

PAGA SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiff Ashley Flores (hereinafter “Plaintiff”) as a private attorney general on behalf of the State of California pursuant to Labor Code section 2698 *et seq.*, the Private Attorneys General Act (“PAGA”) on the one hand, and Defendant AVDC, Inc. (“AVDC”) on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

This Settlement shall be binding on Plaintiff and the State of California to the extent permitted under PAGA and on Defendant.

I. NATURE OF ACTION

1. On September 9, 2020, Plaintiff sent notice to the Labor and Workforce Development Agency (“LWDA”) giving notice of her intent to pursue a representative PAGA action, on behalf of the State of California for alleged Labor Code violations committed against herself and other aggrieved employees. Plaintiff also sent an Amended PAGA Notice on February 19, 2021.

2. For purposes of this settlement, the Aggrieved Employees or PAGA Members are defined as: all individuals who were employed by AVDC, Inc. as a non-exempt, hourly employee in California for one or more pay periods from September 9, 2019 to July 15, 2021. As of June 1, 2021, there were 888 aggrieved employees who worked 28,325 pay periods between September 9, 2019 and June 1, 2021.

II. REPRESENTATIONS AND DEFINITIONS

1. “PAGA Representative” or “Plaintiff” shall refer to Named Plaintiff Ashley Flores.

2. “Defendant” or “Defendants” shall mean and refer to AVDC, Inc.

3. “Released Parties” shall mean and refer to Defendant and all of Defendant’s past and present corporations, affiliates, parents, subsidiaries, divisions, predecessors, insurers, successors, assigns, related companies, and each of their respective past, present, and future owners, directors, officers, shareholders, executives, members, attorneys, partners, successors,

assignees, agents, insurers, and managers.

4. “Lawsuit” refers to the civil action pending in San Bernardino County Superior Court titled, *ASHLEY FLORES, an individual, on behalf of the State of California, as a private attorney general, PLAINTIFF v. AVDC, INC., an Ohio Corporation; and DOES 1 to 50, inclusive, DEFENDANTS*, San Bernardino County Superior Court, Case No. CIVSB2025388.

5. “PAGA Counsel” shall refer to David S. Winston of the Winston Law Group, P.C.

6. “Counsel for Defendant(s)” and “Defense Counsel” shall refer to Cory D. Catignani of Vorys, Sater, Seymour and Pease LLP.

7. “Covered Period” or “PAGA Period” shall mean the period from September 9, 2019 to July 15, 2021.

8. “Aggrieved Employee,” “Aggrieved Employees,” “PAGA Member” or “PAGA Members” shall mean any and all individuals who were employed by AVDC, Inc. as a non-exempt, hourly employee in California for one or more pay periods from September 9, 2019 to July 15, 2021.

9. “Court” refers to the San Bernardino County Superior Court.

10. “Aggrieved Employee Share” shall mean and refer to each PAGA Aggrieved Employees’ share of the 25% of PAGA penalties allocated to the Aggrieved Employees in accordance with Labor Code section 2699(i).

11. “Settlement Administrator” shall refer to ILYM Group, Inc.

12. “Covered Claims” means any and all claims that were asserted or could have been asserted under PAGA or for PAGA penalties based on alleged violations of the following Labor Code provisions: 201, 202, 203, 204, 210, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1 and 1198 as well as IWC Wage Order Nos. 7-2001 and 9-2001, and any claims based upon the facts alleged or that could have been alleged in the September 9, 2020 PAGA Notice, the February 29, 2021 Amended PAGA Notice, and the November 16, 2020

Complaint. (the “Settled Claims” or “Released Claims”). This Settlement does not cover any Non-PAGA claims other than Plaintiff’s putative individual claims.

13. “Eligible Pay Periods” means the total number of pay periods that each Aggrieved Employee received a wage statement during the Covered Period.

14. “Settlement” shall mean this Settlement and Release Agreement.

15. “Effective Date” and “Final” shall mean the date that the Court grants approval of the PAGA Settlement.

16. “Service Award” means a monetary amount of up to Five Thousand Dollars (\$5,000.00) for Plaintiff Ashely Flores, which, subject to Court approval, will be paid as provided for below.

17. “Gross Settlement Amount” or “GSA” shall mean and refer to the \$280,000.00 that Defendant is obligated to pay under the terms of the proposed settlement. The Gross Settlement Amount is non-reversionary, such that the entire amount will be disbursed and none will revert to Defendant.

