

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement” or “Settlement”) is reached by and between Plaintiff Aaron Inskeep (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Horizon Lighting, Inc. (“Defendant” or “Horizon”), on the other hand, in the case titled *Bernal, et al, v. Horizon Lighting, Inc.*, Orange County Superior Court Case Number Orange County Superior Court Case Number 30-2020-01125687 (the “Action”). Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines and Tuvia Korobkin of Haines Law Group, APC (“Class Counsel”). Horizon is represented by Thomas W. Kovacich of Atkinson, Andelson, Loya, Ruud & Romo, APLC.

In connection with this Settlement, the Parties have agreed that Plaintiff will file a Third Amended Complaint in the Action, which will allege the following claims against Horizon on behalf of Plaintiff and the Settlement Class: (i) failure to pay all overtime wages, (ii) minimum wage violations, (iii) failure to pay prevailing wages; (iv) meal period violations, (v) rest period violations, (vi) wage statement violations, (vii) waiting time penalties, and, as a result of the above alleged violations, (viii) unlawful business practices pursuant to California Business & Professions Code § 17200 *et seq*; and (ix) civil penalties under the Private Attorneys General Act (“PAGA”), Cal. Labor Code § 2698 *et seq*.

Given the uncertainty of litigation, Plaintiff and Horizon wish to settle both individually and on behalf of the Settlement Class (defined below). Accordingly, Plaintiff and Horizon agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Horizon stipulate to the certification of a “Settlement Class,” which shall consist of the following two sub-classes:

Non-Release Sub-Class: All current and former non-exempt employees who worked for Horizon in California at any time from January 21, 2016 until the date of preliminary approval of the Settlement (the “Class Period”), and who did not enter into an individual settlement agreement and release with Horizon pursuant to Horizon’s *Pick Up Stix* campaign. Horizon represents there are approximately 113 individuals in this Sub-Class.

Release Sub-Class: All current and former non-exempt employees who worked for Horizon in California at any time during the Class Period and who did sign an individual settlement and release pursuant to Horizon’s *Pick Up Stix* campaign. Horizon represents there are approximately 85 individuals in this Sub-Class.

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. Releases.

A. Release by Settlement Class Members. Upon the “Effective Date” (defined below) occurring and the Settlement being fully funded, Plaintiff and every member of the Settlement Class (except those who opt out) shall release and discharge Horizon, including its past and present divisions, d/b/a’s, parents, subsidiaries, predecessors, successors, assigns, and their respective shareholders, owners, officers, directors, employees, agents, trustees, attorneys, insurers, representatives, and administrators (collectively, the “Released Parties” and each a “Released Party” or “Releasee”) from all claims against the Released Parties that have been asserted in the Action, or which could have been asserted based on the facts alleged in the Action, including: (i) failure to pay minimum wages, (ii) failure to pay overtime wages, (iii) failure to pay prevailing wages; (iv) failure to provide meal periods, (v) failure to authorize and permit rest periods, (vi) failure to maintain or provide accurate itemized wage statements, (vii) failure to timely pay final wages at termination, and (viii) any claims for or under Business & Professions Code § 17200, liquidated damages, and penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) based on any of the above claims, during the Class Period (“Released Claims”).

B. Release by Plaintiff. In light of Plaintiff’s Representative Incentive Award (discussed below), Plaintiff has agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law, against the Released Parties, based on his employment with Horizon, to the extent permitted by law, through the date upon which Plaintiff signs the Settlement Agreement (“Plaintiff’s Released Claims”). Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

Specifically excluded from Plaintiff’s Released Claims are any claims for workers’ compensation benefits or unemployment insurance benefits, or any other claims that cannot be released as a matter of law.

C. Effective Date. The “Effective Date” shall be defined as follows. If no objections are filed (or any objections have been withdrawn), the “Effective Date” shall be the date that the Orange County Superior Court (“Court”) grants final approval of the Settlement and enters Judgment. If any objections have been filed and have not been withdrawn (the filing of an objection being a prerequisite to the filing of an appeal), then the “Effective Date” will be either: (i) if no appeal is filed, ten (10) days after the last date on which any appeal might have been filed; or (ii) if an appeal is filed, ten (10) days after the final resolution of any appeal, presuming that the appeal upholds the Settlement.

