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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF RIVERSIDE**
13

14 LUIS ARAMBULA individually and on
15 behalf of others similarly situated,

16 Plaintiff,

17 vs.

18 EXCEL CABINETS, INC., a California
19 Corporation; and DOES 1 through 50,
inclusive,

20 Defendants.
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Case No. RIC2001588

*Assigned for all purposes to: Hon. Sunshine S.
Sykes, Dept. 6*

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: June 9, 2020
Trial Date: None Set

This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between Plaintiff Luis Arambula, individually and on behalf of the Class, and Defendant Excel Cabinets, Inc.

1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class Action and PAGA Settlement.

3. “Class Counsel” means Heather Davis and Amir Nayebdadash of Protection Law Group, LLP.

5. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator within fourteen (14) calendar days after Preliminary Approval of this Settlement. The Class List

will be formatted in a readable Microsoft Office Excel spreadsheet containing the following information for each Class Member: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendant in the State of California; (6) total Workweeks during the Class Period; (7) total Workweeks during the PAGA Period; and (8) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement.

6. “Class” or “Class Members” means all current and former non-exempt or hourly-paid employees who are or were employed by Defendant in the state of California at any time during the Class Period.

7. “Class Period” means the period commencing on June 9, 2016 until February 7, 2021.

8. “Class Representative” means Plaintiff Luis Arambula in his capacity as a representative of the Participating Class Members.

9. “Class Representative Incentive Payment” means the amount that the Court authorizes to be paid to Plaintiff Arambula, in addition to his Individual Settlement Payment, in recognition of the efforts and risks he has taken in assisting with the prosecution of the Action and in exchange for the General Release of his claims as provided herein.

10. “Court” means the Superior Court of the State of California for the County of Riverside.

11. “Defendant” means Excel Cabinets, Inc.

12. “Effective Date” means the later of the following: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b) if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being filed; (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the settlement.

13. “Final Approval” means the Court entering an order granting final approval of the Settlement Agreement.

1 14. “Gross Settlement Amount” means the sum of eight hundred and twenty-five
2 thousand dollars (\$825,000). The Gross Settlement Amount is non-reversionary; no portion of
3 the Gross Settlement Amount will return to Defendant.

4 15. “Individual Settlement Payment” means the amount payable from the Net
5 Settlement Amount to each Participating Class Member and any payment a PAGA Member is
6 eligible to receive from the employee portion of the PAGA Penalties. Individual Settlement
7 Payments shall be paid by a settlement check made payable to Participating Class Members and/or
8 PAGA Members.

9 16. “Net Settlement Amount” means the funds available for payments to the Class,
10 which shall be the amount remaining after the following amounts are deducted from the Gross
11 Settlement Amount: (1) Class Counsel’s fees, (2) Class Counsel’s costs, (3) Settlement
12 Administration Costs, (4) Class Representative Incentive Payment to Plaintiff, and (5) PAGA
13 Penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”) and
14 PAGA Members.

15 17. “Class Notice” means the Notice of Class Action Settlement in a form
16 substantially similar to the form attached hereto as Exhibit A, in both English and Spanish, that
17 will be mailed to Class Members’ last known addresses and which will provide Class Members
18 with information regarding the Action and information regarding the settlement of the Action.

19 18. “PAGA” means the California Labor Code Private Attorneys General Act of 2004
20 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”).

21 19. “PAGA Penalties” means the amount that the Parties have agreed to allocate as
22 civil penalties in order to settle claims arising under the Private Attorneys General Act of 2004
23 (Cal. Lab. Code §§ 2698, *et seq.*). The Parties have agreed to allocate fifty thousand dollars
24 (\$50,000) of the Gross Settlement Amount as PAGA Penalties. Seventy-five percent (75%) of the
25 PAGA Penalties (i.e., \$37,500) shall be paid directly to the LWDA in accordance with Labor
26 Code §§ 2698 *et seq.* The remaining twenty-five percent (25%) of the PAGA Penalties (i.e.,
27 \$12,500), shall be distributed to PAGA Members. PAGA Members will receive payment from
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the employee portion of the PAGA Penalties regardless of their decision to participate in the class action if the PAGA Penalties are approved by the Court.

20. “PAGA Period” means the period commencing on June 9, 2019 until February 7, 2021.

21. “PAGA Members” means all current and former hourly-paid, non-exempt employees who were employed by Defendant in the state of California at any time during the PAGA Period.

22. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either Plaintiff or Defendant, individually.

23. “Participating Class Members” means all Class Members who do not submit a valid and timely Request for Exclusion.

24. “Plaintiff” means Luis Arambula.

25. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement Agreement.

26. “Objection” means a Class Member’s valid and timely written objection to the Settlement Agreement. For an Objection to be valid, it must include: (a) the objector’s full name, address, telephone number, last four digits of the employee’s social security number or employee ID number and (b) a written statement of all grounds for the objection accompanied by legal support, if any, for such objection. An objection form substantially in the form attached hereto as Exhibit B shall be provided to the putative class members.

