "retaliation" claims and claims for violation of public policy, any claim for improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and alleged "off the clock" work under federal and state law, including, but not limited to, California Labor Code Sections 204 and 558, waiting time penalties pursuant to California Labor Code Section 203, damages, or penalties pursuant to California Labor Code Section 226, meal period and rest break payments and penalties pursuant to California Labor Code Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Section

210, failure to indemnify for business expenses pursuant to Labor Code Section 2802, failure to provide one day of rest in seven pursuant to California Labor Code Sections 551 and 552, unfair competition and unfair business practices pursuant to Business and Professions Code Section 17200, *et seq*., interest and costs pursuant to California Civil Code Section 3287 and California Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs, including those pursuant to California Labor Code Section 1194 *et seq*.; claims under the Private Attorneys General Act of 2004, Labor Code Sections 2699, *et seq*., and the alleged violation or breach of any other state or federal statute, rule, and or regulation or local ordinance; including all applicable Industrial Welfare Commission Wage Orders, and all similar causes of action, including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs, or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional distress, intentional infliction of emotional distress, and defamation; any "wrongful discharge," "constructive discharge," and "retaliation" claims; any claims relating to any breach of public policy; any legal restrictions on Defendants' right to discharge employees; and any federal, state, or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. Section 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. Section 209(d)(1) and California Labor Code Section 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. Section 12100, *et seq*. (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. Section 2601, *et seq*.(family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government Code Section 12900, *et seq*. (discrimination or harassment in employment and/or housing, including discrimination or harassment based on race, religious creed, color, national origin, ancestry, disability, marital status, sex (including pregnancy), age, or any other protected characteristic, including retaliation for reporting discrimination or harassment); (7) California Family Rights Act, Cal. Government Code Section 12945.1, *et seq*. (family/medical leave); (8) California Labor Code, including but not limited to, Section 1720 *et seq*., or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (10) Executive Order 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973 (handicap discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement Income Security Act, 29 U.S.C. § 1000 *et seq*. (employee benefits); (14) the California Civil Code; (15) the California Labor Code; (16) the California Constitution; (17) the National Labor Relations Act; (18) the Americans with Disabilities Act of 1990; (19) the Occupational Safety and Health Act; (20) the Consolidated Omnibus Budget Reconciliation Act of 1985; (21) the Worker Adjustment and Retraining Notification Act ("WARN"); (22) the Employee Retirement Income Security Act of 1974; (23) the Rehabilitation Act of 1973; (23) the Internal Revenue Code of 1986, as amended; (24) the California Government Code; (25) the California Constitution; (26) the Families First Coronavirus Response Act; (27) the California Healthy Workplace Healthy Family Act; and (28) any other federal, state, or local statute or legislation. Further, Class Representatives each agree to the fullest extent permitted by law that, other than this Action, Class Representatives, and each of them, will not pursue any putative class action, collective action, or representative action against the Released Parties, or any of them, and that if such action is filed by any other person, Class Representatives will withdraw as a participant.

60. Class Representatives expressly waive and relinquish all rights and benefits afforded by Section 1542 of the Civil Code of the State of California and does so understanding and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of the State of California states:

> **"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."**

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all Released Parties, Class Representative, and Class Counsel expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that Class Representatives knew of, as well as all claims that they do not know or suspect to exist in their favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any and all such Class Representative's claims. Notwithstanding the foregoing, the waiver and release in this agreement does not apply to: (i) those rights as a matter of law that cannot be waived, including, but not limited to, workers' compensation claims and this Agreement in no way affects Plaintiffs' entitlement and/or benefits to be received by Plaintiffs in workers' compensation pursuant to the jurisdiction of workers' compensation.

F. <u>Interim Stay of Proceedings</u>

61. Pending completion of all of the prerequisites necessary to effectuate this Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such as are necessary to effectuate the Settlement.

G. <u>Notice Process</u>

62. <u>Appointment of Settlement Administrator</u>. The Parties have agreed to the appointment of the Settlement Administrator to perform the duties of a settlement administrator, including mailing the Notice, using standard devices to obtain forwarding addresses, independently reviewing and verifying documentation associated with any claims or opt-out requests, resolving any disputes regarding the calculation or application of the formula for determining the Individual Settlement Amounts, drafting and mailing the settlement checks to Final Settlement Class Members and Allegedly Aggrieved Employees, issuing Forms W-2 and 1099, reporting to taxing authorities, due diligence, reporting and remittance obligations, and performing such other tasks as set forth herein or as the Parties mutually agree or that the Court orders. The Settlement Administrator shall also be responsible for issuing to Plaintiff, Final Settlement Class Members, and Class Counsel any Forms W-2, Forms 1099, or other Tax Forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be responsible for setting up all necessary tax accounts and forwarding all payroll taxes and penalties to the appropriate government authorities.

63. Disputes Regarding Settlement Administration. Any and all disputes relating to administration of the Settlement by the Settlement Administrator (except for disputes regarding Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until Plaintiffs and Defendants notify the Court that all payments and obligations contemplated by this Settlement Agreement have been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of Court intervention.

64. Class Data. Within fourteen (14) calendar days after entry of the Preliminary Approval Order, Defendants shall each provide the Class Data in their possession to the Settlement Administrator. The Settlement Administrator will run a check of the Class Members' addresses against those on file with the U.S. Postal Service's National Change of Address List. The Class Data provided to the Settlement Administrator will not be provided to Class Counsel and it will remain confidential, it shall be used solely to administer the Settlement, and it will not be used or disclosed to anyone, except as required by applicable tax authorities, pursuant to Defendants' express written consent, or by order of the Court.

