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9 Attorneys for Plaintiff CROSHEN KEITH WALTON, in a Representative capacity only, on behalf of  
10 all aggrieved employees

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN DIEGO**

13 CROSHEN KEITH WALTON, in a  
14 Representative capacity only, and on behalf  
15 of other members of the general public  
16 similarly situated

17 Plaintiff

18 v.

19 GLOBAL POWER GROUP, INC., a  
20 California Corporation, and DOES 1-10,  
21 inclusive,

22 Defendants

CASE NO. 37-2020-00044702-CU-OE-CTL

23 **DECLARATION OF ERIC YAECKEL**  
24 **IN SUPPORT OF PLAINTIFF'S**  
25 ***UNOPPOSED EX PARTE* APPLICATION**  
26 ***RE: PAGA SETTLEMENT APPROVAL***

Date: August 26, 2021

Time: 8:30 a.m.

Dept: C-66

Judge: Hon. Kenneth J. Medel

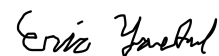
1 I, Eric K. Yaeckel, hereby declare as follows:

- 2 1. I am an attorney licensed to practice law before this Court and am an employed at the law firm  
3 of Sullivan & Yaeckel Law Group, APC, attorneys of record for Plaintiffs in the  
4 above-captioned matter. I make this declaration regarding Plaintiffs' **Unopposed** *Ex Parte*  
5 Request re Settlement Approval.
- 6 2. I have personal knowledge of the facts set forth in this declaration and, if called to testify as  
7 a witness, I could and would do so.
- 8 3. The Limitations Period begins on September 11, 2018 and goes through the date of Settlement  
9 Approval. There are approximately 74 employees within the proposed settlement group, which  
10 was verified at the time of mediation. The settlement group is made up of GPG's non-exempt  
11 employees.
- 12 4. Following several exchanges of information, analysis of numerous sets of time and wage data,  
13 and Mediation presided over by Michael Young (Esq.), the parties reached a proposed  
14 settlement that includes a payment of penalties to the LWDA.
- 15 5. On **August 24, 2021**, our office first notified the LWDA of the terms of the parties agreement  
16 by uploading the proposed Settlement Agreement. To date, Plaintiff's counsel has not received  
17 notice that the LWDA would intervene or object.
- 18 6. On **August 25, 2021**, at approximately 9:30 a.m. our office uploaded via the LWDA's  
19 electronic filing portal this entire *ex parte* application seeking settlement approval. To date,  
20 Plaintiff's counsel has not received notice that the LWDA would intervene.
- 21 7. A true and correct copy of the parties Joint Stipulation of Representative Action Settlement and  
22 Release of Claims ("the Agreement") is attached as **Exhibit 1**. This document contains the  
23 breakdown of all proposed settlement terms. In taking the \$11,425 allocated to the PAGA  
24 employees and dividing by the total employees (74) this confirms an average payment of  
25 \$154.39 to each employee. However, as set forth in the Agreement, this is an average only and  
26 employees actual shares are calculated on a pro-rata basis based on the number of pay periods  
27 they worked during the PAGA Period.  
28

- 1 8. To confirm, only PAGA representative claims are alleged in this action. As confirmed in the  
2 Agreement, the release for all the PAGA employees (aside from the named Plaintiff) is limited  
3 to claims under the PAGA statute only. Accordingly, all the employees retain the right to bring  
4 claims in their individual capacities. (See **Exhibit 1**: “RELEASE OF CLAIMS” § V, pg. 13).
- 5 9. The instant *Ex Parte* request is based on the fact that **(1)** the PAGA period “cutoff date” is  
6 contingent on Court approval, any delay diminishes the amounts received by the impacted  
7 employees; and **(2)** Notice to certain ex-employees may be adversely impacted (*i.e.* ex-  
8 employees may change their mailing address without a proper “forwarding address”) by further  
9 delay.
- 10 10. Additionally, the ongoing COVID-19 crisis has detrimentally impacted the majority of the  
11 employees at issue due to layoffs and general reductions in work. Accordingly, an expedient  
12 approval of this settlement will provide a direct benefit to the impacted employees at issue. It  
13 will also benefit the Defendant, who has also been impacted by the economic downturn. Any  
14 “fixes” and internal audits made to challenge policies provide for future Labor Code  
15 compliance. It also allows **(2)** Defendant (who admirably “stepped up” to address these issues  
16 without heavily litigating the case) the opportunity to move on, and focus on future business.
- 17 11. Plaintiffs’ operative Complaint alleges only Labor Code violations which triggered penalties  
18 under the PAGA statute (Labor Code §2698 et seq.) (See ROA # 1.) Specifically, Plaintiff  
19 alleged that they - and other employees - received “interrupted,” “short,” “late,” or “missing”  
20 Meal Periods, including those documented within Defendant’s Time Records. also challenged  
21 whether Defendant maintained lawful meal and rest period practices. Plaintiff alleged he- and  
22 other employees- were not properly compensated due to Defendant’s failure to maintain  
23 accurate time records.
- 24 12. The catalyst for settlement concerned allegations that Plaintiffs were denied legally compliant  
25 meal and rest periods, and were not paid for all hours worked.
- 26 13. Investigations completed by our officer revealed that some of Defendants’ employee records  
27 were not in compliance with California law. However, these investigations also revealed that  
28 the “rate of violation” by Defendant was significantly less than 100% and that any non-