18. Plaintiff alleged on behalf of the State of California that Defendant required Plaintiff and the other aggrieved employees to undergo security checks off-the-clock and during their meal/rest periods. As a result, Plaintiff alleges that Defendant failed to pay her and the other aggrieved employees for all hours worked (including overtime hours), failed to provide lawful, uninterrupted meal periods, failed to provide lawful rest periods, failed to provide accurate itemized wage statements, failed to timely pay all wages owed during and after employment based upon the foregoing and on a non-derivative basis, and failed to maintain accurate time records. Plaintiff alleges that this underlying conduct gives rise to a claim pursuant to Labor Code Section 2698, *et seq.*

19. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and denies any liability or intentional wrongdoing. Defendant contends, among other things, that it has complied at all times with the California Labor Code, the related California Wage Orders, and all other state and federal wage laws, and further contends

that the Lawsuit is without merit and that Plaintiff cannot pursue claims, if any, against Defendant. Defendant denied and continues to deny each and every material factual allegation and alleged claim asserted against it in the Lawsuit. Defendant further contends that the imposition of any penalties would be unjust, arbitrary, oppressive, and confiscatory. Nevertheless, Defendant is willing to resolve this matter in accordance with the terms set forth herein.

20. The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.

21. Plaintiff and PAGA Counsel contend that they have diligently pursued an investigation of the State of California's claims under PAGA against Defendant.

22. On February 11, 2021, the Parties participated in mediation before the Hon. John Leo Wagner (Ret.), a retired judge and highly experience class action mediator. After a full-day mediation and a post mediation Mediator's Proposal from Judge Wagner, the Parties reached a settlement.

23. Based on their own independent investigations and evaluations, Plaintiff and PAGA Counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement is fair, reasonable, and adequate and is in the best interests of the Plaintiff, the Aggrieved Employees, and the State of California in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues.

24. The purpose of this Settlement is to settle and compromise the Lawsuit and all Covered Claims that Plaintiff, the State of California and the Aggrieved Employees have under PAGA against Defendant and the Releasees (as defined in Section IV, below). Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Nothing herein shall constitute an admission by Defendant that the Lawsuit was

properly brought as a representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendant in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification, or administration other than for purposes of administering this Settlement; and (d) shall not constitute or be deemed a waiver of Defendant's alleged right to compel arbitration of any dispute with an Aggrieved Employee.

25. In order to comply with the requirements of Labor Code Section 2699(I), Plaintiff shall submit a Motion for Approval of Representative PAGA Settlement to the Court identifying the key terms of this Settlement and Release agreement and requesting that the Court approve the Settlement ("Approval Motion"). Plaintiff will submit Settlement and Release to the LWDA at the same time that Plaintiff submits the Settlement and Release to the Court for approval in accordance with Cal. Labor Code Section 2699(I)(2). The Settlement is contingent upon the approval by the Court. If the Court denies a Motion for Approval of Representative PAGA Settlement due to concerns that the Parties cannot address through non-material modifications of this Agreement, (i) this Settlement shall be considered null and void; (ii) neither this Settlement Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if this Settlement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Settlement, except for the amount of attorneys' fees and costs, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that

the remaining provisions shall remain in full force and effect. The Parties agree to abide by all of the terms of the Settlement in good faith and to support the Settlement fully and to use their best efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack. The Parties shall make all possible good faith efforts to resolve any issues raised by the Court during the approval process.

26. In the event that the Court does not grant a Motion for Approval of Representative PAGA Settlement after several attempts and after exhausting all good faith efforts to address any concern raised by the Court, the Parties will be restored to their positions prior to the execution of this Settlement Agreement and the Settlement Agreement shall be null and void and all documents submitted in support thereof shall be deemed inadmissible.

III. TERMS OF SETTLEMENT

27. In consideration of the mutual covenants, promises and representations set forth in this Settlement, Plaintiff, on behalf of the State of California as a Private Attorney General and Defendant agree to settle and compromise the Lawsuit and the Covered Claims, subject to the terms and conditions set forth in this Settlement.