65. Notice. The Notice, as approved by the Court, shall be sent by the Settlement Administrator to the Settlement Class Members, by first class mail, within seven (7) calendar days following the Settlement Administrator's receipt of the Class Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses of Settlement Class Members if any envelopes are returned.

66. Returned Notices. The Settlement Administrator will take steps to ensure that the Notice is received by all Settlement Class Members, including utilization of the National Change of Address Database maintained by the United States Postal Service to review the accuracy of and, if possible, update a mailing address. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, and/or Social Security number of the Class Member involved and will then perform a single re-mailing. In the event the procedures in this Paragraph are followed and the intended recipient of a Notice packet still does not receive the Notice packet, the Class

Member shall be bound by all terms of the Settlement and any Judgment entered by the Court if the Settlement is approved by the Court. Notices will be re-mailed to any Settlement Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The Notice shall be identical to the original Notice, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) calendar days after the remailing of the Notice.

67. Disputes Regarding Class Data. Settlement Class Members are deemed to participate in the Settlement unless they opt-out. The Notice will inform Settlement Class Members of his/her/their estimated Individual Settlement Amount and the number of Workweeks Worked during the Class Period and PAGA Periods Worked during the PAGA Period. Settlement Class Members may dispute their Workweeks Worked if they feel they were employed more workweeks in the Class Period in California than Defendants' records show by timely submitting evidence to the Settlement Administrator. Defendants' records will be presumed determinative absent reliable evidence to rebut Defendants' records, but the Settlement Administrator will evaluate the evidence submitted by the Settlement Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Workweeks Worked and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. All disputes will be decided within ten (10) business days of the Notice Response Deadline. Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks Worked, object, or opt out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Workweeks Worked for any Settlement Class Member, then the Settlement Administrator will recalculate the Participating Class Members' Individual Settlement Amounts; accordingly, in no event will Defendants be required to increase the Gross Settlement Amount.

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68. Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the Parties, at least twenty-five (25) calendar days prior to the final approval hearing, a declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

69. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the provisions in the Settlement related to the Class Claims, and the ability to opt out or request exclusion from the Class Claims provisions of the Settlement. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Class Claims provisions of the Settlement in accordance with the following guidelines:

(a) Requests for Exclusion from Participating Settlement Class. Any Settlement Class Member, other than Plaintiffs, may request to be excluded from the Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should state in words to this effect:

> I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE OSORIO V. ISC ENGINEERING AND MUSTARD SEED LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.

Any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address in the Notice. Any such Request for Exclusion must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement with respect to the Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement with respect to Class Claims; and (iii) will not be bound by this Agreement, or the Judgment, with respect to the Class Claims.

(b) Binding Effect on Final Settlement Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement of Class Claims. Any Settlement Class Member, other than Plaintiffs, may object to the terms of this Agreement with respect to the Class Claims and may appear at the Final Approval Hearing and object whether or not they have filed a written objection as outlined herein. To object, a Settlement Class Member shall inform the Settlement Administrator, in writing, of his/her/their objection, which must be postmarked by the Notice Response Deadline at the address set forth in the Notice. Such objection shall include the full name, address, telephone number, dates of employment with Defendants of the Objecting Settlement Class Member, the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by counsel, the name and address of his/her/their counsel. If any Objecting Settlement Class Member wishes to speak at the Final Approval Hearing with respect to the Class Claims, that Objecting Settlement Class Member's written submission should include a request to be heard, and the Court will determine whether Objecting Settlement Class Members will be permitted to speak. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defendants' Counsel within three (3) calendar days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence it files with the Court prior to the Final Approval Hearing. Any Participating Class Member who files an objection remains eligible to receive monetary compensation from the Settlement and will be bound by the terms of this Agreement including all releases. Plaintiffs and Defendants shall not be responsible for any fees, costs, or expenses incurred by any Settlement Class Member and/or his/her/their counsel related to any objections to the Settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure Section 663. Settlement Class Members and Allegedly Aggrieved Employees may not object to or opt out of the Settlement with respect to the PAGA Claims. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to submit Requests for Exclusion, Notices of Objection, or disputes regarding Class Data or to appeal from the Final Approval judgment. To the extent a timely Notice of Objection is withdrawn before Final Approval, such an objection shall be treated as though no objection has been made.

(d) Failure to Object. Any Settlement Class Member who desires to object with respect to the Class Claims but fails to timely submit a written objection waives any right to object and will be foreclosed from making any objection to this Settlement. Any Settlement Class Member who does not timely and properly become a party of record by intervening or filing a motion to vacate the judgment waives any and all rights to appeal from the judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure Section 473, and extraordinary writs.

(e) Responses to Objections. Counsel for the Parties may file a response to any objections submitted by Objecting Settlement Class Members at least five (5) court days before the date of the Final Approval hearing.

70. Settlement Class Members will have until the Notice Response Deadline to object or submit a Request for Exclusion or a dispute regarding Class Data to the Settlement Administrator by U.S. Mail. The Settlement Administrator shall disclose jointly to Class Counsel and Defendants' Counsel what objections or Requests for Exclusion or disputes regarding Class Data were timely submitted on a weekly basis, and upon the request of Class Counsel or Defense Counsel.

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71. Funding of the Settlement Amount. Defendants jointly and severally shall make a one-time deposit into the QSF of the Gross Settlement Amount, as described in Paragraph 47(a) within fourteen (14) calendar days after the Effective Date, plus Defendants shall jointly and severally separately pay their respective share of employer payroll taxes as calculated and directed by the Settlement Administrator.