- 1 compliance was likely not done in bad faith. On many of those occasions, it appears that  
2 Defendant did, in fact, comply with the law.
- 3 14. Moreover, Plaintiff's counsel is aware of the Court's discretion to mitigate penalties pursuant  
4 to California Labor Code section 2699(e)(2). To confirm, Plaintiff's counsel experienced the  
5 mitigation of "PAGA" penalties in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504.  
6 In *Carrington*, Honorable Katherine Bacal significantly mitigated PAGA penalties (\$5 per  
7 violation), due to the efforts made by the employer to comply with the law.
- 8 15. My partner, William B. Sullivan, has approximately 28 years of experience in "class action"  
9 and representative action litigation, both as plaintiff and defense counsel. I have over 10 years  
10 of experience prosecuting class and representative action claims under the California Labor  
11 Code. Plaintiff's counsel, Our office are the attorneys of record in a matter that was recently  
12 heard (and favorably decided for Plaintiff) before the California Supreme Court titled *Donohue*  
13 *v. AMN Servs., LLC* (2021) 11 Cal.5th 58. The *Donohue* matter was a certified class and  
14 PAGA action. Our office is lead counsel on approximately 40 employment "wage and hour"  
15 claims with class action, or representative action allegations.
- 16 16. Based on said experience, it is our opinion that this settlement represents a fair and adequate  
17 payment.
- 18 17. Defendant, and its counsel, deserve credit for their willingness to consider - and address - the  
19 allegations. Specifically, Defense Counsel (who have extensive experience and knowledge in  
20 "Wage and Hour" litigation) agreed to produce a substantial amount of documents and  
21 information necessary to evaluate the parameters of settlement. Following a full day Mediation  
22 and arms-length negotiations, the parties have reached a proposed settlement that includes a  
23 settlement payment to resolve claims for penalties under PAGA.

24 I declare under penalty of perjury under the laws of the State of California that the  
25 foregoing is true and correct. Executed this 18th day of August, 2021 at San Diego, California.

26  
27 

28  
ERIC K. YAECKEL

# **EXHIBIT 1**

Matthew C. Sgnilek, Esq. (State Bar No. 235299)  
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Attorneys for Defendant,  
 GLOBAL POWER GROUP, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SAN DIEGO**

CROSHEN KEITH WALTON, in a  
 Representative capacity only, and on behalf of  
 other members of the general public similarly  
 situated,

Plaintiff,

vs.

GLOBAL POWER GROUP, INC.; a California  
 corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 37-2020-00044702-CU-OE-CTL

**Joint Stipulation of Representative Action  
 Settlement and Release of Claims**

*[Assigned for All Purposes to the Hon.  
 Kenneth J. Medel; Dept. C-66]*

Complaint Filed: December 4, 2020  
 Case Management Conference: August 6, 2021  
 Trial: TBD

This Joint Stipulation of Representative Action Settlement and Release of Claims ("Settlement" or "Agreement") is made and entered into by and between Plaintiff Croshen Walton ("Plaintiff" or "Aggrieved Representative"), individually and on behalf of the State of California, all aggrieved employees, and Defendant Global Power Group, Inc. ("Defendant"). Plaintiff and Defendant are collectively referred to herein as "the Parties."

**I. DEFINITIONS**

The following definitions are applicable to this Settlement, in addition to other terms defined elsewhere in this Settlement:

1. "Superior Court" shall mean the Superior Court of California for the County of San Diego.

1           2.       The “Action” shall mean the operative Complaint of the civil action commenced on  
2 December 4, 2020, filed and maintained by Plaintiff against Defendant in the Superior Court of  
3 California, County of San Diego, Case No. 37-2020-00044702-CU-OE-CTL.

4           3.       “Plaintiff’s Counsel” shall mean the attorneys representing Plaintiff in the Action, Eric  
5 K. Yaeckel of Sullivan & Yaeckel Law Group, APC.

6           4.       “Defense Counsel” shall mean the attorneys representing Defendant in the Action,  
7 Matthew C. Sgnilek of O’Hagan Meyer.

8           5.       “Representative Period” shall mean the period of time from September 30, 2019,  
9 through the date of the Court’s granting approval of the Settlement or seventy-four (74) calendar days  
10 following mediation (i.e., October 9, 2021), whichever is earlier.

11          6.       “Aggrieved Employees” shall mean all persons who, during the Representative Period,  
12 have previously been or currently are employed in California by Defendants, as a non-exempt  
13 employee. An “Aggrieved Employee” shall mean an individual who is a member of the Aggrieved  
14 Employees (or if any such person is incompetent, deceased, or unavailable due to military service,  
15 the person’s legal representative or successor in interest evidenced by reasonable verification).

16          7.       “Settlement Administrator” shall mean Phoenix Settlement Administrators proposed  
17 by the Parties and appointed by the Superior Court to administer the Settlement.

18          8.       “Plaintiff’s Counsel Fees Payment” shall mean Thirty- Thousand Dollars and Zero  
19 Cents (\$30,000.00) subject to approval by the Superior Court as Plaintiff’s Counsel’s attorneys’ fees  
20 incurred in connection with the Action, including fees incurred in pre-filing investigation, filing of  
21 the Action, and all related litigation activities, this Settlement, and all post-Settlement compliance  
22 procedures.

23          9.       “Plaintiff’s Counsel Litigation Expenses Payment” shall mean the actual litigation  
24 expenses and/or costs expended by Plaintiff’s Counsel subject to approval by the Superior Court  
25 incurred in connection with the Action, including pre-filing investigation, filing of the Action, and all  
26 related litigation activities, this Settlement, and all post-Settlement compliance procedures. Plaintiff’s  
27 Counsel’s expenses are not to exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00).