28. The Amount of Settlement. As consideration for the settlement described herein and the release contained in this Settlement, Defendant agrees to pay the Gross Settlement Amount of \$280,000.00 in connection with the PAGA Settlement. The Gross Settlement Amount shall consist of and will be allocated as follows:

- (a) PAGA Counsel's attorney fee request of 1/3 of the Gross Settlement Amount (\$93,333.33);
- (b) PAGA Counsel's request for costs in the amount of \$9,699.22;
- (c) A PAGA service award in the amount of \$5,000.00 to Plaintiff Ashley Flores for her services on behalf of the state of California and aggrieved employees;
- (d) Administration costs of \$8,790.00 to be paid to the Settlement Administrator ILYM Group, Inc.; and

(e) the remainder of the Settlement Payment after deducting the items (a), (b), (c), and (d) herein shall be designated as PAGA Penalties or PAGA Penalty Fund is estimated to be \$163,177.45 and will be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i) with 75% paid to the LWDA (\$122,383.09) and 25% paid to the Aggrieved Employees on a pro-rata basis (\$40,794.36).

29. Allocation and Calculation of the PAGA Penalties. The anticipated total PAGA Penalty Fund will be approximately \$163,177.45. Seventy-five percent of the PAGA Penalty Fund will be paid to the LWDA as required by Labor Code section 2699(i). The remaining 25% of the PAGA Penalty Fund will be distributed to Aggrieved Employees on a pro-rata basis based upon the number of pay periods worked during the Covered Period also referred to as the PAGA Period. The allocation amongst the Aggrieved Employees shall be determined by dividing the entire PAGA Fund allocated to the Aggrieved Employees by the number of pay periods in the PAGA Period. The resulting amount shall be the Pay Period Amount. Each Aggrieved Employee, including Plaintiff, shall receive a pro rata value equal to the number of pay periods worked during the PAGA Period multiplied by the Pay Period amount. All Individual Settlement Payments made to Aggrieved Employees will be reported on an IRS Form 1099. Each Aggrieved Employee's pro-rata share of the PAGA Penalty Fund represents their share of the 25% in PAGA penalties distributable to the aggrieved employees.

30. PAGA Representative Service Award. Plaintiff Ashley Flores may request a service award of up to \$5,000.00 in recognition for her services on behalf of the State of California and the aggrieved employees. Any service award awarded by the Court shall be paid out of the Gross Settlement Amount and will be reported on an IRS 1099 basis. The PAGA Representative Service Award shall be an amount in addition to Plaintiff Ashley Flores' pro-rata share of the Net PAGA penalties awarded to the aggrieved employees. Defendant will not object to or oppose a service award request for PAGA representative Ashley Flores in the amount of \$5,000.00.

31. PAGA Counsel's Fees and Costs. As part of the request for approval of this

Settlement, PAGA Counsel will request court approval of 1/3 of the Gross Settlement Amount, which is \$93,333.33. PAGA Counsel will also request cost reimbursement in the amount of \$9,699.22 for costs incurred by PAGA Counsel. Should PAGA Counsel request a lesser amount for attorneys' fees and costs and/or the Court approve a lesser amount, the difference shall be allocated to the PAGA Penalty Fund and distributed accordingly. The payment approved by the Court pursuant to this subparagraph shall constitute full satisfaction of the Released Parties' obligations to pay amounts to any person, attorney, or law firm for attorneys' fees, expenses, or costs incurred on behalf of the Plaintiff, the LWDA and/or the Aggrieved Employees, and shall relieve the Released Parties from any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of the Plaintiff, the LWDA or the Aggrieved Employees. Winston Law Group, P.C. shall be solely and legally responsible to pay any and all applicable taxes on the payment made pursuant to this subparagraph and agrees to indemnify and hold harmless the Released Parties from any claim or liability for taxes, penalties, or interest for which Winston Law Group, P.C. is responsible as a result of the payment or any allocation of the payment made pursuant to this subparagraph. Winston Law Group, P.C. represents that no other attorneys have performed work on the Lawsuit. Any attorneys' fees and costs awarded to Winston Law Group, P.C., hereinafter referred to as "PAGA Counsel Fees & Costs," shall fully compensate and reimburse Winston Law Group, P.C. for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit, including but not limited to securing Court approval of the settlement, appearing at any hearings, making sure that the settlement is fairly and properly administered, defending the settlement in any appeal or other post-approval matter, all other work that PAGA Counsel has performed or will perform, and all costs that PAGA Counsel has incurred or will incur. Defendant will not object to or oppose a request for attorneys' fees in the amount of up to 1/3 of the Gross Settlement Amount or any request for reimbursement that does not exceed \$9,699.22.