3. **Gross Settlement Amount.** As consideration, Horizon agrees to pay a “Gross Settlement Amount” of \$1,400,000.00 in full and complete settlement of the Action, as follows:

- A. The Parties agree to engage Simpluris, Inc. (“Simpluris”) as the “Settlement Administrator” to administer this Settlement.
- B. The Gross Settlement Amount will be deposited with the Settlement Administrator within 15 business days of the Effective Date.
- C. This is a non-reversionary settlement. The Gross Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are estimated to be no more than \$7,500.00;
 - (3) Up to \$7,500 for Plaintiff’s Representative Incentive Award, in recognition of his contributions to the Action, his service to the Settlement Class, and his general release of claims;
 - (4) The Parties have agreed to set aside \$50,000.00 of the Gross Settlement Amount as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$37,500.00, will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining 25%, or \$12,500.00, will be payable to certain Settlement Class members as the “PAGA Amount,” as described below; and
 - (5) Attorneys’ fees of up to one-third of the Gross Settlement Amount (currently estimated to be \$466,666.67), plus \$9,400.00, which is one-third of the amount paid by Horizon in its *Pick Up Stix* campaign, for a total attorneys’ fees currently estimated to be \$476,066.67, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than \$20,000.
- D. Horizon’s share of payroll taxes as an employer (*e.g.*, FICA, FUTA) on the portion of Settlement payments designated as “wages” shall be paid by Horizon separately from, and in addition to, the Gross Settlement Amount. Horizon shall deposit the employer’s share of payroll taxes with the Settlement Administrator no later than the date it deposits the Gross Settlement Amount.
- E. **Escalator Clause.** Horizon represents that there are approximately 198 Settlement Class members. If the actual number of Settlement Class members is more than 211, then the Gross Settlement Amount shall increase by the percentage increase in the number of Settlement Class members over 211. For example, if the number of Settlement Class members is 215, which is 2% greater than 211, the Gross Settlement Amount shall increase by 2%.

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiff’s Representative Incentive Award, the amount set aside as PAGA civil penalties, and the Settlement Administrator’s administration costs. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Settlement Award based on the following formula:
 - i. Payments to Non-Release Sub-Class members: A portion of the Net Settlement Amount, which is currently estimated at \$24,300.00, will be distributed to all participating Non-Release Sub-Class members based on Horizon’s formula as to what each member of the Non-Release Sub-Class would have received through the *Pick Up Stix* campaign. Specifically, each Non-Release Sub-Class member will receive either \$100 if he/she worked for Horizon for up to one year prior to February 29, 2020 (which is the date Horizon rolled out its *Pick Up Stix* releases); \$250 if he/she worked for Horizon for more than one year up to three years prior to February 29, 2020; and \$500 if he/she worked for Horizon for more than three years prior to February 29, 2020.
 - ii. Payments to all Settlement Class members: Once the above payments to Non-Release Sub-Class members are deducted from the Net Settlement Amount, the remaining amount shall be known as the “Settlement Remainder.” Each participating Settlement Class member will be entitled to a portion of the Settlement Remainder based on his or her pro rata share of workweeks employed by Horizon as a non-exempt employee in California during the Class Period (“Workweeks”). Specifically, for each Settlement Class member, the Settlement Administrator shall multiply the Settlement Remainder by a fraction, the numerator of which is the participating Settlement Class member’s number of Workweeks, and the denominator of which is the total Workweeks worked by all participating Settlement Class members, to arrive at the participating Settlement Class member’s portion of the Settlement Remainder.
 - iii. PAGA Amount: As noted above, in addition to the Net Settlement Amount, \$12,500.00 of the Gross Settlement Amount has been designated as the “PAGA Amount.” Each participating Settlement Class member who worked for Horizon in California at any time from January 21, 2019 through the end of the Class Period (the “PAGA Period”), shall receive a portion of the PAGA Amount proportionate to the number of pay periods worked by that participating Settlement Class member as a non-exempt employee for

Horizon in California during the PAGA Period. This amount will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the participating Settlement Class member's number of pay periods worked as a non-exempt employee for Horizon in California during the PAGA Period, and the denominator of which is the total number of pay periods worked by all participating Settlement Class members as non-exempt employees for Horizon in California during the PAGA Period.