28          10.       “Settlement Administrator Payment” shall mean the payment to the Settlement

1 Administrator for its fees and expenses in administering this Settlement.

2 11. "Pay Period" shall mean any pay period in which an Aggrieved Employee actually  
3 received payment from Defendants as a non-exempt employee.

4 12. "Individual Pay Periods" shall mean the number of Pay Periods for an individual  
5 Aggrieved Employee.

6 13. "Gross Settlement Amount" shall mean the Gross Settlement Amount of Ninety-  
7 Thousand Dollars and Zero Cents (\$90,000.00) payable by Defendants as provided by this  
8 Agreement.

9 14. Defendants represent that as of July 27, 2021, the number of pay periods worked by  
10 the Aggrieved Employees is approximately 1,932. Should the number of qualifying Pay Periods  
11 worked by the Aggrieved Employees during the Representative Period ultimately increases by more  
12 than 20% (i.e., by more than 386 additional Pay Periods or more than 2318 total Pay Periods),  
13 Defendants shall increase the Gross Settlement Amount equal to the percentage increase in the  
14 number of Pay Periods worked by the Aggrieved Employees above 20%. For example, if the number  
15 of Pay Periods increases by 21% to Pay Periods, the Gross Settlement Amount will increase by 1%.

16 15. "PAGA Payment" shall mean the Gross Settlement Amount, less (i) the Plaintiff's  
17 Counsel Fees Payment approved by the Superior Court; (ii) the Plaintiff's Counsel Litigation  
18 Expenses Payment approved by the Superior Court; (iii) the Settlement Administrator Payment  
19 approved by the Superior Court; and (iv) any other fees or expenses (other than Plaintiff's Counsel  
20 Fees Payment and Plaintiff's Counsel Litigation Expenses Payment) incurred in implementing the  
21 terms and conditions of this Agreement as approved by the Superior Court.

22 16. "LWDA Payment" shall mean the payment to the California Labor and Workforce  
23 Development Agency ("LWDA") constituting seventy-five percent (75%) of the PAGA Payment.

24 17. "Aggrieved Employees Payment" shall mean the remaining twenty-five percent (25%)  
25 of the PAGA Payment to be distributed on a pro rata basis based upon the number of Pay Periods  
26 worked by each Aggrieved Employee.

27 18. "Aggrieved Employees Payment Share" shall mean the value of each Aggrieved  
28 Employee's share of the Aggrieved Employees Payment as provided by this Agreement.

1           19.     “Aggrieved Employees Notice” shall mean the Notice of Settlement and Approval, a  
2 sample of which is attached hereto as Exhibit A. The Aggrieved Employees Notice shall further  
3 contain (i) an Aggrieved Employee’s first and last name, (ii) last known address, (iii) employee  
4 identification number, if applicable, (iv) the Aggrieved Employee’s Individual Pay Periods; and (v)  
5 the Aggrieved Employee’s individual share of the Aggrieved Employees Payment.

6           20.     “Effective Date” shall mean the date the Court has (1) approved the settlement terms and  
7 (2) issues a Judgment in the action. The parties agree that there is no right to object, opt-out, or appeal a  
8 judgment that is entered in a PAGA only case. Nor shall the State of California or LWDA have any right  
9 to appeal, especially considering Plaintiff will have timely notified them of the settlement and approval  
10 hearing. Notwithstanding, and only in the event an appeal is nonetheless filed, then the effective date will  
11 not trigger until the date all appeals from the Judgment have been full adjudicated. The parties will work  
12 together to have any Appeal dismissed. However, to confirm, it is the intention of the parties that so long  
13 as there is no objection, Defendants will fund the settlement within 14 days of the Effective Date.

14           21.     “Judgment” shall mean the Order of Final Judgment entered by the Superior Court that  
15 the Parties anticipate will be entered following an Approval Hearing on the Settlement in this Action.

## 16     **II.     RECITALS**

17           1.     On December 4, 2020, Plaintiff commenced the Action against Defendant by filing a  
18 Class Action Complaint. In his Complaint, Plaintiff pled causes of action in violation of Labor Code  
19 section 2698 for (1) Meal & Rest Period Violations; (2) Minimum Wage Violations; (3) Overtime  
20 Violations; (4) Wage Statement Violations; (5) Failure to Reimburse Expenses; and (6) Failure to Pay  
21 All Wages Upon Separation.

22           2.     On September 30, 2019, Plaintiff’s Counsel, on behalf of Plaintiff and the Aggrieved  
23 Employees, gave written notice to the LWDA of the Labor Code violations Defendants are alleged to  
24 have violated (“PAGA Letter”).

25           3.     Defendants deny and continue to deny all of Plaintiff’s material allegations.  
26 Specifically, Defendants contend (1) they did not fail to pay the Aggrieved Employees the minimum  
27 wage or overtime compensation; (2) they did not fail to pay the Aggrieved Employees any incentive  
28 pay; (3) they provided the Aggrieved Employees with all meal and rest periods according to law; (4)

1 they provided the Aggrieved Employees with accurate timely itemized wage statements, consistent  
2 with Labor Code Section 226; (5) they properly maintained all payroll records; (6) they did not fail  
3 to timely pay the Aggrieved Employees wages due and owing during employment; (7) they did not  
4 fail to timely pay the Aggrieved Employees wages due and owing upon separation; (8) they properly  
5 reimbursed Aggrieved Employees for all reasonable and necessary business expenses (9) the  
6 Aggrieved Employees are not entitled to penalties under PAGA; and (9) Defendant is not liable for  
7 penalties, attorneys' fees, or costs of litigation to Plaintiff or the Aggrieved Employees.