72. Distribution of Funds. Prior to the disbursement of any funds, the Settlement Administrator will provide a disbursement summary of the calculations for the payments described above for review and approval by Class Counsel and Defendants' Counsel. Following approval by Class Counsel and Defendants' Counsel, and no later than fourteen (14) calendar days after deposit of the Gross Settlement Payment into the QSF, the Settlement Administrator will mail the payments to the Participating Class Members, Allegedly Aggrieved Employees, the payment for the attorneys' fees and costs to Class Counsel, any Service Payment to the Class Representatives, the payment to the LWDA for PAGA penalties, and will pay itself the Settlement Administration Costs.

73. Deadline for Cashing Settlement Checks. Final Settlement Class Members and Allegedly Aggrieved Employees shall have one hundred eighty (180) calendar days after mailing by the Settlement Administrator to cash their settlement checks. If any Final Settlement Class Member or Allegedly Aggrieved Employee's check is not cashed within that period, the check will be void and a stop-payment will be issued. All unclaimed funds shall be sent to the California Unclaimed Property Fund in the name of the Final Settlement Class Member or Aggrieved Employee. The release will be binding upon all Final Settlement Class Members who do not cash their checks within the 180-day period. In the event that any settlement check is returned to the Settlement Administrator within one hundred eighty (180) days of mailing, the Settlement Administrator will, within five (5) business days of receipt of the returned settlement check, perform a skip trace to locate the individual. If a new address is located by these means, the Settlement Administrator will have ten (10) business days to re-issue the check and will notify Defendants' Counsel and Class Counsel that a re-issued check has been sent. Neither Defendants', Defense Counsel, Class Counsel, Plaintiffs, nor the Settlement Administrator will have any

liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Final Settlement Class Member notifies the Settlement Administrator that he/she/they believe that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check in question has not been negotiated prior to the stop payment order, the Settlement Administrator will issue a replacement check.

74. No person shall have any claim against Defendants, Defendants' Counsel, Plaintiffs, Class Counsel, or the Settlement Administrator based on mailings, distributions, payments, or reports made in accordance with or pursuant to this Agreement. This provision does not, however, prevent a Party from seeking enforcement of this Agreement.

75. Without prejudice to any other remedies, the Settlement Administrator shall agree to be responsible for any breach of its obligations (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

H. <u>Duties of the Parties Prior to the Court's Approval</u>

76. Not later than 14 calendar days after execution of this Agreement, Plaintiffs will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order accomplishing the following:

(a) Scheduling the Final Approval hearing on the issue of whether this Settlement should be finally approved as fair, reasonable, and adequate as to the Class Members and a hearing on fees, costs, and the Service Payment;

(b) Approving as to form and content the proposed Notice;

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class for purposes of this Settlement only.

/ / /

77. In conjunction with the Preliminary Approval hearing, Plaintiffs will submit this Settlement Agreement, and will include the proposed Notice packet, which will include the Notice of Class Action Settlement document and proposed Mailing Envelope.

78. In accordance with Section 2699(1)(2) of the California Labor Code, Plaintiffs shall provide a copy of this Settlement Agreement to the LWDA on the same day that Plaintiffs files their motion for Preliminary Approval of this Settlement with the Court.

79. Defendants shall retain the right to object to the Motion for Preliminary Approval and any papers filed in support thereof on the limited bases that it (a) misstates facts, (b) misstates or mischaracterizes a position that Defendants took during the litigation of this Action, whether factual or legal, or (c) improperly discloses confidential or settlement privileged information. In order to attempt to avoid such objection, Plaintiff shall provide to Defendants' Counsel the Motion for Preliminary Approval and supporting papers at least five calendar days in advance of filing, in order to allow Plaintiffs' Counsel and Defendants' Counsel an opportunity to meet and confer in an effort to resolve any objection prior to filing.

80. <u>Reallocation of Settlement Proceeds</u>. In the event the Court declines, on its first hearing, to approve this Agreement because the amount of the PAGA penalties is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within this Agreement, to try to achieve Final Approval of the Agreement upon any subsequent Court hearings.

I. <u>Duties of the Parties Following Court's Final Approval</u>

81. In connection with the Final Approval hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payments to the Class Representatives, and the payment to the Settlement Administrator for costs of administering the settlement;

(c) Entering judgment approving settlement, thereby permanently barring all Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties, permanently barring all Allegedly Aggrieved Employees and the LWDA from prosecuting any Released PAGA Claims against any of the Released Parties, and permanently barring Plaintiffs from asserting any claims against the Released Parties except those that cannot be released as a matter of law; and

(d) Scheduling a conference or hearing to confirm all payments referenced above have been made in accordance with this Agreement and to dismiss the Action.

Plaintiff shall provide the proposed judgment to Defendants' Counsel at least five calendar days prior to filing for review and approval, which approval shall be obtained prior to the proposed judgment being filed with the Court. Counsel for the parties shall meet and confer in good faith to resolve any disagreement regarding the content of the proposed judgment.

J. Voiding the Agreement

82. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Settlement Agreement which effects a fundamental change of the Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of any Party.

83. If ten percent (10%) or more of the Settlement Class Members timely submit a Request for Exclusion, Defendants shall have the option of terminating or modifying this Agreement without prejudice to its pre-settlement positions and defenses in the Action. If Defendants exercise such option under this paragraph, it shall be relieved of any obligation to pay the Gross Settlement Amount or any other obligations from the Settlement by giving notice to Class Counsel and the Settlement Administrator within ten (10) calendar days of the Notice Response Deadline and Defense Counsel's receipt of all Request for Exclusion reports from the Settlement Administrator. If Defendants exercise their option under this paragraph, Defendants shall be solely responsible for all Settlement Administration Costs incurred up to the date Defendants exercise their option.

/ / /

84. If the Settlement is voided or fails for any reason, Plaintiffs and Defendants 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 Settlement.

85. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendants and Plaintiffs, unless otherwise specified in this Agreement.