32. Tax Treatment of Settlement Amounts. With regard to settlement payments to

PAGA Aggrieved Employees reflecting each Aggrieved Employees' share of PAGA penalties, IRS Form 1099s will be issued if required. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that she has obtained no tax advice from Defendant and that neither Defendant nor their attorneys have made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement or any payment to be made pursuant to this Agreement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any Aggrieved Employees' tax obligations regarding the allocation of the settlement payments. Payment of PAGA Counsel Fees & Costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

33. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO

ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

IV. RELEASE

34. Release By All Aggrieved Employees. Upon the approval by the Court of this Settlement, Plaintiff, the State of California and each Aggrieved Employee, for the period from June 21, 2018 to the date that the Court approves the Settlement, shall fully release and forever discharge the Released Parties from any and all Covered Claims.

35. Release by Plaintiff. In addition to her participation in the Release by all Aggrieved Employees and except as otherwise provided herein, upon the Effective Date of this Settlement Plaintiff, on her own behalf and on behalf of her descendants, dependents, heirs, executors, administrators, assigns, and successors (collectively, "Plaintiff's Releasers"), hereby covenants not to sue and fully and unconditionally forever releases and discharges the Released Parties from and against any and all claims, causes of action, judgments, liens, demands, damages, obligations, suits, contracts, liabilities, losses, costs, and expenses, including, but not limited to, attorneys' fees and disbursements, or offsets of any nature whatsoever (collectively, "Claims") that Plaintiff's Releasers now have, have had, or may hereafter have against the Released Parties arising out of the Parties' relationship, the cessation of this relationship, including but not limited to those claims arising out of or relating to the alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1 and

1198 as well as IWC Wage Order Nos. 7-2001 and 9-2001 as well as any other provision of the California Labor Code. Plaintiff previously released claims related to alleged employment discrimination she allegedly experienced while working for Defendant and received a payment related thereto from which attorneys' fees were paid. However, Plaintiff did not release any of the claims at issue in this action, the underlying claims, and/or provisions of the California Labor Code that she is releasing on an individual basis as part of this lawsuit. Except for any rights created by this agreement, this Release is intended to be interpreted as broadly as possible and to apply to any and all claims available to Plaintiff in any forum, including, but not limited to, any claims for unpaid wages, unpaid penalties or premiums, liquidated damages, class or representative actions governing employment (to the fullest extent allowed by applicable law). All such claims are forever barred by this Agreement. To the fullest extent permitted by law, Plaintiff also grants a general release to Defendant and waives all rights to assert any individual common law, tort, or unlawful employment practices claims against Defendant. Plaintiff expressly waives the rights provided under California Civil Code Section 1542, which states that:

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.

Plaintiff understands the significance and consequences of a California Civil Code Section 1542 waiver, and understands that she hereby waives all claims, known or unknown, suspected or unsuspected against Defendant. Plaintiff alone shall assume full responsibility for any damages or losses caused by this waiver.

Nothing contained in this Agreement shall be deemed a release or waiver by Plaintiff of claims Plaintiff may have against any Releasees for: (a) unemployment and disability pursuant to the terms of applicable California law; (b) workers' compensation insurance injury or pay benefits pursuant to Division 4 of the California Labor Code, under the terms of any worker's

compensation insurance policy or fund of the Plaintiff; and (c) any claims that, under applicable federal, state, or local law, are not waivable. This waiver and release is contingent upon the Court's approval of the Parties' PAGA settlement.

V. APPROVAL OF THE SETTLEMENT

36. The Parties recognize that in accordance with Labor Code Section 2699(l) Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal.4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. *See also Mendoza vs. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) ("PAGA authorizes a representative action without the need for class certification."); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) ("a PAGA suit is fundamentally different than a class action" in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action."); *Williams vs. Sup. Ct.*, 3 Cal.5th 531, 546-547 (2017) ("PAGA does not make other potentially aggrieved employees parties or clients of plaintiff's counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class.").

37. As explained in Paragraph 26, in order to comply with the requirements of Labor Code Section 2699(l), Plaintiff shall file a Motion for Approval of Representative PAGA Settlement identifying the key terms of this Settlement and Release agreement and requesting that the Court approve the Settlement ("Approval Motion").