8 4. In connection with the Action, and in order to work toward a mediated resolution  
9 without the time and expense of formal discovery, the Parties produced voluminous documents and  
10 data (including, by Defendants, human resources documents and policies, time records, and payroll  
11 data during the Representative Period) which were reviewed, investigated, and analyzed by Plaintiff's  
12 Counsel.

13 5. On July 27, 2021, the Parties in Action participated in a full day of mediation before  
14 an experienced employment and class and representative action mediator, Michael Young, Esq.,  
15 which resulted in a settlement of the Action (the "Mediation").

16 6. The Settlement described in this Agreement represents a compromise and settlement  
17 of highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission  
18 by Defendants that Plaintiff's claims in the Action have any merit or that it has any liability to  
19 Plaintiff, the Aggrieved Employees, or the State on those claims, or as an admission by Plaintiff that  
20 Defendants' defenses in Action have any merit. This Settlement is intended to fully, finally, and  
21 forever compromise, release, resolve, discharge, and settle the released claims subject to the terms  
22 and conditions set forth in this Settlement.

23 7. Based on its own thorough, independent investigation and evaluation of this case,  
24 Plaintiff's Counsel is of the opinion that the Settlement of the Action with Defendants for the  
25 consideration and on the terms set forth in this Settlement are fair, reasonable, adequate, and in the  
26 best interest of the Aggrieved Employees in light of all known facts and circumstances, including the  
27 risk of significant costs and delay, the defenses asserted by Defendant including the risks of adverse  
28 determinations on the merits, and numerous potential appellate issues. Although Defendant contends

1 that it has no liability in the Action, Defense Counsel shares Plaintiff's Counsel's belief that the  
2 Settlement represents a fair and adequate settlement given the respective risks associated with the  
3 case.

4 8. Based on the foregoing Recitals, the Parties agree as follows:

5 **III. PROCEDURE FOR APPROVING SETTLEMENT**

6 9. **Motion for Approval of Settlement by the Superior Court.** Plaintiff will move the  
7 Superior Court for an order *ex parte* or if required on regular notice granting Approval of the  
8 Settlement and approving the Aggrieved Employees Notice (attached as Exhibit A to this Stipulation)  
9 ("Motion for Approval"). The hearing on the Motion for Approval of Settlement shall be scheduled  
10 as soon as the matter may be heard. Any unresolved disagreement among the Parties concerning the  
11 Aggrieved Employees Notice or other documents necessary to implement the Settlement will be  
12 referred first to Michael Young, Esq., and if no resolution is reached, then to the Superior Court.

13 10. At the hearing on the Motion for Approval, the Parties anticipate that they will jointly  
14 appear, support the granting of the Motion for Approval, and obtain an order granting approval of the  
15 Settlement, and granting approval of the Aggrieved Employees Notice.

16 11. Should the Superior Court require any amendments to this Agreement or the Motion  
17 for Approval, the Parties agree to work jointly to resolve any issues in order to secure the Superior  
18 Court's Approval.

19 12. Should the Superior Court decline to approve any material aspects of the Settlement,  
20 the Settlement will be null and void and the Parties will have no further obligations under it. In such  
21 event, the Parties shall be returned to their respective positions as of the date and time immediately  
22 prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this  
23 Agreement had not been executed.

24 13. Upon approval of the Settlement by the Superior Court, the Parties will present for the  
25 Superior Court's approval and entry a Proposed Final Order and Judgment. The entry of the Order  
26 and Judgment shall permanently bar all Aggrieved Employees from prosecuting against Defendant  
27 any claims or causes of action of any kind through the Representative Period, which were or could  
28 have been brought in this Action, whether known or unknown, as well as all claims as set forth in the

1 Release contained in Section V of this Agreement.

2 14. After entry of the Judgment, the Superior Court will have continuing jurisdiction over  
3 the Action and the Settlement solely for purposes of (i) enforcing this Settlement, (ii) addressing  
4 settlement administration matters, and (iii) addressing such post-Judgment matters as may be  
5 appropriate under court rules or applicable law.

6 15. **Aggrieved Employees Notice.** After the Superior Court enters its order granting  
7 Approval, every Aggrieved Employee will be provided with the Aggrieved Employees Notice (in  
8 English and Spanish) which will include the Aggrieved Employees Notice completed to reflect the  
9 order granting Approval of the Settlement and the Aggrieved Employee's information as follows:

10 (a) Within fourteen (14) calendar days after the Motion for Approval is granted,  
11 Defendant will provide to the Settlement Administrator the "Aggrieved Employees' Data," which  
12 shall consist of an electronic database containing each Aggrieved Employee's (i) first and last name,  
13 (ii) last known mailing address, (ii) Social Security number or Tax ID, (iii) employee identification  
14 number, if applicable, and based on Defendant's payroll records, and (iv) total number of Individual  
15 Pay Periods. If any or all of the Aggrieved Employees' Data is unavailable, Defendant will so inform  
16 Plaintiff's Counsel prior to the date on which Defendant is required to submit the Aggrieved  
17 Employees' Data to the Settlement Administrator and the Parties will make their best efforts to  
18 reconstruct or otherwise agree upon the Aggrieved Employees' Data prior to when it must be  
19 submitted to the Settlement Administrator. If the Parties are unable to agree, the dispute will be  
20 resolved by the Settlement Administrator. This information will otherwise remain confidential and  
21 will not be disclosed to anyone, except as required to applicable taxing authorities, as required to  
22 carry out the reasonable efforts to identify Aggrieved Employees' information as described in this  
23 Paragraph 15(a), pursuant to Defendant's express written authorization, or by order of the Superior  
24 Court.