27. “Released Claims” means all claims, rights, demands, liabilities and causes of actions that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the operative complaint in the Action including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) unfair business practices

1 that could have been premised on the claims, causes of action or legal theories of relief described
2 above or any of the claims, causes of action or legal theories of relief pleaded in the operative
3 complaint; (ix) failure to maintain required payroll records; and (x) all claims under the California
4 Labor Code Private Attorneys General Act of 2004 or for civil penalties that could have been
5 premised on the claims, causes of action or legal theories described above or any of the claims,
6 causes of action or legal theories of relief pleaded in the operative complaint including but not
7 limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699.

8 28. “Released Parties” means Defendant Excel Cabinets, Inc. as named by Plaintiff in
9 the operative complaint, and its past, present and/or future, direct and/or indirect, officers,
10 directors, members, managers, employees, and agents.

11 29. “Request for Exclusion” means a valid and timely written statement submitted by
12 a Class Member requesting to be excluded from the Action. To be effective, the Request for
13 Exclusion must contain (a) the Class Member’s name, address, telephone number, and the last
14 four digits of the Class Member’s Social Security number and/or the Employee ID number, and
15 (b) a clear statement requesting to be excluded from the settlement of the class claims similar to
16 the following: “I wish to exclude myself from the class settlement reached in the matter of
17 *Arambula v. Excel Cabinets, Inc.* I understand that by excluding myself, I will not receive money
18 from the settlement of my individual claims.” To be effective, the Request for Exclusion must be
19 post-marked by the Response Deadline and received by the Settlement Administrator. The
20 Request for Exclusion shall not be effective as to the release of claims arising under the Private
21 Attorneys General Act. A request for exclusion form substantially in the form attached hereto as
22 Exhibit C shall be included with the Notice and distributed to the Class Members.

23 30. “Response Deadline” means the date sixty (60) days after the Settlement
24 Administrator mails the Class Notice to Class Members and the last date on which Class Members
25 may submit Requests for Exclusion, written objections to the Settlement, or workweek disputes.
26 In the event the 60th day falls on a Sunday or Federal holiday, the Response Deadline will be
27 extended to the next day on which the U.S. Postal Service is open. The Response Deadline for
28 Requests for Exclusion or Objections will be extended fifteen (15) calendar days for any Class

1 Member who is re-mailed a Class Notice by the Settlement Administrator, unless the 15th day
2 falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to
3 the next day on which the U.S. Postal Service is open. The Response Deadline may also be
4 extended by express agreement between Class Counsel and Defendant. Under no circumstances,
5 however, will the Settlement Administrator have the authority to unilaterally extend the Response
6 Deadline.

7 31. "Settlement" means the disposition of the Action pursuant to this Agreement.

8 32. "Settlement Administrator" means ILYM Group, Inc. The Parties represent that
9 they do not have any financial interest in the Settlement Administrator or otherwise have a
10 relationship with the Settlement Administrator that could create a conflict of interest.

11 33. "Settlement Administration Costs" means the costs payable from the Gross
12 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
13 but not limited to, printing, distributing, and tracking documents for this Settlement,
14 calculating/confirming the class member Workweeks from the information contained in the Class
15 List, calculating each Participating Class Member's Individual Settlement Payment, tax reporting,
16 distributing the Gross Settlement Amount, providing necessary reports and declarations, and other
17 duties and responsibilities set forth herein to process this Settlement, and as requested by the
18 Parties or the Court. Settlement Administration Costs shall not exceed Twelve Thousand Four
19 Hundred and Seventy Dollars and Twenty-Five Cents (\$12,470.25)

20 34. "Workweeks" means the total number of workweeks during which Class Members
21 performed work for Defendant during the Class Period based on Defendant's Records. In order
22 for a Workweek to qualify as a Workweek for purposes of the Settlement, a Class Member must
23 have performed work for Defendant at least one day during the applicable workweek. If a Class
24 Member was employed by Defendant during a workweek but performed no work, that week
25 would not count towards her or his Workweeks for purposes of this Settlement.
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TERMS OF AGREEMENT

35. Settlement Consideration. Defendant shall fund the Gross Settlement Amount following Final Approval by the Court and the occurrence of the Effective Date. The following will be paid out of the Gross Settlement Amount: the sum of the Individual Settlement Payments, Class Representative Incentive Payment, Class Counsel's Fees and Costs, the PAGA Penalties, and the Settlement Administration Costs, as specified in this Agreement. Any employer-side payroll taxes due on the Individual Settlement Payments, shall be paid by Defendant separately from and in addition to the Gross Settlement Amount. Aside from the employer-side payroll taxes noted, or as specified in Paragraph 36 below, Defendant shall not be required under any circumstances to pay more than the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will revert to Defendant.

36. Potential Increase to the Gross Settlement Amount. Defendant has represented there are approximately 54,578 Workweeks within the Class Period. Should the actual number of Workweeks during the Class Period increase by more than ten percent (10%) (i.e. increase by more than 5,457 Workweeks), the Gross Settlement Amount shall increase by a percentage equal to the percentage by which the number of Workweeks is more than ten percent (10%.) higher than Defendant's estimate of 54,578. For example, if the actual number of Workweeks is eleven percent (11%) higher than 54,578 Workweeks, the Gross Settlement Amount would increase by one percent ($1\% = 11\% - 10\%$).

37. Funding of the Gross Settlement Amount. Within sixty (60) calendar days of the Effective Date of the Settlement, Defendant will deposit the Gross Settlement, and all applicable employer-side payroll taxes, into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator. Defendant shall provide all information necessary for the Settlement Administrator to calculate necessary payroll taxes including its official name, 8 digit state unemployment insurance tax ID number, and other information requested by the Settlement Administrator, no later than fourteen (14) calendar days of the Effective Date.