VI. THE SETTLEMENT PAYMENT PLAN AND ADMINISTRATION OF THE SETTLEMENT

38. Within twenty (20) calendar days after the Effective Date, Defendant will compile and transmit an Aggrieved Employee list ("Aggrieved Employee List") containing: (1) the name; (2) last known home address and telephone number; (3) the number of pay periods worked by an Aggrieved Employee during the Covered Period..

39. Defendant shall pay to the Settlement Administrator the Gross Settlement Amount within thirty (30) calendar days of the Effective Date. Once Defendant has complied with its obligation set forth in this paragraph, it shall be deemed to have satisfied all of the terms and conditions of this Agreement, shall be entitled to all the protections afforded it under the Agreement, and shall have no further obligations under the Agreement, regardless of what occurs with respect to the further administration of the Settlement. Without prejudice to any other remedies, both the Settlement Administrator and PAGA Counsel shall hold Defendant harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any failure to timely or properly compensate PAGA Members as provided in this Agreement. The Settlement Administrator shall distribute each Aggrieved Employee Share to the Aggrieved Employees, any service award and the attorneys' fees and costs awarded by the Court within forty (40) calendar days of the Effective Date.

40. The settlement payment checks for each Aggrieved Employees' Share shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. A letter approved by the Parties, in advance of filing the Approval Stipulation, explaining this Settlement will be included in the mailing of each Aggrieved Employees' check and submitted to the Court for its review and approval. The date of the initial mailing of the payment check shall be conclusively determined according to the records of the Settlement Administrator. A true and correct copy of the Proposed explanatory letter is attached hereto as **Exhibit 1**.

41. The Settlement Administrator shall insure that 75% of the PAGA Penalty Fund is paid to the LWDA.

42. Settlement checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. If there are uncashed checks following this period, the Settlement Administer will ensure that uncashed funds shall be forwarded the State of California State Controller's Office Unclaimed Property Fund in the name of the Aggrieved

Employee who did not cash his or her Aggrieved Employee Share.

VIII. DUTIES OF THE PARTIES PRIOR TO APPROVAL

43. Promptly upon execution of this Settlement, Plaintiff shall file a Motion for Approval of Representative PAGA Settlement. The Parties shall apply to the Court for the entry of an order and final judgement approving this Settlement as required by Labor Code section 2699(l). The Approval Motion will request Court approval of the following:

- a. Approving the terms of this Settlement and Release Agreement;
- b. Approving the amount of PAGA Counsel Fees & Costs;
- c. Appointing ILYM Group, Inc. as the Settlement Administrator and approving the amount of Settlement Administration Costs;
- d. Approving the amount of Plaintiff's Service Award; and
- e. Entering Final Judgment.

44. In conjunction with the Motion for Approval of PAGA Settlement, the Parties will submit the proposed Final Judgment attached hereto as **Exhibit 2**.

45. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

XI. MUTUAL FULL COOPERATION

46. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, 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. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein.

XII. CONFIDENTIALITY

47. Other than information necessary to secure Court approval of this settlement, the Parties agree to keep confidential all matters related to this Settlement, including the terms of the Settlement and the facts and circumstances leading up to it. The Parties may, however, discuss

the terms of this Settlement with their spouses, fiancées, attorneys, financial advisors, tax advisors, and accountants, or upon a valid court order, at which time the individual receiving information about the terms of this Settlement shall be informed that the terms of this Settlement are confidential, and the individual may not reveal or disclose to any third party the terms of the Settlement. Nothing in this Agreement shall prohibit PAGA Counsel from disclosing this Settlement in declarations or court proceedings concerning their qualifications to serve as Class and/or PAGA Counsel.

XIII. NO PRIOR ASSIGNMENTS

48. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, or purported to assign, or transfer to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person.

XIV. NO ADMISSION

49. Nothing contained herein nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendant denies that it has engaged in any unlawful activity, that it failed to comply with the law in any material respect, or that it has any liability to anyone under the claims asserted in the Lawsuit. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendant.

50. PAGA Counsel and Plaintiff believe that the Settlement is fair and reasonable, and will so represent same to the Court.

XV. NON-EVIDENTIARY USE

51. Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to establish that an Aggrieved Employee has resolved any of his/her claims released through this Agreement.

XVI. NULLIFICATION

52. If (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys' fees), or (b) the Court's approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Agreement, except for the amount of attorneys' fees and costs shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

XVII. ATTORNEYS' FEES, COSTS AND EXPENSES

53. Except as specifically set forth herein, each party shall bear their/her own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by her/ them arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Agreement.