25 (b) If an Aggrieved Employees Notice is returned by the U.S. Postal Service  
26 because of an incorrect address, the Settlement Administrator will promptly, and not later than five  
27 (5) days from receipt of the returned packet, search for a more current address for the Aggrieved  
28 Employee and re-mail the Aggrieved Employees Notice to the Aggrieved Employee. The Settlement

1 Administrator will use the Aggrieved Employees' Data and otherwise work with Defense Counsel or  
2 utilize its own resources such as skip traces to find a more current address. The Settlement  
3 Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job  
4 parameters, court orders, and fee, to trace the mailing address of any Aggrieved Employee for whom  
5 an Aggrieved Employees Notice is returned by the U.S. Postal Service. These reasonable steps shall  
6 include the tracking of all undelivered mail; performing address searches for all mail returned without  
7 a forwarding address; and promptly re-mailing to Aggrieved Employee for whom new addresses are  
8 found.

9       16.     **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms  
10 and conditions of this Settlement, Plaintiff, Aggrieved Employees, Defendant, and their respective  
11 counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-  
12 judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for  
13 new trial, a motion under Code of Civil Procedure Section 473, and any extraordinary writ, and the  
14 Judgment therefore will become non-appealable by them at the time it is entered. The waiver of  
15 appeal does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-  
16 judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the  
17 Settlement (including making payments under the Settlement) will be suspended until such time as  
18 the appeal is finally resolved and the Judgment, consistent with the terms of this Settlement, becomes  
19 Final.

20       17.     **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.**  
21 If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion,  
22 petition, writ, or application, the reviewing court vacates, reverses, or modifies the Judgment such  
23 that there is a material modification to the Settlement, and that court's decision is not completely  
24 reversed and the Judgment is not fully affirmed on review by a higher court, then either Party will  
25 have the right to void the Settlement, which the Party must do by giving written notice to the other  
26 Parties, the reviewing court, and the Superior Court, not later than fourteen (14) days after the  
27 reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes final.  
28 For the purposes of this paragraph, a "material change" is a change to the terms outlined in the

1 accepted Memorandum of Understanding, a copy of which is attached hereto as Exhibit B. A  
2 vacation, reversal, or modification of the Superior Court's award of the Plaintiff's Counsel Fees  
3 Payment, and/or Plaintiff's Counsel Litigation Expenses Payment will not constitute a vacation,  
4 reversal, or material modification of the Judgment within the meaning of this paragraph.

5       **18. Establishment of Settlement Account.** The Settlement Administrator shall establish  
6 a Settlement Account within two (2) days of the Effective Date and notify the Parties when the  
7 Settlement Account has been established. The Settlement Administrator shall also provide Defendant  
8 with an itemized statement for the total amount to be deposited into the Settlement Account, which  
9 shall equal the Gross Settlement Amount ("Settlement Account Deposit"). Within fourteen (14) days  
10 after receiving notification of the Settlement Account and statement for the Settlement Account  
11 Deposit, Defendant shall pay into the Settlement Account an amount equal to the Settlement Account  
12 Deposit. Defendant shall have no obligation to pay any additional funds into the Settlement Account.

13       **19.** In the event Defendants fails to deposit the Settlement Account Deposit within  
14 fourteen (14) days after the Effective Date and after receiving timely notification of the Settlement  
15 Account and statement for the Settlement Account Deposit and the Parties have not agreed, in writing,  
16 to an extension of time, Plaintiff may file a breach of contract claim against Defendant.

17       **20. Payment of Aggrieved Employees Payment Shares.** The Settlement Administrator  
18 shall pay to each Aggrieved Employee his or her Aggrieved Employees Payment Share from the  
19 Settlement Account. The Settlement Administrator shall pay each Aggrieved Employees Payment  
20 Share by sending a check in the appropriate amount to the Aggrieved Employee at the address  
21 indicated in the Aggrieved Employees' Data. Such payment, with the Aggrieved Employees Notice,  
22 shall be sent by the Settlement Administrator via U.S. Mail within fourteen (14) days of its receipt  
23 of the Settlement Account Deposit from Defendant.

24       **21. Uncashed Aggrieved Employees Payment Share Checks.** Any checks paid to  
25 Aggrieved Employees shall be negotiable for one hundred eighty (180) calendar days from the date  
26 of their issuance. An Aggrieved Employee must cash his or her Settlement Share check within one  
27 hundred eighty days (180) calendar days after it is mailed to him or her. If a check remains uncashed  
28 after one hundred eighty (180) calendar days from the initial mailing, or if a check is returned to the

1 Settlement Administrator as undeliverable during the one hundred eighty-day period, the Settlement  
2 Administrator shall take all reasonable efforts to identify the Aggrieved Employee's correct address,  
3 including the performance of a "skip-trace." If an updated address can be identified, the Settlement  
4 Administrator shall issue another check to the Aggrieved Employee and mail it to the Aggrieved  
5 Employee at his or her updated address. If an updated address for the Aggrieved Employee cannot  
6 be identified, if a reissued check is once again returned to the Settlement Administrator as  
7 undeliverable, or if the reissued check remains uncashed after one hundred eighty (180) calendar  
8 days, the Settlement Administrator will keep an accounting of such funds and shall give notice to the  
9 Parties of the total balance of uncashed Aggrieved Employees Payment Shares. An Aggrieved  
10 Employee who fails to negotiate or receive their Aggrieved Employees Payment Share check despite  
11 the procedures described above shall nevertheless remain bound by the Settlement and the releases  
12 contained herein.