38. Distribution of the Gross Settlement Amount. Within fourteen (14) calendar days of the initial funding of the Settlement, the Settlement Administrator will issue the following

1 payments under the settlement including: (a) Settlement Checks to all Participating Class
2 Members and all PAGA Members; (b) the PAGA Penalties to the LWDA; (c) the Class
3 Representative Incentive Payment to Plaintiff; (d) Class Counsel's Fees and Costs; and (e)
4 Settlement Administration Costs.

5 39. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any
6 application or motion by Class Counsel for attorneys' fees of up to thirty-three and one-third
7 percent (33.33%) of the Gross Settlement Amount (\$274,972) plus the reimbursement of costs
8 and expenses associated with Class Counsel's litigation and settlement of the Action, in an
9 amount not to exceed thirty-nine thousand dollars (\$39,000), both of which will be paid from the
10 Gross Settlement Amount. Any portion of the requested fees or costs that is not awarded by the
11 Court to Class Counsel shall become part of the Net Settlement Amount and distributed to
12 Participating Class Members as provided in this Agreement. Any adjustments made by the Court
13 to the requested Attorneys' Fees and Costs shall not be deemed a material modification of this
14 Agreement.

15 40. Class Representative Incentive Payment. Defendant agrees not to oppose or object
16 to any application or motion by Plaintiff for a Class Representative Incentive Payment of five
17 thousand dollars (\$5,000). The Class Representative Incentive Payment is in exchange for the
18 Released Claims, General Release of the Plaintiff's individual claims, and for Plaintiff's time,
19 effort and risk in bringing and prosecuting the Action. Any adjustments made by the Court to the
20 requested Class Representative Incentive Payment shall not be deemed a material modification
21 of this Agreement. In the event that the Court reduces or does not approve the requested Class
22 Representative Incentive Payment, the Settlement Agreement remains in full force and effect,
23 Plaintiff shall not have the right to revoke the settlement for that reason, it shall remain binding,
24 and any portion of the requested Class Representative Incentive Payment that is not awarded to
25 the Class Representative shall become part of the Net Settlement Amount and distributed to
26 Participating Class Members as provided in this Agreement.

27 41. Settlement Administration Costs. The Settlement Administrator will be paid for
28 the reasonable costs of administration of the Settlement and distribution of payments from the

Gross Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall not exceed Twelve Thousand Four Hundred and Seventy Dollars and Twenty-Five Cents (\$12,470.25). To the extent that Settlement Administration Costs are less than Twelve Thousand Four Hundred and Seventy Dollars and Twenty-Five Cents (\$12,470.25) the difference shall become part of the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

42. PAGA Penalties. Fifty thousand dollars (\$50,000) of the Gross Settlement Amount shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Penalties, or thirty-seven thousand five hundred dollars (\$37,500.00), to the LWDA. The remaining twenty-five percent (25%) of the PAGA Penalties, or twelve thousand five hundred dollars (\$12,500), will be distributed to PAGA Members on a *pro rata* basis based on the total number of Workweeks worked by each PAGA Member during the PAGA Period. PAGA Members shall receive their portion of the PAGA Penalties regardless of their decision to opt-out of the class settlement.

43. Net Settlement Amount for Payment of Class Claims. The Net Settlement Amount will be used to satisfy the class portion of Participating Class Members' Individual Settlement Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount is as follows:

Gross Settlement Amount	\$	825,000.00
Class Representative Incentive Payment:	\$	5,000.00
Class Counsel's Fees:	\$	274,972.00
Class Counsel's Costs:	\$	39,000.00
PAGA Penalties:	\$	50,000.00
Settlement Administration Costs:	\$	12,470.25
Estimated Net Settlement Amount:	\$	443,557.75

1 44. Individual Settlement Payment Calculations. Individual Settlement Payments will
2 be paid from the Net Settlement Amount and the 25% portion of the PAGA Penalties allocated
3 for PAGA Members and shall be paid pursuant to the formula set forth herein:

4 a) Calculation of Class Portion of Individual Settlement Payments.
5 Defendant will provide the Settlement Administrator with the total number of Workweeks for
6 each Participating Class Member. Defendant will also provide the total aggregated number of
7 Workweeks worked by all Participating Class Members during the Class Period. The amount that
8 each Participating Class Member will be eligible to receive will be calculated by dividing each
9 participating Class Member's individual Workweeks by the total Workweeks of all Participating
10 Class Members, and then multiplying the resulting fraction by the Net Settlement Amount.

11 b) Calculation of PAGA Portion of Individual Settlement Payments.
12 Defendant will provide the Settlement Administrator with the total number of Workweeks for
13 each PAGA Member. Defendant will also provide the total aggregated number of Workweeks
14 worked by all PAGA Members during the PAGA Period. The amount that each PAGA Member
15 will receive will be calculated by dividing each participating PAGA Member's individual
16 Workweeks by the total Workweeks of all PAGA Members, and then multiplying the resulting
17 fraction by the 25% share of the PAGA Penalties designated for distribution to aggrieved
18 employees. PAGA Members shall receive this portion of their Individual Settlement Payment
19 regardless of whether they opt out of the participation regarding the class claims.