XVIII. CONSTRUCTION

54. The Parties hereto agree that the terms and conditions of this Settlement are the

result of lengthy, intensive, arms-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff (on behalf of herself and the State of California) and Defendant regarding actual or potential claims asserted by Plaintiff against Releasees. Excluding any Arbitration or Confidentiality Agreement executed by Plaintiff with Defendant, both of which will remain in full force and effect, this Agreement supersedes all prior agreements (except the Settlement Agreement related to Plaintiff's FEHA claims), written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims. Consequently, no other agreement, statement, or promise made by one Party to another as to any matter addressed in this Agreement shall be binding or valid.

XIX. CAPTIONS AND INTERPRETATIONS

55. 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 or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

XXI. MODIFICATION

56. This Settlement may not be amended, changed, altered, or modified, except in writing and signed by the Parties (or their successors-in-interest) hereto. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XXII. MISCELLANEOUS

57. This Settlement contains the entire agreement between the Parties relating to the Settlement of the Covered Claims and Plaintiff's Released Claims, and all prior or contemporaneous agreements (except any Arbitration Agreement and the Settlement Agreement related to Plaintiff's FEHA claims), 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. The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem

necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters that would alter or change the terms of this Agreement. No representations, warranties, or inducements have been made to any party concerning this Agreement other than those expressly set forth or referred to herein.

58. 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.

59. 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.

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

61. Plaintiff and Defendant, and their respective counsel, recognize, and accept that the Parties to this Agreement desire that the terms of the Agreement, the fact of the Settlement embodied in this Agreement, the disposition of the Action, the Action, and all matters relating to the litigation of the Action, including discovery proceedings therein, and evidence obtained during the course of the Action, shall not be discussed with or presented to the media or press or advertised in any fashion other than as indicated in this Agreement.

62. This Settlement may be executed in counterparts either via a wet written signature or an electronic signatures (such as via DocuSign). 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 Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

63. This Agreement shall be governed, construed, and interpreted, and the rights of

the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

64. The Parties have cooperated in the negotiation and preparation of this Agreement. This Agreement shall not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement. As such, both Parties agree that they bear the risk of mistake and that they each agree to bear such risks, including all potential risks associated with this Settlement, equally.

65. The San Bernardino County Superior Court shall retain jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

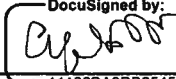
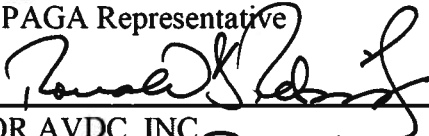
66. This Agreement shall not be subject to collateral attack by any Aggrieved Employees. Such prohibited collateral attack shall include, but not be limited to, claims that the Aggrieved Employees failed, for any reason, to timely receive his or her Individual Settlement Payment.

67. Plaintiff and PAGA Counsel agree that none of the documents provided to them by Defendant shall be used for any purpose other than prosecution of this Litigation.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

7/13/2021
DATED: July __, 2021

DATED: July __, 2021

DocuSigned by:

11132BA9DB2545E...
ASHLEY FLORES
as PAGA Representative

FOR AVDC, INC.
By: Ronald A. Roberts, Jr.
Its: VP GC

Approved as to Form and Content:

7/13/2021
DATED: July __, 2021

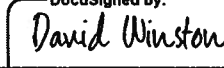
WINSTON LAW GROUP, P.C.
DocuSigned by:

01856B8CDB12406...
DAVID S. WINSTON
Attorney for Ashley Flores and the aggrieved employees

Exhibit 1

[CLAIMS ADMINISTRATOR LETTERHEAD]

Mailing Date

NOTICE OF SETTLEMENT

Re: *Ashley Flores v. AVDC, Inc. ("Defendant")*
San Bernardino County Superior Court
Case No. CIVSB2025388 filed on November 16, 2020

On **XXXX**, the San Bernardino County Superior Court issued an Order approving the settlement in the above-referenced lawsuit brought pursuant to the Private Attorneys General Act of 2004 ("PAGA"). Defendant denies any liability or wrongdoing. You are receiving money under the Settlement because you are or were an employee of AVDC, Inc. within the State of California who worked one or more pay periods from September 9, 2019 through July 15, 2021. Your settlement amount is <<**\$ Amount**>>. Your enclosed check is valid for one hundred and eighty (180) days from the date of its issuance. After that date, you cannot cash the check and it will be null and void. Funds attributable to such uncashed checks will be sent to the California Unclaimed Property Fund in your name.