13 22. The funds represented by Aggrieved Employees Payment Share checks remaining  
14 uncashed for more than one hundred eighty (180) calendar days after issuance shall be voided and  
15 then shall be transmitted to the Controller of the State of California to be held pursuant to the  
16 Unclaimed Property Law, California Code of Civil Procedure § 1500, *et seq.* in the names of those  
17 Aggrieved Employees who did not cash their checks until such time they claim their property. After  
18 the expiration of the 180-calendar day check cashing period, as outlined above, the Settlement  
19 Administrator shall begin the process of transferring the funds in accordance with California Code of  
20 Civil Procedure §§ 1500-1582 and the timing requirements set forth by the Office of the State  
21 Controller. The Parties agree that this disposition results in no "unpaid residue" under California  
22 Civil Procedure Code § 384, as the entire Aggrieved Employees Payment will be paid out to  
23 Aggrieved Employees, whether or not they all cash their settlement checks.

24 23. **Final Reports by Settlement Administrator to Superior Court.** Within ten (10)  
25 calendar days after transmission of any remaining unclaimed funds to the Controller of the State of  
26 California, the Settlement Administrator will serve on the Parties and file with the Superior Court a  
27 declaration providing a final summary report on the transmission of any remaining unclaimed funds  
28 to the Controller of the State of California.

1 **IV. SETTLEMENT TERMS AND CONDITIONS**

2 24. **Aggrieved Employees Payment Shares.** Subject to the terms and conditions of this  
3 Settlement, the Settlement Administrator will calculate the Aggrieved Employees Payment Shares  
4 for each Aggrieved Employee within ten (10) calendar days after Defendant provides the Settlement  
5 Administrator with the Aggrieved Employees' Data. The Aggrieved Employees Payment Share for  
6 each Aggrieved Employee will be calculated as follows, understanding that the formulas below do  
7 not constitute an admission by either Party, and are intended only to provide a practical means to  
8 simplify and administer the claims process:

9 (a) **Number of Aggrieved Employees and Pay Periods.** Defendant shall  
10 determine the total number of Aggrieved Employees and the aggregate number of Pay Periods for  
11 those Aggrieved Employees as of the close of the Representative Period. This information shall be  
12 provided to the Settlement Administrator along with the Aggrieved Employees' Data as described in  
13 Paragraph 18 above.

14 (b) **Calculation of the Pay Period Value.** The Settlement Administrator shall  
15 determine the value of a Pay Period ("Pay Period Value") by taking the Aggrieved Employees  
16 Payment amount and dividing it by the sum of all Aggrieved Employees' Pay Periods.

17 (c) **Calculation of Aggrieved Employees Payment Shares.** The Settlement  
18 Administrator shall assign to each Aggrieved Employee an Aggrieved Employees Payment Share  
19 which shall be equal to the Pay Period Value multiplied by each Aggrieved Employee's Individual  
20 Pay Periods. Upon calculation of each Aggrieved Employee's share of the Aggrieved Employees  
21 Payment, the Settlement Administrator shall furnish to Plaintiff's Counsel and Defense Counsel a  
22 worksheet containing a list of employee identification numbers for the Aggrieved Employees with  
23 their corresponding Individual Pay Periods and Aggrieved Employees Payment Share.

24 25. **Taxes and Withholdings.** Each Aggrieved Employees Payment Share is intended to  
25 settle each Aggrieved Employee's claims for civil penalties. Accordingly, one hundred percent  
26 (100%) of each Aggrieved Employees Payment Share shall represent civil penalties. The Aggrieved  
27 Employees Payment Share shall be paid to the Aggrieved Employee in full without deductions or  
28 withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each Aggrieved

1 Employee for that amount, unless the Aggrieved Employees Payment Share is \$600 or less. Each  
2 Aggrieved Employee shall be individually responsible for their own share of applicable income tax  
3 withholdings and deductions for his or her Aggrieved Employees Payment Share.

4 26. **Total Payment Amount.** In no event will the Defendant be required to pay more than  
5 the Gross Settlement Amount for distribution to Plaintiff's Counsel, Aggrieved Employees, LWDA,  
6 Settlement Administrator, or for any other costs or expenses not otherwise enumerated.

7 27. **Payments to Plaintiff's Counsel and Others.** Subject to the terms and conditions of  
8 this Settlement, the Settlement Administrator will make the following payments out of the Gross  
9 Settlement Amount as follows:

10 (a) **To Plaintiff's Counsel:** Plaintiff's Counsel will apply to the Superior Court  
11 for the Plaintiff's Counsel Fees Payment in an amount not to exceed Thirty Thousand Dollars and  
12 Zero Cents (\$30,000.00), or one-third (1/3) of the Gross Settlement Amount. Plaintiff's Counsel will  
13 also submit to the Superior Court a memorandum of costs for the Plaintiff's Counsel Litigation  
14 Expenses Payment in an amount not to exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00)  
15 as request reasonable costs of suit to be paid from the Gross Settlement Amount. Defendant will not  
16 oppose these requests. The Settlement Administrator will pay the amounts approved by the Superior  
17 Court out of the Gross Settlement Amount. Withholding and deductions will not be taken from the  
18 Plaintiff's Counsel Fees Payment or Plaintiff's Counsel Litigation Expenses Payment and one or more  
19 IRS Forms 1099 will be issued to Plaintiff's Counsel with respect to those payments.