20 c) Allocation of Individual Settlement Payments. All Individual Settlement
21 Payments will be allocated as follows: twenty percent (20%) of each Individual Settlement
22 Payment will be allocated as wages, forty percent (40%) shall be allocated as interest, and forty
23 percent (40%) shall be allocated as penalties. The portion of the Individual Settlement Payment
24 allocated to wages will be reported by the Settlement Administrator on an IRS Form W-2. The
25 remaining non-wage payments will be reported on an IRS Form-1099 by the Settlement
26 Administrator.
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1 45. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
2 Participating Class Members and/or PAGA members under this Settlement, as well as any other
3 payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits
4 under any benefit plans to which any Class Members may be eligible, including, but not limited
5 to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave
6 plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement
7 Agreement will not affect any rights, contributions, or amounts to which any Class Members may
8 be entitled under any benefit plans.

9 46. Settlement Administration Process. The Parties agree to cooperate in the
10 administration of the Settlement and to make all reasonable efforts to control and minimize the
11 costs and expenses incurred in administration of the Settlement. The Settlement Administrator
12 will provide the following services:

13 46(a) Establish and maintain a Qualified Settlement Fund.

14 46(b) Calculate the Individual Settlement Payment each Participating Class
15 Member is eligible to receive and the portion of the PAGA Penalties
16 each PAGA Member shall receive.

17 46(c) Translate the Class Notice from English to Spanish.

18 46(d) Print and mail the Class Notice.

19 46(e) Perform address searches as detailed in herein, including conduct
20 additional address searches and skip traces for mailed Notices that are
21 returned as undeliverable.

22 46(f) Process Requests for Exclusion, Objections, calculate Participating
23 Class Members' Individual Settlement Payment, field inquiries or
24 disputes from Class Members. This service will include Settlement
25 Individual Payment calculations, printing and issuance of Settlement
26 Payment Checks, and preparation any necessary IRS W2 and 1099 Tax
27 Forms. Basic accounting for and payment of employee tax
28 withholdings will also be included as part of this service.

1 46(g) Inform Defendant of its employer-side payroll tax liability and making
2 all necessary deposits, payments to the necessary taxing authorities for
3 the payments received for employer-share of payroll taxes.

4 46(h) Supply Plaintiff's Counsel with a draft declaration at the conclusion of
5 the opt-out period.

6 46(i) Provide declarations and/or other information to this Court as requested
7 by the Parties and/or the Court.

8 46(j) Provide weekly status reports to counsel for the Parties.

9 46(k) Posting a notice of final judgment, after entry of the judgment, online
10 at the Settlement Administrator's website for a period of sixty (60) days
11 pursuant to California Rule of Court 3.769.

12 47. Delivery of the Class List. Within fourteen (14) calendar days of Preliminary
13 Approval, Defendant will provide the Class List to the Settlement Administrator. This is a
14 material term of the Agreement, and if Defendant fails to comply, Plaintiff shall have the right to
15 void the Agreement.

16 48. Class Notice by First-Class U.S. Mail. Within seven (7) calendar days after
17 receiving the Class List from Defendant, the Settlement Administrator will mail the Class Notice
18 to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
19 addresses identified in the Class List.

20 49. Confirmation of Contact Information in the Class List. Prior to mailing, the
21 Settlement Administrator will perform a search based on the National Change of Address
22 Database for information to update and correct for any known or identifiable address changes.
23 Any Class Notice returned to the Settlement Administrator as non-deliverable on or before the
24 Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding
25 address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing
26 on the Class Notice. If no forwarding address is provided, the Settlement Administrator will
27 promptly attempt to determine the correct address using a skip-trace, or other search using the
28 name, address and/or Social Security number of the Class Member involved, and will then

perform a single re-mailing. If any Class Notice sent to a Class Member by the Settlement Administrator is returned as undeliverable to a current employee, then Defendant shall make all reasonable efforts to obtain the current address from the Class Member and provide the same within seven (7) calendar days of notice from the Settlement Administrator. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or an Objection to the Settlement.

50. Class Notice. All Class Members will be mailed a Class Notice. Each Class Notice will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Class definition; (d) the total number of Workweeks each respective Class Member worked for Defendant during the Class Period; (e) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Class Period and PAGA Period; (g) the deadlines by which the Class Member must postmark Requests for Exclusion, Objections to the Settlement, or workweek disputes; (h) the claims to be released, as set forth herein; and (j) the date for the final approval hearing.

51. Disputed Information on Class Notice. Class Members will have an opportunity to dispute the information provided in their Class Notice. To the extent Class Members dispute the number of Workweeks with which they have been credited or the amount of their Individual Settlement Payment, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence contrary to Defendant's records by the Response Deadline, the Settlement Administrator shall notify Class Counsel, and Defendant's counsel to discuss and resolve the dispute, including providing all available relevant information to all counsel. The Parties will resolve all disputes jointly, which shall be final and binding on any Class Member disputes, and shall thereafter instruct the Settlement Administrator how to proceed in processing the dispute. If the Parties cannot reach an agreement, disputes shall be referred to the Settlement Administrator for a

determination and if the dispute remains unresolved after that, the dispute shall be submitted to the Court for final determination. All such disputes are to be resolved or submitted to the Court for not later than fourteen (14) calendar days after the Response Deadline.

52. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark a revised Request for Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the Settlement Administrator will have no further obligation to give notice of a need to cure. If the revised Request for Exclusion is not postmarked within that period, it will be deemed untimely.

53. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Action must sign and postmark a written Request for Exclusion to the Settlement Administrator by the Response Deadline. The Request for Exclusion must include (a) the Class Member's name, address, telephone number, and the last four digits of the Class Member's Social Security number and/or the Employee ID number and (b) a clear statement requesting to be excluded from the settlement of the class claims similar to the following: "I wish to exclude myself from the class settlement reached in the matter of *Arambula v. Excel Cabinets, Inc.* I understand that by excluding myself, I will not receive money from the settlement of my individual claims." The date of the postmark on the return mailing envelope receipt confirmation will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted. All Class Members who do not request exclusion from the Action will be bound by all terms of the Settlement Agreement if the Settlement is granted final approval by the Court.

1 54. Defendant's Right to Rescind. If ten percent (10%) or more of the Class Members
2 (rounded to the next whole number) elect not to participate in the Settlement, Defendant may, at
3 its election, rescind the Settlement Agreement and all actions taken in furtherance of it will be
4 thereby null and void. Defendant must meet and confer with Class Counsel prior to exercising
5 this right and must make clear its intent to rescind the Agreement within fourteen (14) calendar
6 days of the Settlement Administrator notifying the Parties of these opt-outs. If Defendant
7 exercises its right to rescind the Agreement, Defendant shall be responsible for all Settlement
8 Administration Costs incurred to the date of rescission.

9 55. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
10 Member who does not affirmatively opt-out of the Settlement by submitting a timely and valid
11 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released
12 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the
13 Settlement. Class Members who opt-out of the Settlement shall not be bound by such Judgment
14 or release. The names of Class Members who have opted-out of the settlement shall be disclosed
15 to the Counsel for Plaintiff and Defendant and noted in the proposed Judgment submitted to the
16 Court.

17 56. Objection Procedures. To object to the Settlement, a Participating Class Member
18 must postmark a valid Objection to the Settlement Administrator on or before the Response
19 Deadline. The Objection must be signed by the Participating Class Member and contain all
20 information required by this Settlement Agreement including the employees full name, address,
21 telephone number, the last four digits of their social security number and/or Employee ID number,
22 and the specific reason including any legal grounds for the Participating Class Members objection.
23 The postmark date will be deemed the exclusive means for determining that the Objection is
24 timely. Participating Class Members who fail to object in the manner specified above will be
25 foreclosed from making a written objection, but shall still have a right to appear at the Final
26 Approval Hearing in order to have their objections heard by the Court. At no time will any of the
27 Parties or their counsel seek to solicit or otherwise encourage Participating Class Members to
28 submit written objections to the Settlement or appeal from the Order and Judgment. Class Counsel

1 will not represent any Class Members with respect to any objections to this Settlement.

2 57. Certification Reports Regarding Individual Settlement Payment Calculations. The
3 Settlement Administrator will provide Defendant's Counsel and Class Counsel a weekly report
4 which certifies: (a) the number of Class Members who have submitted Requests for Exclusion;
5 (b) the number of re-mailed and/or undeliverable Class Notices; and (c) whether any Class
6 Member has submitted a challenge to any information contained in the Class Notice. Additionally,
7 the Settlement Administrator will provide to counsel for all Parties any updated reports regarding
8 the administration of the Settlement Agreement as needed or requested.

9 58. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator
10 to Participating Class Members and PAGA Members will be negotiable for at least one hundred
11 eighty (180) calendar days. If a Participating Class Member or PAGA Member does not cash his
12 or her Settlement Check or PAGA Penalties check within 180 days, the uncashed funds, subject
13 to Court approval, shall be distributed to the Controller of the State of California to be held
14 pursuant to the Unclaimed Property Law, California Civil Code §1500, *et. seq.* for the benefit of
15 those Participating Class Members and PAGA Members who did not cash their checks until such
16 time that they claim their property. The Parties agree that this disposition results in no "unpaid
17 residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will
18 be paid out to Participating Class Members and PAGA Members, whether or not they all cash
19 their settlement checks or PAGA Penalties checks. Therefore, Defendant will not be required to
20 pay any interest on such amounts. The Individual Settlement Payments provided to Participating
21 Class Members and to PAGA Members shall prominently state the expiration date or a statement
22 that the Settlement Check will expire in one hundred eighty (180) days, or alternatively, such a
23 statement may be made in a letter accompanying the Individual Settlement Payment. Expired
24 Individual Settlement Payments will not be reissued, except for good cause and as mutually
25 agreed by the Parties in writing. The parties agree no unclaimed funds will result from the
26 settlement process detailed in this Agreement.

27 59. Administration of Taxes by the Settlement Administrator. The Settlement
28 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class

1 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid
2 pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding
3 all payroll taxes and penalties to the appropriate government authorities.