K. Other Terms

86. Full and Complete Defense. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released Claim.

87. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

88. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

89. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable, Defense Counsel shall, with the assistance and cooperation of Defendants and Class Counsel, to the extent it may become necessary, gather Class Data from all applicable entities including any and all staffing agencies that staffed any of the Class Members and/or Allegedly Aggrieved Employees to Defendants during the respective Class and PAGA Periods. As soon as practicable after execution of this

Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the Court's preliminary and final approval of the settlement and the final entry of judgment. This shall include Class Counsel providing Defense Counsel with drafts of the proposed Preliminary Approval Order and proposed Final Approval Order and/or Judgment for review, comment and approval within a reasonable time before the aforementioned documents are filed or submitted to the Court. Class Counsel and Defense Counsel will meet and confer regarding any proposed revisions to the foregoing documents in advance of the documents being submitted to the Court, and if any unresolved issue remains, counsel will bring the outstanding issue or concern to the Court's attention at the appropriate hearing.

90. No Prior Assignments. The Parties hereto 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 released and discharged by this Settlement Agreement.

91. No Admission. Defendants deny any and all liability to Plaintiffs and/or any Settlement Class Member or Allegedly Aggrieved Employee in this Action, as to any and all causes of action that were asserted or that might have been asserted in this Action. Nonetheless, Defendants wish to settle and compromise to avoid further substantial litigation expense and the inconvenience and distraction of protracted litigation. Defendants also have taken into account the uncertainty and risks inherent in litigation, and without conceding any infirmity in the defenses that they have asserted or could assert against Plaintiff, have determined that it is desirable and beneficial that Plaintiffs' claims be settled in the manner and upon the terms and conditions set forth in this Agreement.

92. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the

attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices, and motions for Preliminary Approval and Final Approval, shall, pursuant to California Evidence Code Section 1152 and/or Federal Rule of Evidence Section 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the Settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only and if, for any reason the settlement is not approved, the stipulation will be of no force or effect.

93. Notices. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing via email and United States mail and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

To the Settlement Class Members and Allegedly Aggrieved Employees:

Mehrdad Bokhour *mehrdad@bokhourlaw.com* 1901 Avenue of the Stars, Suite 450 Los Angeles, California 90067 Tel: (310) 975-1493; Fax: (310) 675-0861	Jake D. Finkel *jake@lawfinkel.com* 3470 Wilshire Blvd., Suite 830 Los Angeles, California 90010 Tel: (213) 787-7411; Fax: (323) 916-0521

To Defendant ISC Engineering: To Defendant Mustard Seed Technologies

Karla J. Kraft *kkraft@stradlinglaw.com* 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660 Tel: (949) 725-4000; Fax: (949) 725-4100	Hema C. Bhamre *hbhamre@snblawnb.com* 485 E. 17th Street, Suite 600 Costa Mesa, California 92627 Tel: (949) 955-0230

94. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or their counsel participated in the drafting of this Settlement Agreement. Plaintiffs and Defendants expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and

further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

95. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

96. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

97. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide written notice to the other Party and allow a reasonable opportunity to cure the alleged deficiencies, and Plaintiffs and Defendants agree to seek the help of the mediator identified in this Agreement to resolve any dispute they are unable to resolve informally. During this period, the Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any legal action or other proceeding instituted by any person or entity other than Plaintiffs or Defendants.

98. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure Section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations of this Agreement.

99. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b), this Agreement is intended by the Parties to be, and shall be, enforceable, binding and admissible in a court of law.

100. Choice of Law. This Settlement Agreement shall be governed by and construed, enforced, and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

101. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

102. Binding On Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

103. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Settlement Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

104. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

Dated: May Jun 8, 2023, 2023 **CLASS REPRESENTATIVE:**

Mayra

____
Mayra Osorio

Dated: May ___, 2023 **CLASS REPRESENTATIVE:**

____
Troy Blanton

101. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

102. Binding On Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

103. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Settlement Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

104. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

Dated: May ___, 2023 **CLASS REPRESENTATIVE:**

____
Mayra Osorio

6/4/2023
Dated: May ___, 2023 **CLASS REPRESENTATIVE:**

DocuSigned by:
Troy Blanton
B498469580724F7...
____
Troy Blanton

Dated: May ___, 2023

DEFENDANT:
MUSTARD SEED TECHNOLOGIES, INC.

____
By
Its

Dated: May 31st, 2023

DEFENDANT:
INTERCONNECT SOLUTIONS COMPANY, LLC, formerly known as ISC ENGINEERING, LLC

____
By Nick Kendall-Jones, CEO
Its

Dated: May 31, 2023

DEFENDANT:
MUSTARD SEED TECHNOLOGIES, INC.

J. McCloskey Pres. CEO
By
Its

Dated: May ___, 2023

DEFENDANT:
INTERCONNECT SOLUTIONS COMPANY, LLC, formerly known as ISC ENGINEERING, LLC

____
By
Its

APPROVED AS TO FORM:

CLASS COUNSEL

Dated: May ___, 2023 **THE FINKEL FIRM**

____

Jake D. Finkel
Attorneys for Plaintiffs

Dated: May ___, 2023 **BOKHOUR LAW GROUP, P.C.**

____

Mehrdad Bokhour
Attorneys for Plaintiffs

DEFENDANTS' COUNSEL:

Dated: May 31, 2023 **SELF & BHAMRE**

Hema C. Bhamre

Hema C. Bhamre
Attorneys for Defendant,
Mustard Seed Technologies, Inc.