- C. Within 10 business days following the Court's granting final approval, the Settlement Administrator will calculate Settlement Award amounts for each Settlement Class member and provide the same to counsel for review and approval. Settlement Awards will be paid to Settlement Class members within 30 calendar days after the Gross Settlement Amount is deposited by Horizon with the Settlement Administrator.
- D. For purposes of calculating applicable taxes and withholdings for the Settlement Class members, each Settlement Award shall be allocated as follows: 20% as wages, 40% as penalties, and 40% as interest. The Settlement Administrator will be responsible for issuing to Settlement Class members an IRS Form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated as penalties and interest. As stated above, Horizon is responsible for the employer's share of payroll taxes on the wages portion of the Settlement Awards, and these taxes will not be deducted from the Gross Settlement Amount. Notwithstanding the treatment of the payments to each participating Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable bonus, benefit or retirement plan, unless required by such plans.
- E. Each member of the Settlement Class who receives a Settlement Award must cash any Settlement Award check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to *cy pres* recipient, Community Legal Aid SoCal, an organization that provides legal services, including employment law services, to indigent residents of Orange and Los Angeles Counties.
- F. Neither Plaintiff nor Horizon shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Horizon will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be \$466,666.67, plus \$9,400.00, which is one-third of the amount paid by Horizon in connection with its *Pick Up Stix* campaign as a direct result of this litigation, for a currently estimated total of \$476,066.67. Additionally, Horizon will not object to Class Counsel's request for an award of actual costs and expenses as supported by declaration, in an amount not to exceed

\$20,000.00, from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with the Action, including all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including responding to any objections raised and handling any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court. Class Counsel's Court-approved attorneys' fees and costs will be paid by the Settlement Administrator at the same time it pays Settlement Shares to the participating Settlement Class members.

6. **Representative Incentive Award.** Horizon will not object to a request for a Representative Incentive Award of up to \$7,500 to Plaintiff, for his time and risks undertaken in prosecuting the Action, his general release of claims, and his service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Award as Settlement Class members and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. In the event that the Court reduces or does not approve the requested Incentive Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding. The Settlement Administrator shall pay Plaintiff his Representative Incentive Award at the same time it pays Settlement Shares to participating Settlement Class members.

7. **Settlement Administrator.** Horizon will not object the appointment of Simpluris as Settlement Administrator. Horizon will not object to Plaintiff seeking permission to pay up to \$7,500.00 to the Settlement Administrator for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Horizon's share of taxes payable on the wages, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines and Tuvia Korobkin of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiff as Class Representative for the Settlement Class;
- D. Approving Simpluris as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and Notice of Estimated Settlement Award, attached hereto as Exhibits A and B, respectively), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within 20 business days after entry of an order preliminarily approving this Agreement, Horizon will provide the Settlement Administrator with the names; last known addresses; phone numbers; social security numbers; number of Workweeks worked during the Class Period; number of pay periods, if any, worked during the PAGA Period; whether the Settlement Class member signed an individual settlement agreement and release as part of the *Pick Up Stix* campaign; and, for Non-Release Sub-Class members, how much the Non-Release Sub-Class member would have received under the *Pick Up Stix* campaign, for each Settlement Class member (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within 10 business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member and obtain approval from counsel of those calculations; (iv) format Notice Packets and obtain approval from counsel of the same; and (v) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”). The Class Notice shall state that a Settlement Class member who wishes to exclude himself or herself from the Settlement must submit a “Request for Exclusion” by the Response Deadline. A Request for Exclusion is a letter or card prepared by the Settlement Class member which must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.