4 60. Tax Liability. Defendant makes no representation as to the tax treatment or legal
5 effect of the payments called for hereunder, and Plaintiff, Participating Class Members, and
6 PAGA Members are not relying on any statement, representation, or calculation by Defendant or
7 by the Settlement Administrator in this regard. Plaintiff, Participating Class Members, and PAGA
8 Members understand and agree that except for Defendant's payment of the employer's portion of
9 any payroll taxes, they will be solely responsible for the payment of any taxes and penalties
10 assessed on the payments described herein. Defendant's share of any employer-side payroll taxes
11 and other required employer withholdings due on the Individual Settlement Payments, including,
12 but not limited to, Defendant's FICA and FUTA contributions, shall be paid separate and apart
13 from the Gross Settlement Amount.

14 61. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
15 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
16 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
17 PARTY") ACKNOWLEDGES AND AGREES THAT: (1) NO PROVISION OF THIS
18 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
19 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
20 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
21 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
22 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
23 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
24 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND
25 TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH
26 THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON
27 THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR
28 TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY

1 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
2 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
3 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
4 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
5 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
6 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
7 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
8 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
9 AGREEMENT.

10 62. No Prior Assignments. The Parties and their counsel represent, covenant, and
11 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
12 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
13 action, cause of action or right herein released and discharged.

14 63. Release by Participating Class Members, PAGA Members, the LWDA and the
15 State of California. It is the desire of the Plaintiff, Participating Class Members, and Defendant
16 to fully, finally, and forever settle, compromise, and discharge the claims asserted in the Action.
17 Upon the funding of the Gross Settlement Amount in its entirety, and all applicable employer-
18 side payroll taxes, in exchange for the consideration set forth in this Agreement, Participating
19 Class Members shall fully release and discharge the Released Parties from any and all Released
20 Claims arising during the Class Period. This release shall be binding on all Participating Class
21 Members, including each of their respective attorneys, agents, spouses, executors,
22 representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit
23 of the Released Parties, who shall have no further or other liability or obligation to any Class
24 Member with respect to the Released Claims, except as expressly provided herein. All PAGA
25 Members, regardless of whether they submit timely and valid Requests for Exclusion from the
26 Settlement Class, will release all claims under PAGA that could have been premised on the
27 claims, causes of action or legal theories described the operative complaint during the PAGA
28 Period. The State of California and the LWDA will also release all claims under PAGA that could

1 have been premised on the claims, causes of action or legal theories described the operative
2 complaint.

3 64. Release of Additional Claims & Rights by Plaintiff. Upon the funding of the Gross
4 Settlement Amount in its entirety, and all applicable employer-side payroll taxes, and as a
5 condition of receiving any portion of his Class Representative Incentive Payment, Plaintiff will
6 agree to the additional following General Release: In consideration of Defendant's promises and
7 agreements as set forth herein, Plaintiff hereby releases all claims related to his employment or
8 alleged employment with Defendant, including all claims alleged in the Action, and all claims
9 known and unknown, without exception, except as may be prohibited by law. Specifically,
10 Plaintiff waives all rights and benefits afforded by California Civil Code Section 1542, which
11 provides:

12 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR
13 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR
14 HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF
15 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR
16 HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

17 This release specifically excludes claims for unemployment insurance, disability, social
18 security, and workers' compensation (with the exception of claims arising pursuant to California
19 Labor Code Sections 132(a) and 4553).

20 65. Neutral Employment Reference. Defendant agrees that it will adopt a neutral
21 reporting policy regarding any future employment references related to Plaintiff. In the event that
22 any potential or future employers of Plaintiff request a reference regarding Defendant's
23 employment of Plaintiff, Defendant shall only provide the Plaintiff's dates of employment, job
24 titles during employment, and final rate of pay. Defendant shall not refer to the Action or this
25 Settlement.

26 66. Nullification of Settlement Agreement. In the event that: (a) the Court does not
27 finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any
28 material term of this Settlement Agreement; or (c) the Settlement does not become final as written

1 and agreed to by the Parties for any other reason, then this Settlement Agreement, and any
2 documents generated to bring it into effect, will be null and void, all amounts deposited into the
3 QSF will be returned to Defendant, and the Parties shall be returned to their original respective
4 positions. Any order or judgment entered by the Court in furtherance of this Settlement
5 Agreement will likewise be treated as void from the beginning. Pursuant to California Evidence
6 Code § 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding
7 to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the
8 Parties agree that this Settlement Agreement is void, and remains protected by California
9 Evidence Code § 1152. Should the Court fail to approve this settlement for any reason, the Parties
10 agree that they will return to and attend mediation with a mutually agreed mediator in an effort to
11 reach a settlement that may be approved by the Court.

12 67. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to
13 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
14 Approval Order for: (a) conditional certification of the Class for settlement purposes only, (b)
15 Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final
16 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the
17 Class Notice to be sent to all Class Members as specified herein. In conjunction with the
18 Preliminary Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms of
19 the Settlement, and will include the proposed Class Notice attached as Exhibit A. Defendant
20 agrees that it will not oppose Plaintiff's motion for Preliminary Approval. Any failure by the
21 Court to fully and completely approve the Agreement as to the Action, or the entry of any Order
22 by another Court with regard to any of the Action which has the effect of preventing the full and
23 complete approval of this Settlement Agreement as written and agreed to by the Parties, will result
24 in this Settlement Agreement and the Memorandum of Understanding entered into by the Parties,
25 and all obligations under this Settlement Agreement and the Memorandum of Understanding
26 being nullified and voided.