20 (b) **To the Settlement Administrator:** The Settlement Administrator will be paid  
21 from the Gross Settlement Amount its reasonable fees and expenses as approved by the Superior  
22 Court, which are estimated to be \$2,300.

23 (c) **To the LWDA:** As part of their Motion for Approval, the Parties will jointly  
24 apply to the Superior Court for approval of the LWDA Payment in the estimated amount of  
25 \$34,275 which shall constitute the LWDA's seventy-five percent (75%) share of \$45,700 in estimated  
26 civil penalties paid under this Settlement. The remaining \$11,425 in civil penalties shall be distributed  
27 on a *pro rata* basis based upon the number of pay periods worked by each Aggrieved Employee  
28 ("Aggrieved Employees Payment").

1           28.     **Appointment of Settlement Administrator.** The Parties will ask the Superior Court  
2 to appoint Phoenix Settlement Administrators, a qualified and experienced administrator based in  
3 California where the Action is venued, to serve as the Settlement Administrator, which, as a condition  
4 of appointment, will agree to be bound by this Agreement with respect to the performance of its duties  
5 and its compensation. The Settlement Administrator's duties will include (i) calculating Aggrieved  
6 Employees Payment Shares; (ii) preparing, printing, and mailing the Aggrieved Employees Notice to  
7 all Aggrieved Employees; (iii) using reasonable measures to contact all Aggrieved Employees,  
8 including conducting a National Change of Address search on all Aggrieved Employees before  
9 mailing the Aggrieved Employees Notice to each Aggrieved Employee's address; (iv) re-mailing the  
10 Aggrieved Employees Notice to the Aggrieved Employee's new address for those Aggrieved  
11 Employees whose address had changed; (v) setting up a toll-free telephone number to receive calls  
12 from Aggrieved Employees; (vi) issuing the checks to effectuate the payments due under the  
13 Settlement; (vii) using reasonable measures to deliver issued checks to Aggrieved Employees,  
14 including use of a "skip-trace" for undeliverable checks; and (viii) otherwise administering the  
15 Settlement pursuant to this Agreement. The Settlement Administrator will have the final authority to  
16 resolve all disputes concerning the calculation of an Aggrieved Employee's Aggrieved Employees  
17 Payment Share, subject to the terms set forth in this Agreement. The Settlement Administrator's  
18 reasonable fees and expenses are estimated to be One Thousand, Nine Hundred and Fifty Dollars and  
19 \$2,300 and will be paid out of the Gross Settlement Amount, as set forth herein, subject to Court  
20 approval.

21     **V.     RELEASE OF CLAIMS**

22           29.     **Aggrieved Employees Released Claims.** As of the date of the Judgment, each  
23 Aggrieved Employee, and without the need to manually sign a release document, in exchange for the  
24 consideration recited in this Agreement, on behalf of himself or herself and on behalf of his/her  
25 current, former, and future heirs, executors, administrators, attorneys, agents, and assigns, shall and  
26 does hereby fully and finally release Defendant and Defendant's parents, predecessors, successors,  
27 subsidiaries, affiliates, partners, owners, assigns, franchisors, and trusts, and all of its employees,  
28 officers, agents, attorneys, stockholders, fiduciaries, and other service providers including, but not

1 limited to, O'Hagan Meyer (collectively hereinafter the "Released Parties"), from any and all claims,  
2 demands, rights, liabilities, and causes of action that were or could have been brought against the  
3 Released Parties in the Action for civil penalties pursuant to the PAGA that were alleged or could  
4 have been alleged under the Labor Code, state or local wage and hour laws and Wage Orders, whether  
5 known or unknown, based on the facts and legal theories contained in the Action or the PAGA Letter,  
6 including but not limited to or the PAGA notice, including claims for civil penalties based on unpaid  
7 regular wages, minimum wages, overtime wages, and incentive pay; failure to pay employees all  
8 minimum wages and overtime wages owed including by failing to pay all overtime and double time  
9 at the correct regular rate of pay; failure to provide compliant meal and rest periods; failure to pay  
10 them all premium wages owed for short, late or missed meal periods; failure to pay all wages owed  
11 at discharge or resignation; failure to timely pay wages within the times permissible under Labor  
12 Code section 204; failure to provide complete and accurate wage statements; failure to keep complete  
13 and accurate payroll records; failure to reimburse for all necessary and reasonable business expenses;  
14 and violations of Labor Code Sections 201, 202, 203, 204, 226(a), 226.3, 226.7, 510, 512(a), 1174(d),  
15 1194, 1197, 1197.1, 1198, 2698, *et seq.*, that could have been premised on the claims, causes of action  
16 or legal theories of relief described above or any of the claims, causes of action or legal theories of  
17 relief pleaded in the operative complaint; claims that the Aggrieved Employee is an "aggrieved  
18 employee" under PAGA with respect to any of the aforementioned claims released herein; and claims  
19 for attorneys' fees, costs and expenses for all causes of action and claims that were alleged in the  
20 Action or reasonably could have been alleged based on the facts and legal theories contained in the  
21 Complaint. Following the Effective Date and Defendant funding the settlement, all Aggrieved  
22 Employees will release the Released Parties from the Aggrieved Employees Released Claims that  
23 accrued during the Representative Period. Aggrieved Employees cannot opt out of or object to the  
24 foregoing release.