Dated: June 12, 2023 **STRADLING YOCCA CARLSON & RAUTH**

____

Karla J. Kraft
Attorneys for Defendant,
Interconnect Solutions Company, LLC, formerly known as
ISC Engineering, LLC

APPROVED AS TO FORM:

CLASS COUNSEL

June 8, 2023
Dated: May ___, 2023 **THE FINKEL FIRM**

Jake Finkel
____
Jake D. Finkel
Attorneys for Plaintiffs

Dated: June 8, 2023 **BOKHOUR LAW GROUP, P.C.**

____
Mehrdad Bokhour
Attorneys for Plaintiffs

DEFENDANTS' COUNSEL:

Dated: May ___, 2023 **SELF & BHAMRE**

____
Hema C. Bhamre
Attorneys for Defendant,
Mustard Seed Technologies, Inc.

Dated: June 12, 2023 **STRADLING YOCCA CARLSON & RAUTH**

____
Karla J. Kraft
Attorneys for Defendant,
Interconnect Solutions Company, LLC, formerly known as ISC Engineering, LLC

EXHIBIT "B"

NOTICE OF SETTLEMENT OF CLASS ACTION

Mayra Osorio, et al. v. ISC Engineering, LLC, et al.
Superior Court of the State of California, County of Orange
Case No. 30-2021-01188961-CU-OE-CXC

To: All current and former non-exempt employees employed by Interconnect Solutions Company, LLC, formerly known as ISC Engineering, LLC and Mustard Seed Technologies, Inc. (the "Companies") in California at any time between March 15, 2017, through May 31, 2023 (the "Class"):

THIS NOTICE is about a proposed settlement of a class action lawsuit, and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Court will conduct a hearing on _____________, 2023 to address whether the proposed settlement should be approved ("Final Approval Hearing"). You may be entitled to receive payment under the terms of this class action settlement contained in the Settlement Agreement, which documents the terms of the settlement that the Court has preliminarily approved (the "Settlement").

[IDENTIFYING INFORMATION]

You have been identified as a Class Member in the above lawsuit. Under the terms of the proposed settlement, you are estimated to receive approximately **$INSERT AMOUNT** as your share of the Net Settlement Amount should the Court approve the Settlement. Please note that this is only an estimate. Your actual share of the Net Settlement Amount may be more or less than this estimate. Your estimate is based on the number of weeks you performed any work for either of the Companies (referenced herein as "Workweeks" or Weeks Worked") in California between March 15, 2017, through May 31, 2023 (the "Class Period"). Your options and eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT (SEE SECTION VIII FOR MORE DETAILS)	
DO NOTHING	Receive a settlement payment and give up your right to sue on the Released Claims described in Section III. This settlement does not require a claims process to receive a payment. Therefore, there is no claim form for you to complete should you wish to receive payment. You are automatically included and eligible to receive a payment once the Court approves the settlement.
EXCLUDE YOURSELF	You may "opt-out" of any connection with this case including any right to a settlement payment. If you choose to opt-out, you must submit a Request for Exclusion by _____________, 2023 (see Section VI). All persons who validly and timely opt-out of the Settlement will not receive any settlement payment and will preserve Released Claims described in Section IV subject to applicable statutes of limitations, except that Settlement Class Members who worked during the PAGA limitations period are nevertheless bound by the release of the PAGA claims.
OBJECT	Write to the Court and Settlement Administrator about why you do not like the Settlement by completing and submitting an Objection by _____________, 2023 (see Section VI) or make an objection at the Final Approval Hearing.
GO TO A HEARING	Ask to speak in Court about the terms of the Settlement. The next scheduled hearing is the Final Approval Hearing on _____________.

I. Why should I read this Notice?

The Court has granted preliminary approval of a proposed settlement (the "Settlement") in *Osorio, et al. v. ISC Engineering, LLC, et al.,* Orange County Superior Court Case No. 30-2021-01188961-CU-OE-CXC (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

The Companies' records show that you were employed in California as a non-exempt employee (meaning you were paid hourly or otherwise eligible for overtime pay) at some point between March 15, 2017 through May 31, 2023 ("Class Period"). The Court ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you were employed by one or both of the Companies as a non-exempt employee in California during the Class Period, you are automatically included in the Settlement and do not need to take any further action to receive a payment. The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the proposed Settlement, and to discuss your rights and options in connection with the Lawsuit and the Settlement.

II. What is this lawsuit about?

On or about March 15, 2021, Plaintiff Mayra Osorio filed a Class Action Complaint in the Court against Defendants, including causes of action asserting: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) meal period violations, (4) rest period violations, (5) wage statement violations, (6) waiting time penalties, (7) unfair competition, and (8) PAGA penalties. On or about December 21, 2022, the first amended complaint was filed adding Troy Blanton as a plaintiff and named class representative and adding a claim for failure to pay all sick time.

The Companies deny these allegations and contend that they have done nothing wrong. The Companies deny that they owe any wages, expenses, restitution, penalties, or other damages. Accordingly, this Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of the Companies, both of which expressly deny any and all liability.

The Court has not ruled on the merits of Plaintiffs' claims. And, by approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. However, to avoid additional expense, inconvenience, and risks of continued litigation, the Companies and Plaintiffs have concluded that it is in their respective best interests and the interests of the Settlement Class to settle the Lawsuit on the terms summarized in this Notice. After extensive discovery and providing information to Class Counsel, the Settlement was reached following an arm's length mediation.

The Class Representatives and Class Counsel support this Settlement. Among the reasons for their support are the defenses to liability potentially available to the Companies, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by the Companies, this Settlement will not affect your employment. **California law strictly prohibits unlawful retaliation.** Further, the Companies will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member's participation or decision not to participate in this Settlement. If a Class Member does not participate, his/her share will be paid to those who do participate.