27 68. Final Settlement Approval Hearing and Entry of Judgment. Upon completion of
28 the Class Notice process, including the expiration of the deadlines to postmark Requests for

1 Exclusion or objections to the Settlement Agreement, a Final Approval/Settlement Fairness
2 Hearing will be conducted to determine the Final Approval of the Settlement Agreement along
3 with the amounts properly payable for: (a) Individual Settlement Payments; (b) the PAGA
4 Penalties; (c) Class Counsel's Attorneys' Fees and Costs; (d) the Class Representative Incentive
5 Payment for Plaintiff; and (d) the Settlement Administration Costs. Class Counsel will be
6 responsible for drafting all documents necessary to obtain Final Approval. Any failure by the
7 Court to fully and completely approve the Settlement Agreement as to all of the Action, or the
8 entry of any Order by another Court with regard to any of the Action which has the effect of
9 modifying material terms of this Agreement or preventing the full and complete approval of the
10 Settlement Agreement as written and agreed to by the Parties, will result in this Agreement and
11 all obligations under this Agreement being null and void. Defendant agrees it shall not oppose the
12 granting of the Motion for Final Approval, provided Defendant has not exercised its right to
13 rescind pursuant to the terms of this Agreement.

14
15 69. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by
16 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
17 Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing
18 jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms
19 of the Settlement, (b) settlement administration matters, and (c) such post-Judgment matters as
20 may be appropriate under court rules or as set forth in this Settlement.

21 70. Exhibits Incorporated by Reference. The terms of this Settlement include the terms
22 set forth in any attached Exhibit (Exhibit A), which are incorporated by this reference as though
23 fully set forth herein. Exhibit A to this Agreement is an integral part of the Settlement.

24 71. Entire Agreement. This Settlement Agreement and any attached Exhibits
25 constitute the entirety of the Parties' Settlement. No other prior or contemporaneous written or
26 oral agreements may be deemed binding on the Parties.

27 72. Amendment or Modification. This Settlement Agreement may be amended or
28 modified only by a written instrument signed by counsel for all Parties or their successors-in-

1 interest.

2 73. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
3 and represent they are expressly authorized by the Parties whom they represent to negotiate this
4 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
5 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
6 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
7 counsel will cooperate with each other and use their best efforts to affect the implementation of
8 the Settlement. If the Parties are unable to reach agreement on the form or content of any
9 document needed to implement the Settlement, or on any supplemental provisions that may
10 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance
11 of the Court to resolve such disagreement.

12 74. Binding on Successors and Assigns. This Settlement Agreement will be binding
13 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
14 defined.

15 75. California Law Governs. All terms of this Settlement Agreement hereto will be
16 governed by and interpreted according to the laws of the State of California.

17 76. Execution and Counterparts. This Settlement Agreement is subject only to the
18 execution of all Parties. However, the Settlement Agreement may be executed in one or more
19 counterparts. All executed counterparts and each of them, including facsimile and scanned copies
20 of the signature page, will be deemed to be one and the same instrument provided that counsel
21 for the Parties will exchange among themselves original signed counterparts.

22 77. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
23 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
24 arrived at this Settlement after arm's-length negotiations and in the context of adversarial
25 litigation, taking into account all relevant factors, present and potential. The Parties further
26 acknowledge that they are each represented by competent counsel and that they have had an
27 opportunity to consult with their counsel regarding the fairness and reasonableness of this
28 Settlement.

1 78. Invalidity of Any Provision. Before declaring any provision of this Agreement
2 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible
3 consistent with applicable precedents so as to define all provisions of this Agreement valid and
4 enforceable.

5 79. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
6 class certification for purposes of this Settlement only; except, however, that either party may
7 appeal any court order that materially alters the Settlement Agreement's terms.

8 80. Class Action Certification for Settlement Purposes Only. The Parties agree to
9 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
10 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
11 that certification for purposes of the Settlement is not an admission that class action certification
12 is proper under the standards applied to contested certification motions and that this Agreement
13 will not be admissible in this or any other proceeding as evidence that either: (a) a class action
14 should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than
15 according to the Settlement's terms.

16 81. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
17 dispute that has arisen between them and to avoid the burden, expense and risk of continued
18 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it
19 has violated any federal, state, or local law; violated any regulations or guidelines promulgated
20 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
21 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
22 engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor
23 any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as
24 an admission or concession by Defendant of any such violations or failures to comply with any
25 applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this
26 Agreement and its terms and provisions shall not be offered or received as evidence in any action
27 or proceeding to establish any liability or admission on the part of Defendant or to establish the
28 existence of any condition constituting a violation of, or a non-compliance with, federal, state,

1 local or other applicable law.

2 82. Captions. The captions and section numbers in this Agreement are inserted for the
3 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
4 provisions of this Agreement.

5 83. Waiver. No waiver of any condition or covenant contained in this Settlement
6 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
7 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
8 right or remedy.

9 84. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
10 and conditions of this Agreement. Accordingly, this Agreement will not be construed more
11 strictly against one Party than another merely by virtue of the fact that it may have been prepared
12 by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
13 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

14 85. Representation By Counsel. The Parties acknowledge that they have been
15 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
16 and that this Agreement has been executed with the consent and advice of counsel and reviewed
17 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
18 Agreement.

19 86. All Terms Subject to Final Court Approval. All amounts and procedures described
20 in this Settlement Agreement herein will be subject to final Court approval.