- a. Right to Rescind. If the number of Settlement Class members who validly and timely opt-out of the Settlement exceeds 6.6% of the Settlement Class members, then Horizon will have the right to cancel the settlement agreement. To exercise this right, Horizon's counsel must inform Plaintiff's counsel in writing that it wishes to cancel the settlement agreement within 14 days of the first date the administrator informs the parties that the number of opt-outs has exceeded 6.6% of the Settlement Class. If Horizon exercises this right, any settlement administration costs incurred by the Settlement Administrator will be borne by Horizon. Neither Plaintiff, Class Counsel, Horizon (including any of its employees or agents), nor Horizon's counsel will request, solicit, or encourage any Settlement Class member to request exclusion from the Settlement Agreement.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by either filing a written objection with the Settlement Administrator (who shall, within 2 business days of receipt, serve all objections as received on Horizon's counsel and Class Counsel, who shall then file all such objections with the Court), and/or by appearing at the Final Approval Hearing. Horizon's counsel and Class Counsel shall file any responses to written objections no later than 5 days before the Final Approval hearing. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. A Settlement Class member who wishes to submit a written objection but who fails to comply with the written objection procedures set forth above and/or in the Class Notice shall be deemed not to have submitted a written objection. Any attorney who intends to represent an objecting Settlement Class member at the Final Approval Hearing must submit a Notice of Appearance to the Court and serve it on all Parties on or before the Response Deadline. A Settlement Class member who fails to object in either of the methods identified herein shall be deemed to have waived all objections to the Settlement Agreement, and shall be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement Agreement.
- E. Notice of Estimated Settlement Award / Disputes. The Notice of Estimated Settlement Award mailed to each Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award and (i) whether the Settlement Class member signed an individual settlement and release in connection with Horizon's *Pick Up Stix* campaign, (ii) the Settlement Class member's number of Workweeks worked for Horizon in California as a non-exempt employee during the Class Period; and (iii) the number, if any, of pay periods worked by the Settlement Class member in California as a non-exempt employee for Horizon during the PAGA Period. Settlement Class members will

have the opportunity, should they disagree with Horizon's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.

- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be immediately re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet (although the Settlement Administrator will continue to conduct a skip-trace on any Notice Packets that are returned as undeliverable with no forwarding address throughout the Notice period). Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline, if applicable. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet need not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Horizon's Counsel to provide notice of the Settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval of the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;

- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Representative Incentive Award, PAGA payment to the LWDA, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. **Non-Admission of Liability.**

- A. Horizon denies liability to Plaintiff and to the Settlement Class upon any claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by Horizon as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.
- B. Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of negotiations leading to this Agreement, is intended by the Parties to constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Agreement.
- C. None of the documents produced or created by Plaintiff or the Settlement Class in connection with the Notice procedures or dispute resolution procedures described in this Agreement constitute, and they are not intended to constitute, an admission by Horizon of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.
- D. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any group should or would be given collective treatment in the Action or in any other action or proceeding, except in the context of this Agreement. Further, neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any court or other tribunal regarding the propriety of collective treatment other than in the context of this Agreement. In the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way any claims, rights or remedies in the Action, and Horizon will not be deemed to have waived, limited, or affected in any way any of their objections or defenses in the Action.

12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel may also include a general description of the settlement on their website, but may not include the names of the Parties or the case number.

13. **Continuing Jurisdiction.** Except as otherwise specifically provided for herein, the Court shall retain jurisdiction to construe, interpret and enforce this Settlement, to supervise all notices, the administration of the Settlement, and to hear and adjudicate any dispute arising from or related to the Settlement. The Parties agree that the Court has jurisdiction over the Settlement pursuant to California Code of Civil Procedure, Section 664.6.

14. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

15. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by counsel for all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

16. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Horizon: Thomas W. Kovacich, Atkinson, Andelson, Loya, Ruud & Romo, APLC, 12800 Center Court Drive, Suite 300, Cerritos, California 90703; tkovacich@aallrr.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com

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

18. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations,

presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

19. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

20. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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SIGNATURE PAGE

HORIZON LIGHTING, INC.

DATED: December 7, 2020


By: Joel Hunter
Its: President

AARON INSKEEP

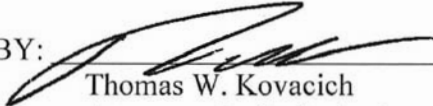
DATED: 12/15, 2020


Aaron Inskeep Dec 15, 2020 20:17 PST
Plaintiff

APPROVED AS TO FORM:

**ATKINSON ANDELSON LOYA RUUD &
ROMO APLC**

DATED: 12/15, 2020

BY: 
Thomas W. Kovacich
Attorneys for Defendant

HAINES LAW GROUP, APC

DATED: 12/17, 2020

BY: 
Paul K. Haines
Attorneys for Plaintiff and Settlement
Class

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

AARON INSKEEP,

Plaintiff,

vs.