25       30.     **Plaintiff's Waiver of California Civil Code § 1542.** As of the Effective Date, in  
26 exchange for the consideration set forth in this Agreement, Plaintiff also agrees to expressly waive  
27 the provisions of California Civil Code § 1542, which provides as follows:  
28

1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
2 WHICH THE CREDITOR OR RELEASING PARTY DOES NOT  
3 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE  
4 TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN  
5 BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS  
6 OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED  
7 PARTY.

8 Plaintiff's general release and waiver of California Civil Code §1542 shall cover the time period from  
9 the start of his employment with Defendants up to the Effective Date.

10 31. **Plaintiff's Counsel.** As of the Effective Date, and except as otherwise provided by  
11 this Settlement, Plaintiff's Counsel and any counsel associated with Plaintiff's Counsel waive any  
12 further claims to costs and attorneys' fees and expenses against Defendant or the Released Parties  
13 arising from or related to the Action, including but not limited to claims based on the Labor Code,  
14 the Code of Civil Procedure, PAGA, the Fair Labor and Standards Act, the Business and Professions  
15 Code, or any other contract, statute or law ("Plaintiff's Counsel Released Claims").

16 32. **No Effect on Other Benefits.** The payment of Aggrieved Employees Payment Shares  
17 will not result in any additional employee benefit payments (such as 401(k), vacation, or bonus) and  
18 shall not have any effect on the eligibility for, or calculation of, any employee benefit.

19 **VI. MISCELLANEOUS TERMS**

20 33. **No Admission of Liability.** Defendant denies that it has engaged in any unlawful  
21 activity, has failed to comply with the law in any respect, or has any liability to anyone under the  
22 claims asserted in the Action. This Settlement is entered into solely for the purpose of compromising  
23 highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission  
24 of liability or wrongdoing by Defendant, an admission by Plaintiff that any of his claims were non-  
25 meritorious, or any defense asserted by Defendant was meritorious. This Settlement and the fact that  
26 Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be  
27 admissible in connection with, any litigation (other than solely in connection with the Settlement).

28 34. Whether or not the Judgment becomes Final, neither the Settlement, any document,  
statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those  
matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be

1 evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of a  
2 presumption, concession, indication or admission by any of the Released Parties of any liability, fault,  
3 wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence  
4 against any of the Released Parties, or any other civil, criminal or administrative action or proceeding  
5 except for purposes of effectuating this Settlement.

6 35. Notwithstanding Paragraph 34 of this Settlement, any and all provisions of this  
7 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any  
8 or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

9 36. **Integrated Agreement.** After this Settlement is signed and delivered by all Parties  
10 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the  
11 Parties relating to this Settlement, and it will then be deemed that no oral representations, warranties,  
12 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits  
13 other than the representations, warranties, covenants, and inducements expressly stated in this  
14 Settlement and its exhibits.

15 37. **Attorney Authorization.** Plaintiff's Counsel and Defense Counsel warrant and  
16 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate  
17 action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its  
18 terms, and to execute any other documents required to effectuate the terms of this Settlement. The  
19 Parties and their counsel will cooperate with each other and use their best efforts to affect the  
20 implementation of the Settlement. In the event the Parties are unable to reach agreement on the form  
21 or content of any document needed to implement the Settlement, or on any supplemental provisions  
22 that may become necessary to effectuate the terms of this Settlement, the Parties will seek the  
23 assistance of mediator Michael Young, Esq., and if no resolution is reached the Superior Court, and  
24 in all cases all such documents, supplemental provisions and assistance of the court will be consistent  
25 with this Settlement.

26 38. **Modification of Agreement.** This Agreement, and any and all parts of it, may be  
27 amended, modified, changed, or waived only by an express written instrument signed by all Parties,  
28 their successors-in-interest, and/or the Parties' respective counsel, as authorized.

40. **Applicable Law.** All terms and conditions of this Settlement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

42. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, current and potential.

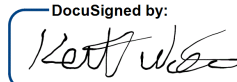
44. **Notice.** All notices, demands or other communications given under this Settlement will be in writing and deemed to have been duly given as of the third business day after mailing by U.S. Mail, addressed as follows:

*To Defense Counsel:* Matthew C. Sgnilek, Esq.  
O'HAGAN MEYER  
4695 MacArthur Court, Suite 210  
Newport Beach, CA 92660

45. **Execution in Counterpart.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

DATED: 8/24/2021 \_\_\_\_\_

**CROSHEN WALTON**

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DATED: \_\_\_\_\_

**GLOBAL POWER GROUP, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

DATED: 8/23/2021 \_\_\_\_\_

**SULLIVAN & YAECKEL LAW GROUP, APC**

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BY: \_\_\_\_\_  
**ERIC YAECKEL, ESQ.**

**ATTORNEY FOR PLAINTIFF  
 CROSHEN WALTON**

DATED: \_\_\_\_\_

**O'HAGAN MEYER**

BY: \_\_\_\_\_  
**MATTHEW C. SGNILEK, ESQ.**

**ATTORNEYS FOR DEFENDANTS  
 GLOBAL POWER GROUP, INC.**