Questions About The Settlement:

David S. Winston, Esq.
Winston Law Group, P.C.
1180 S. Beverly Dr. Suite 610
Los Angeles, CA 90035
Telephone: (424) 288-4568
Email: david@employmentlitigators.com

Questions About Your Check or Address Information:

[INSERT SETTLEMENT ADMIN CONTACT INFORMATION]

Exhibit 2

1 **WINSTON LAW GROUP, P.C.**
David S. Winston, Esq. CA Bar No. 301667
2 david@employmentlitigators.com
1180 South Beverly Drive, Suite 610
3 Los Angeles, California 90035
Phone: (424) 288-4568
4 Fax: (424) 532-4062

5 Attorney for Plaintiff Ashley Flores and all aggrieved employees

6 **VORYS, SATER, SEYMOUR AND PEASE LLP**
Cory Catignani, Esq. CA Bar No. 332551
7 cdcatignani@vorys.com
8 52 East Gay Street
Columbus, Ohio 43215
9 Phone: (949) 526-7900
Fax: (949) 526-7901

10 Attorneys for Defendant AVDC, INC.

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN BERNARDINO**

14 ASHLEY FLORES, an individual, on behalf
15 of the State of California, as a private attorney
general,

16 PLAINTIFF,

17 v.

18 AVDC, Inc., an Ohio Corporation; and DOES
19 1 to 50, inclusive,

20 DEFENDANTS.

Case No: CIVSB2025388

[Assigned for all purposes to the Hon. David
Cohn, Dept. S-26]

**[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT
AND ENTERING FINAL JUDGMENT**

Date: October 13, 2021
Time: 10:00 a.m.

Complaint Filed: November 16, 2020
Trial Date: None Set

1 The Court has received and considered the application of Plaintiff Ashley Flores ("Ashley
2 Flores"), an individual, on behalf of the people of the State of California, and as an "aggrieved
3 employee" acting as private attorneys general under the Labor Code Private Attorneys General
4 Act of 2004, § 2698, *et seq.* ("PAGA") for approval of the Private Attorney General Act
5 Settlement Agreement ("Settlement Agreement" or "Settlement") entered into between Plaintiff
6 on behalf of the state of California as a private attorney general pursuant to PAGA and Defendant
7 AVDC, Inc. The Court hereby approves the Representative PAGA Settlement.

8 **NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:**

9 The Court approves the settlement of this Private Attorney General Act ("PAGA") action
10 on the terms set forth in the Settlement Agreement. The Court hereby enters FINAL JUDGMENT
11 in favor of Plaintiff and the Aggrieved Employees in the amount of \$280,000.00. The Judgment is
12 awarded and allocated as follows:

- 13 (a) PAGA Counsel's attorneys' fees in the amount of one-third of the
14 Settlement Payment (\$93,333.33);
15 (b) PAGA Counsel's cost reimbursement in the amount of \$9,699.22;
16 (c) Settlement Administration costs of \$8,790.00 to be paid to the Settlement
17 Administrator ILYM Group, Inc.;
18 (d) A service award to Ashley Flores in the amount of \$5,000.00;
19 (e) the remainder of the Settlement Payment after deducting the items (a), (b),
20 (c), and (d), herein shall be designated as PAGA Penalties, which are estimated to
21 be \$163,177.45 and will be allocated between the LWDA and the Aggrieved
22 Employees pursuant to Labor Code section 2699(i) with 75% (\$122,383.09) paid
23 to the LWDA and 25% (\$40,794.36) paid to the Aggrieved Employees on a pro
24 rata basis.

25 All Aggrieved Employees are deemed to have released any and all Covered Claims as
26 defined by the Settlement Agreement.

27 The San Bernardino County Superior Court shall retain jurisdiction to enforce this
28

1 Agreement pursuant to California Code of Civil Procedure section 664.6. The Court shall retain
2 continuing jurisdiction over this Lawsuit and over all Parties and aggrieved employees, to the
3 fullest extent to enforce and effectuate the terms and intent of this Agreement.

4 This document shall constitute a Judgment and is intended to be a final disposition of the
5 above captioned action in its entirety, and is intended to be immediately appealable.

6 **IT IS SO ORDERED.**

7
8 DATED: _____

HON. DAVID COHN
JUDGE OF THE SUPERIOR COURT

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