III. Who are the attorneys representing Plaintiffs and the Class Members?	
Mehrdad Bokhour **Bokhour Law Group, P.C.** *mehrdad@bokhourlaw.com* 1901 Avenue of the Stars, Suite 450 Los Angeles, California 90067 Tel: (310) 975-1493; Fax: (310) 675-0861	Jake D. Finkel *jake@lawfinkel.com* 3470 Wilshire Blvd., Suite 830 Los Angeles, California 90010 Tel: (213) 787-7411; Fax: (323) 916-0521

IV. What are the terms of the Settlement?

On [PA DATE], the Court certified a class, for settlement purposes only, of all non-exempt employees employed by the Companies in California between March 15, 2017, through May 31, 2023 (the "Settlement Class"). Individuals who do not opt out of the Settlement Class, pursuant to the procedures set forth in this Notice, ("Class Members") will be mailed Settlement checks and in exchange be bound by the Settlement and release of Released Claims.

Without admitting any wrongdoing, the Companies have agreed to pay $850,000 (the "Settlement Amount") in U.S. dollars to fully resolve all claims in the Lawsuit, which includes payments for Individual Settlement Payments to eligible Class Members, attorneys' fees and costs, payments to the California Labor Workforce and Development Agency ("LWDA") and PAGA aggrieved employees, and Settlement Administration Costs, Class Representative Service Payments.

The Parties agreed to the following payments from the Settlement Amount:

Settlement Administration Costs. The Court has approved ILYM Group, Inc. ("ILYM") to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, a maximum of $12,000 will be paid from the Settlement Amount to pay the Settlement Administration Costs.

Penalties to the LWDA. $25,000 of the Settlement Amount will be allocated to Plaintiffs' claims under the PAGA. Of this amount, $18,750 will be paid to the LWDA in satisfaction of the claims for penalties under PAGA, and the remaining $6,250 will be distributed to all PAGA aggrieved employees.

The PAGA Period means September 25, 2019, through May 31, 2023.

PAGA aggrieved employees are eligible to receive payment under the PAGA Settlement of their pro rata share of the PAGA Amount, based on the number of Workweeks each PAGA Group Member worked during the PAGA Period relative to the total number of Workweeks Worked by all PAGA Members during the PAGA Period.

Service Payment to Settlement Class Representatives. Class Counsel will ask the Court to award Class Representatives a Service Payment in the amount of $10,000 to each of them ($20,000 total) to compensate them for service and extra work provided on behalf of the Class Members. The Class Representatives also may receive a share of the Settlement as a Class Member.

Attorneys' Fees and Expenses. Class Counsel, which includes three law firms (The Finkel Firm and Bokhour Law Group, P.C.), have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) for years and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of one-third ($283,333.33) of the common fund Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through finalization of the Settlement. Class Counsel also will ask for reimbursement of up to $20,000 for the costs Class Counsel incurred in connection with the Lawsuit.

Calculation of Individual Settlement Payments to Class Members. After deducting the amounts above, the balance will form the Net Settlement Amount for distribution to the participating Class Members (who are Class Members who do not opt-out). The Net Settlement Amount for class claims will total approximately $________. Compensable workweeks will be all Workweeks Worked by the Settlement Class Members during the Class Period at the Companies in California. The dollars per compensable Workweek will be calculated by dividing the total Workweeks Worked (excluding any excluded workweeks) by all Settlement Class Members into the Net Settlement Amount to determine a per workweek value ("Workweek Value"). The Workweek Value will be multiplied by the number of Workweeks Worked by each Settlement Class Member during the Class Period to determine the class payment distribution, prior to legal deductions, for each Settlement Class Member. If any individual in the Settlement Class opts-out of the Settlement, his/her Individual Settlement Amount will be distributed to all Participating Class Members (i.e., those who do not opt-out). Similarly, the PAGA payment will be determined by dividing the $6,250 PAGA payment by the total Workweeks Worked of all PAGA aggrieved employees to determine a PAGA Workweek Value. This PAGA Workweek Value will be multiplied by the number of Workweeks Worked by each PAGA aggrieved employee to determine the PAGA payment for each PAGA aggrieved employee. Currently, your projected class payment is $_____________ and your projected PAGA payment is $__________.

For each Settlement Class Member, the Weeks Worked at the Companies during the Class Period will be calculated from Companies' records. The Companies' records indicate that you worked for **[TOTAL WORKWEEKS] Workweeks** in California during the Class Period of March 15, 2017 through May 31, 2023. If you disagree with this number, you may submit evidence to the Settlement Administrator on or before _____________, 2023, with documentation to establish the number of weeks you claim to have actually worked for Companies in California between March 15, 2017 through May 31, 2023 (excluding any excluded workweeks). **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Parties and Administrator will evaluate the evidence submitted by the Settlement Class member and discuss in good faith how many Workweeks should be credited to each Settlement Class member. If the Parties are unable to agree, the Settlement Administrator will render a final decision.

Payments to Class Members. After the Court grants Final Approval of the Settlement, Judgment is entered, and the time to file an appeal has expired, settlement checks will be mailed to all participating Class Members who did not timely request to be excluded. Participating Class Members will have 180 days from the issuance of the last check to cash all of the checks. If any Class Member fails to timely cash a settlement check, a stop payment will be placed on the check and the unclaimed funds will be paid to the California State Controller's Office in the name of the Class Member, so that the Class Member can attempt to collect the funds at a later date.