HORIZON LIGHTING, INC., *et al.*

Defendants.

Case No. 30-2020-01125687

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All members of the “Settlement Class,” consisting of the following two Sub-Classes:

Non-Release Sub-Class: All current and former non-exempt employees who worked for Horizon Lighting, Inc. (“Horizon”) in California at any time from January 21, 2016 through <<PRELIM APPROVAL DATE>> (the “Class Period”), and who did not enter into an individual settlement agreement and release with Horizon pursuant to Horizon’s *Pick Up Stix* campaign.

Release Sub-Class: All current and former non-exempt employees who worked for Horizon in California at any time during the Class Period and who did sign an individual settlement agreement and release with Horizon pursuant to Horizon’s *Pick Up Stix* campaign.

**PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.**

Why should you read this Notice?

The Orange County Superior Court (“Court”) has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Bernal, Inskip, et al v. Horizon Lighting, Inc.*, Orange County Superior Court Case No. 30-2020-01126587 (the “Action”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from the Settlement. Horizon’s records show that you are a member of the above-defined Settlement Class. The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the proposed Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you remain as part of the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Aaron Inskip (“Plaintiff”) has filed a lawsuit alleging that Horizon violated California law by: (i) failing to pay overtime wages; (ii) failing to pay at least the minimum wage for all hours worked; (iii) failing to pay the prevailing wage on prevailing wage projects; (iv) failing to provide meal periods; (v) failing to authorize and permit rest periods; (vi) failing to issue accurate itemized wage statements; (vii) failing to pay all wages owing upon separation of employment; and, as a result of the above, (viii) engaging in unlawful business practices. In addition, Plaintiff seeks recovery of civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”), interest, and attorneys’ fees and costs. Plaintiff is known as the “Class Representative” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

The Court has not ruled on the merits of Plaintiff’s claims. Horizon has denied, and continues to deny, that it has done anything wrong, and believes it has acted in compliance with all applicable laws and that Plaintiff’s claims have no merit. Horizon also denies that it owes Settlement Class members any wages,

restitution, penalties, or other damages. By agreeing to settle, Horizon is not admitting liability or any of the factual allegations or claims asserted in the Action, or that the Action can or should proceed as a class action in a non-settlement context.

However, to avoid additional expense, inconvenience, and interference with its business operations, Horizon has concluded that it is in its best interests to settle the Action on the terms summarized in this Notice. After Horizon provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

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

If you are still employed by Horizon, your decision about whether to participate in the Settlement will not affect your employment. California law and Horizon's company policies strictly prohibit unlawful retaliation. Horizon will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff / the Settlement Class: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Tuvia Korobkin tkorobkin@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Horizon: ATKINSON, ANDLESON, LOYA, RUUD & ROMO, APLC Thomas W. Kovacich tkovacich@aalrr.com 12800 Center Court Drive, Suite 300 Cerritos, California 90703 Tel.: (562) 653-3200 Fax: (562) 653-3333 aalrr.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court granted preliminary approval of the Settlement on behalf of the Settlement Class. If the Settlement receives final approval, Settlement Class members (except those who elect to opt out of the Settlement pursuant to the procedures set forth in this Notice) will be bound by the Settlement and will release claims against Horizon as specifically described below.

Horizon has agreed to pay \$1,400,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including claims by eligible Settlement Class members, attorneys' fees, costs, settlement administration costs, PAGA civil penalties, and the Class Representative's Incentive Award.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Simpluris, Inc. to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$7,500 from the Gross Settlement Amount to pay the settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, currently estimated to be \$466,666.67, plus \$9,400.00, which is one-third of the amount paid by Horizon in its *Pick Up Stix* campaign, for a total attorneys' fees currently estimated to be \$476,066.67, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000 for verified costs Class Counsel incurred in connection with the Action.

Class Representative Incentive Award. Class Counsel will ask the Court to approve an incentive award of \$7,500 to the Class Representative. This award is to compensate the Class Representative for his service and extra work provided on behalf of the Settlement Class members.