Allocation and Taxes. One third (33.33%) of the Settlement Amount distributed to each participating Class Member will be considered and reported as "wages" (W-2 reporting). The remaining two-thirds (66.67%) of the Settlement Amount will be distributed to each participating Class Member as "interest" and "civil penalties" (Form 1099 reporting). The Settlement Administrator shall take all usual and customary deductions from the Settlement payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest or non-wage penalty distribution; however, it will be reported on IRS Form 1099 as income. The Companies will be responsible for paying its portion of the any state and federal taxes, in addition to the Settlement Amount. Class Members are responsible for the proper income tax treatment of the Settlement Amounts. The Settlement Administrator, Companies and its counsel, and Class Counsel cannot provide tax advice and make no representations as to the tax treatment or legal effect of the Individual Settlement Payments. Participating Class Members will be solely responsible for the payment of any taxes and penalties assessed on their Individual

Settlement Payments. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.
Release. Once the Court approves the proposed Settlement, enters Judgment and the Companies funds the Settlement Amount, then the Settlement Agreement will bind all participating Class Members who have not opted out of the Settlement, and will bar them from bringing certain claims against the Companies as described below. Specifically, after Final Approval by the Court, the Settlement Class Members will fully release and discharge the Defendants, each of them, and each of their parent, subsidiary, and affiliated entities, and each of their predecessors, successors, and assigns, and each of their former and present directors, officers, shareholders, owners, members, employees, investors, attorneys, insurers, agents, and representatives, as well as any alleged joint employer of Plaintiffs, the Settlement Class Members, and the Allegedly Aggrieved Employees of all claims that were pled in the Complaint and all claims that could have been alleged in the Complaint based on the facts alleged therein, including, but not limited to, claims all claims that were pled in the original Complaint and First Amended Complaint based on the facts alleged therein, or that could have been alleged based upon the facts asserted therein or that arise from, are attributable to, or are related to the facts asserted therein, except the claim under the PAGA, including claims for (1) failure to pay minimum wages, (2) failure to pay overtime wages and/or failure to pay such wages at the correct rate(s) of pay, (3) failure to pay all sick time wages and/or failure to pay such wages at the correct rate(s) of pay, (4) meal and rest break violations, failure to pay meal and rest break premium pay and/or failure to pay such premium pay at the correct rate(s) of pay, (6) failure to provide accurate itemized wage statements, (7) failure to timely pay all wages upon separation of employment, and (8) unfair and unlawful business practices. Based on the foregoing Labor Code violations. These released claims and damages are hereinafter referred to as "Released Claims." The time period governing these Released Claims shall be at any time from March 15, 2017 through May 31, 2023 ("Release Period"). Any Settlement Class Member who timely requests exclusion in compliance with these requirements will not be bound by this Release, except that Settlement Class Members who worked during the PAGA limitations period are nevertheless bound by the release of the PAGA claims.

Waiver of Labor Code Section 206.5(e). Class Members who do not opt out will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Individual Settlement Payments constitute payment of all sums allegedly due to them. Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Individual Settlement Payments. That section provides in pertinent part as follows:

> **"No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made."**

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

V. How can I claim money from the settlement?

You are automatically included as a Settlement Class Member to receive an Individual Settlement Payment, provided that you do not exercise your right to opt-out as explained below, and do not have to take any further action. It is the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or an Individual Settlement Amount.

VI. What other options do I have?

A. **Do Nothing and Participate in the Settlement**. Under the Settlement, you will automatically receive an Individual Settlement Payment unless you exclude yourself from the settlement by following the exclusion procedure set forth below. If you disagree with the number of Weeks Worked, as described in this Notice, you may dispute the allocation of the Settlement without excluding yourself or objecting, as described below.

If you are a current employee, your decision as to whether or not to participate in this Settlement will not be considered by the Companies and the Companies will not take any adverse employment action against you based on your participation in the Settlement.

B. **Exclude Yourself from the Settlement**. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a "Request for Exclusion from the Class Action Settlement" letter/card postmarked no later than ___________________, 2023 with your full name, address, telephone number, last four digits of your social security number or your date of birth, and signature. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE OSORIO V. ISC ENGINEERING LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT."

Send the Request for Exclusion directly to the Settlement Administrator, [ADDRESS], **postmarked no later than ________________, 2023**. Any person who files a timely Request for Exclusion from the Class Action Settlement, upon receipt: (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive any payments under this Settlement; and (3) will not be bound by this Settlement, or the Judgment, except that Settlement Class Members who worked during the PAGA limitations period are nevertheless bound by the release of the PAGA claims.

C. **Object to Settlement.** You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the proposed Settlement, or any portion of it, you may submit a written objection stating your full name, address, telephone number, dates of employment at Companies, the case name and number, the name and address of your attorney(s) if you are represented, each specific reason in support of your objection, and any legal support for each objection. You must also include any documentation or evidence in support of the objection, if any. Objections can be in writing and must be mailed to the Settlement Administrator, [ADDRESS], **by no later than ________________, 2023** for your objection to be considered. **You need not object to the Settlement if you only dispute the number of Weeks Worked. You may dispute your Weeks Worked by submitting evidence to the Settlement Administrator regarding your employment at the Companies.**

Any class member may appear at the Final Approval Hearing to make an oral objection whether or not any written objection or notice of appearance has been provided.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for ________________, 2023, at 2:30 p.m. in Department CX-101 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Orange, California 92701. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before ________________, 2023. All objections or other correspondence must state the name and number of the case. If you wish to appear at the Final Approval Hearing, please contact Class Counsel or the Settlement Administrator in advance of the scheduled hearing to ensure that the hearing has not been continued by the Court.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as participating Class Members who do not object. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

VII. What is the effect of the settlement?

Released Rights and Claims. The Settlement is intended to settle all claims against the Released Parties that were asserted or could have been asserted in the Lawsuit regarding the alleged violations of wage and hour laws. If you were employed by the Companies in California at any time during the Class Period and do not elect to exclude yourself from the Settlement Class, you will be deemed to have entered into this Release and to have released the above-described Released Claims. If the Settlement is not approved by the Court or does not become final for some other reason, the Lawsuit may continue, and the releases will not take effect.