PAGA Civil Penalties. The parties have agreed to allocate \$50,000.00 of the Gross Settlement Amount as alleged civil penalties for the settlement of Plaintiff's PAGA claim. Seventy-five percent (75%) of that amount, or \$37,500, will be paid to the California Labor & Workforce Development Agency ("LWDA"). The remaining \$12,500 has been designated as the "PAGA Amount" and will be paid to certain Settlement Class members as described below.

Calculation of Settlement Class Members' Settlement Awards.

After deducting the Court-approved amounts for administration costs, attorneys' fees and expenses, class representative incentive award, and the amount set aside as PAGA penalties, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"). The NSA will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated to be approximately \$838,933.33. Payments to Settlement Class members will be calculated as follows:

- (i) Payments from NSA to Non-Release Sub-Class members: A portion of the NSA, which is currently estimated at \$24,300, will be distributed to all participating Non-Release Sub-Class members based on Horizon's formula as to what each member of the Non-Release Sub-Class would have received through the *Pick Up Stix* campaign. Specifically, each Non-Release Sub-Class member will receive either \$100 if he/she worked for Horizon for up to one year prior to February 29, 2020 (which is the date Horizon rolled out its *Pick Up Stix* releases); \$250 if he/she worked for Horizon for more than one year up to three years prior to February 29, 2020; and \$500 if he/she worked for Horizon for more than three years prior to February 29, 2020.
- (ii) Payments from NSA to all Settlement Class members: Once the above payments to Non-Release Sub-Class members are deducted from the NSA, the remaining portion of the NSA shall be known as the "Settlement Remainder." Each participating Settlement Class member will be entitled to a portion of the Settlement Remainder based on his or her pro rata share of workweeks worked as a non-exempt Horizon employee in California during the Class Period.
- (iii) Payments from the PAGA Amount. In addition to the NSA, \$12,500.00 has been designated as the "PAGA Amount" as described above, and will be allocated to all Settlement Class members who were employed by Horizon at any time from January 21, 2019 through <<END OF CLASS PERIOD>>, in proportion to the number of pay periods that he or she worked as a non-exempt Horizon employee in California during that time period.

Deposit of Gross Settlement Amount. If the Court grants final approval of the Settlement, payments (known as "Settlement Awards") will be mailed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below).

Allocation and Taxes. For tax purposes, Settlement Awards shall be treated as 20% wages, for which IRS forms W-2 will be issued; and 40% penalties and 40% interest, for which IRS forms 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of their Settlement Awards. The Settlement Administrator, Horizon and its counsel, Plaintiff, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Releases. If the Court approves the Settlement and the Settlement becomes final, and upon the Settlement being fully funded, the Class Representative, and every member of the Settlement Class (except those who opt out) will release and discharge Horizon, including its past and present divisions, d/b/a's, parents, subsidiaries, predecessors, successors, assigns, and their respective shareholders, owners, officers, directors, employees, agents, trustees, attorneys, insurers, representatives, and administrators (collectively, the

“Released Parties” and each a “Released Party” or “Releasee”) from all claims against the Released Parties that have been asserted in the Action, or which could have been asserted based on the facts alleged in the Action, including: (i) failure to pay minimum wages, (ii) failure to pay overtime wages, (iii) failure to pay prevailing wages; (iv) failure to provide meal periods, (v) failure to authorize and permit rest periods, (vi) failure to maintain or provide accurate itemized wage statements, (vii) failure to timely pay final wages at termination, and (viii) any claims for or under Business & Professions Code § 17200, liquidated damages, and penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) based on any of the above claims, during the Class Period (“Released Claims”).

Conditions of Settlement. By granting preliminary approval of the Settlement, the Court has determined that the Settlement falls within the range of possible approval as fair, reasonable, and adequate. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement.

How can I receive money from the Settlement?

Do Nothing. You do not need to do anything if you want to receive payment from and participate in the Settlement. If you do nothing, you will be entitled to your Settlement Award and will be bound by the terms of the Settlement. Your Settlement Award is based on: (i) whether you previously signed a release with Horizon as part of the *Pick Up Stix* campaign; (ii) if a Non-Release Sub-Class member, the number of years you worked for Horizon prior to February 29, 2020; (iii) the number of workweeks you worked for Horizon in California during the Class Period; and (iv) the number of pay periods, if any, you worked for Horizon in California between January 21, 2019 and <<END OF CLASS PERIOD>>. Your estimated individual Settlement Award, as well as the data used to calculate it, is included in the enclosed Notice of Estimated Settlement Award.

Check Cashing Deadline and Uncashed Checks. You must cash or deposit your Settlement Award check within 180 days from the date that the Settlement Administrator mails the check to you. If you do not cash or deposit your check within 180 days, your check will be voided and the funds from the check will be sent to the *cy pres* recipient Community Legal Aid SoCal, a non-profit organization that provides legal services, including employment law services, to indigent residents of Orange and Los Angeles Counties.

What other options do I have?

Disputing Information in Notice of Estimated Settlement Award. Your estimated Settlement Award has been calculated and is included in the enclosed Notice of Estimated Settlement Award. As stated above, your estimated Settlement Award is based on: (i) whether you previously signed a release with Horizon as part of the *Pick Up Stix* campaign; (ii) if a Non-Release Sub-Class member, the number of years you worked for Horizon prior to February 29, 2020; (iii) the number of workweeks you worked for Horizon in California during the Class Period; and (iv) the number of pay periods, if any, you worked for Horizon in California between January 21, 2019 and <<END OF CLASS PERIOD>>. The information contained in Horizon’s records regarding each of these factors is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.** The parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion,” which is a letter or postcard, postmarked no later than <<RESPONSE DEADLINE>>, with your full name, current address, telephone number, last 4 digits of your social security number, and your signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE INSKEEP V. HORIZON LIGHTING LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT IN THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any Settlement Class member who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Settlement Class member, and will receive no benefits from the Settlement. Any Settlement Class member who submits a valid and timely Request for Exclusion will also lack standing to submit any objection to the Settlement.

Objecting to the Settlement. If you do not submit a Request for Exclusion, you have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written Objection to the Settlement Administrator. Any written Objection must include your full name, current address, and telephone number, the name and contact information of any attorney representing you, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. All written objections or other correspondence must state the name and number of the case, which is *Bernal, Inskeep, et al v. Horizon Lighting, Inc.*, Orange County Superior Court Case No. 30-2020-01125687. To be valid, written objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing. You have the right to appear either in person or through your own attorney at this hearing. You do not need to submit a written objection in order to appear and/or object orally at the Final Approval Hearing. If you wish to appear at the Final Approval Hearing and/or retain an attorney to represent you at the hearing, you must do so at your own expense. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. As noted above, all correspondence related to this case must state the case name and case number.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department CX-105 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, California 92701. At the Final Approval Hearing, the Court also will be asked to rule on Class Counsel's request for attorneys' fees and expenses, the incentive award to the Class Representative, and the Settlement administration costs. The Final Approval Hearing may be postponed without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing at their own expense.** If you plan on attending the hearing, please consult the Court's website, www.occourts.org, for information regarding court operations during COVID-19.

How can I get additional information?

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

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

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Exclusion Letters, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

EXHIBIT B

NOTICE OF ESTIMATED SETTLEMENT AWARD

BERNAL, INSKEEP, ET AL V. HORIZON LIGHTING, INC.
ORANGE COUNTY SUPERIOR COURT CASE NO. 30-2020-01125687

IMPORTANT NOTE: Please complete, sign, and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

Phone number (if you wish to be contacted by phone)

(III) Information Used to Calculate Your Estimated Settlement Share:

According to Horizon Lighting, Inc.'s ("Horizon") records:

- (a) you <<DID/DID NOT>> enter into a release with Horizon as part of its *Pick Up Stix* campaign;
- (b) **If Non-Release member:** you worked _____ years for Horizon prior to February 29, 2020;
- (c) you worked _____ workweeks for Horizon in California between January 21, 2016 and <<END OF CLASS PERIOD>>; and
- (d) you worked _____ pay periods for Horizon in California between January 21, 2019 and <<END OF CLASS PERIOD>>.

Based on the above, your Settlement Award is estimated at \$_____.

(IV) If you disagree with any of the items in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Horizon's records, Horizon's records will control unless you provide documentation that establishes that Horizon's records are mistaken. If there is a dispute about whether Horizon's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form. The Settlement Administrator's determination will be final.

Date: _____

Signature: _____

ANY DISPUTES (INCLUDING SUPPORTING DOCUMENTS) MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.