VIII. What is the next step?

The Court will hold a Final Approval Hearing regarding the adequacy, reasonableness, and fairness of the Settlement, Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, and the Service Payments to the Class Representatives on ________________, 2023 at 8:30 a.m. in Department CX-101 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Orange, California 92701. To confirm the date and location of the hearing, please visit the Court website below and enter the case number: 30-2021-01188961-CU-OE-CXC:

https://www.occourts.org/online-services/case-access/

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

IX. How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Stipulation for Class Action Settlement and Release of Claims (the Settlement Agreement) at Office of the Clerk, Orange County Superior Court, located at 751 W. Santa Ana Blvd., Orange, California 92701during regular court hours. You may also contact Class Counsel or the Settlement Administrator using the contact information listed above for more information.

Class Members are encouraged to appear remotely via CourtCall or Zoom by contacting the Judicial Assistant in Department CX-101 for further instructions.

PLEASE DO NOT CALL OR WRITE THE COURT
FOR INFORMATION ABOUT THIS SETTLEMENT

EXHIBIT “C”

Gmail

Mehrdad Bokhour <mehrdad@bokhourlaw.com>

Thank you for your Proposed Settlement Submission

1 message

DIR PAGA Unit <lwdadonotreply@dir.ca.gov> Thu, Jun 22, 2023 at 8:07 PM
To: mehrdad@bokhourlaw.com

06/22/2023 08:07:33 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement
If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT “D”

LAW OFFICES OF JAKE D. FINKEL

JAKE D. FINKEL, ESQ.
3470 WILSHIRE BLVD. SUITE 830 | LOS ANGELES, CA 90010
T. (213) 787-7411 | F. (323) 916-0521 | E. JAKE@LAWFINKEL.COM

September 25, 2020

Via Certified Electronic Mail
LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA U.S. MAIL & CERTIFIED MAIL #7020-0090-0000-9569-9703
Return Receipt Requested
ISC Engineering, LLC
Attn: Human Resources
4351 Schaefer Avenue
Chino, CA 91710

VIA U.S. MAIL & CERTIFIED MAIL #7020-0090-0000-9569-9710
Return Receipt Requested
Mustard Seed Technologies, Inc. dba PKC
Attn: Bruce Terry McCleave, CEO
3000 W. Warner Avenue
Santa Ana, CA 92704

Re: Mayra Osorio Bravo v. ISC Engineering, LLC / Mustard Seed Technologies, Inc. dba PKC

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION § 2698 ET SEQ.

To: California Labor and Workforce Development Agency, ISC Engineering, LLC, and Mustard Seed Technologies, Inc. doing business as PKC.
From: Mayra Osorio Bravo, on behalf of herself and similarly aggrieved employees who were subject to the employers' wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Law Offices of Jake D. Finkel, represents the interests of Ms. Mayra Osorio Bravo (referred to hereinafter as "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of herself and all other aggrieved employees.
/ / /

Theories of Labor Code Violations and Remedies

ISC Engineering, LLC ("ISC"), is a manufacturer and wholesaler of over molded cables headquartered in Chino, California. Mustard Seed Technologies, Inc. doing business as PKC ("MST") is a manufacturing company headquartered in Santa Ana, California. (ISC and MST are hereinafter collectively referred to as "Employers") Employee was hired as a Solder Technician from, on or about, June 2013 through the end of her employment on or about March 30, 2020. Employee alleges Employers violated various sections of the Labor Code, including §§ 201, 202, 203, 204, 222, 223, 226, 226.7, 510, 512, 558, 1174, 1194, and 1197 by failing to provide Employee and all other aggrieved employees all wages for all hours worked including, but not limited to, regular hour, overtime hours and meal/rest period premium pay.

Employers failed to pay Employee and other aggrieved employees for all hours worked at the legally mandated wage rates. Employers failed to pay Employee and her co-workers the legally mandated regular and overtime rate for all work performed during their shifts in violation of California law. Specifically, Employers required Employee and her coworkers to work under a "Rounding Policy" that is not fair and neutral and resulted, over a period of time, in failure to compensate the employees properly for all the time they have actually worked, and as a result Employers willfully failed and refused, and continues to fail and refuse to pay compensation for all hours worked, including minimum wage and lawful overtime compensation to Employee and her coworkers. Employers' conduct, which is in violation of Labor Code sections 510 and 1194, is actionable under PAGA.

Further, Employers failed to provide Employee and other aggrieved employees with lawful, timely, and uninterrupted meal and rest periods. Due to Employers' policy and practices, Employee and her co-workers did not receive lawful and timely uninterrupted meal and rest periods and was not compensated with her owed premium compensation. Employee and her coworkers would either be required to forgo, shorten, interrupt, or take a late meal or rest period and instead attend to their job duties. Employers also failed to provide Employee and her coworkers with a second meal period when working a shift longer than ten hours in length. Even though Employee and her co-workers were prevented from taking lawful timely uninterrupted meal and rest periods, Employers failed to provide them with premium pay for every untimely, missed, shortened, or interrupted meal period and rest period. Employers' conduct, which is in violation of Labor Code sections 226.7 and 512, is also actionable under PAGA.

As a result of Employers' failure to pay all wages owed as described herein, Employers further failed to keep accurate payroll records and failed to provide Employee and other aggrieved employees with complete and accurate wage statements showing the actual hours worked, accurate rate of pay for each hour worked, accurate premium wages earned per pay period, and accurate net and gross wages. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

As a further result of Employers' failure to pay all wages owed as described herein, Employers also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees and is therefore actionable under PAGA.

Employee will bring her lawsuit on behalf of herself and all other aggrieved employees who were employed by Employers. Please advise if the LWDA has any objection to my client including PAGA claims in her complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,

Alexander Perez, Esq.
Law Offices of Jake D. Finkel