21 87. Cooperation and Execution of Necessary Documents. The Parties agree to
22 cooperate to promote participation in the Settlement, and in seeking court approval of the
23 Settlement. The Parties and their counsel agree not to take any action to encourage any Class
24 Members to opt out of and/or object to the Settlement. Defendant agrees not to obtain any
25 settlement agreement waivers, Pick Up Stix agreements or arbitration agreements from any Class
26 Member prior to the funding of the Gross Settlement Amount concerning claims released via this
27 Agreement, or enter into any arbitration agreement with any Class Member that covers the claims
28 released via this Agreement during the Settlement approval process prior to the funding of the

1 Gross Settlement Amount and that the Parties will work in good faith to reach an agreement
2 approved by the Court.

3 88. Enforcement and Continuing Jurisdiction of the Court. To the extent consistent
4 with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant
5 to California Code of Civil Procedure § 664.6. The Court shall retain continuing jurisdiction over
6 this Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate
7 the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this
8 Settlement Agreement. The Court may award reasonable attorneys' fees and costs to the
9 prevailing party in any motion or action taken and based on an alleged violation of any material
10 term of the Settlement Agreement.

11 89. Voluntary Agreement. The Parties acknowledge that they have entered into this
12 Settlement Agreement voluntarily, on the basis of their own judgment and without coercion,
13 duress, or undue influence of any Party, and not in reliance on any promises, representations, or
14 statements made by the other Parties other than those contained in this Settlement Agreement.
15 Each of the Parties hereto expressly waives any right he/they might ever have to claim that this
16 Settlement Agreement was in any way induced by fraud.

17 90. Confidentiality. Plaintiff and his counsel agree that they have not and will not
18 advertise the Settlement. In response to any inquiries, Plaintiff will state that "the case was
19 resolved, and it was resolved confidentially." Plaintiff's Counsel shall not report the Settlement
20 in any publication, shall not post or report anything regarding the claims of Plaintiff or the
21 Settlement on their website, and shall not contact any reporters or media regarding the Settlement.
22 Notwithstanding anything in this provision, Plaintiff's Counsel can discuss the Settlement with
23 Plaintiff and with Class Members and can include it in all necessary Court and ancillary
24 documents supporting the resolution of this Action.

25 91. Binding Agreement. The Parties warrant that they understand and have full
26 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
27 fully enforceable and binding on all Parties, and agree that it will be admissible and subject to
28 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality

provisions that otherwise might apply under federal or state law.

APPROVED AS TO FORM AND CONTENT:

Dated: 02/24/2021

PLAINTIFF

By:



Luis Arambula

Dated: _____

DEFENDANT EXCEL CABINETS, INC.

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM ONLY:

Dated: 2/24/2021

PROTECTION LAW GROUP, LLP

By:



Heather Davis, Esq.

Amir Nayebdadash, Esq.

Attorneys for Plaintiff

Dated: _____

FISHER & PHILLIPS

By:

John Mavros, Esq.

Jenna Warden, Esq.

Attorneys for Defendant

provisions that otherwise might apply under federal or state law.

APPROVED AS TO FORM AND CONTENT:

Dated: _____

PLAINTIFF

By: _____

Luis Arambula

Dated: 2-24-21

DEFENDANT EXCEL CABINETS, INC.

By: Chas W Ketzler

Name: CHARLES KETZLER

Title: CEO

APPROVED AS TO FORM ONLY:

Dated: _____

PROTECTION LAW GROUP, LLP

By: _____

Heather Davis, Esq.
Amir Nayebdadash, Esq.
Attorneys for Plaintiff

Dated: 2/25/21

FISHER & PHILLIPS

By: J Warden

John Mavros, Esq.
Jenna Warden, Esq.
Attorneys for Defendant

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Arambula v. Excel Cabinets, Inc.
Riverside Superior Court, Case No. RIC2001588

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.
PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

To:	All current and former non-exempt or hourly-paid employees who are or were employed by Excel Cabinets, Inc. in the State of California at any time from June 9, 2016 through February 7, 2021.
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BASIC INFORMATION

1. What is this settlement about?

You are receiving this notice as a result of a lawsuit brought as a class action commenced on June 9, 2020 by Luis Arambula (“Plaintiff”), a former employee of Excel Cabinets, Inc. (“Defendant”). The case is currently pending in the Riverside County Superior Court, Case No. RIC2001588.

The lawsuit claims that Defendant violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiff alleges that Defendant failed to provide compliant meal and rest periods and associated premium pay, did not properly pay employees all wages owed for time worked, did not provide accurate wage statements, did not timely pay all wages during employment and all wages owed at termination of employment, failed to reimburse employees for necessary business expenses, failed to maintain required payroll records, and maintained unfair business practices. The settlement also seeks to recover penalties pursuant to the California Private Attorneys General Act (“PAGA”). The lawsuit claims that the Defendant violated the California Labor Code and the California Business and Professions Code, entitling Class Members to, *inter alia*, damages, penalties and restitution. Defendant denies all alleged violations and denies that they owe Class Members any remedies. Plaintiff and Defendant entered into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. The Court has not made a ruling on the merits of the case.

2. Why is this a class action?

In a class action, one or more people, called the “Class Representative” (in this case Luis Arambula, also known as “Plaintiff”), sue on behalf of people who appear to have similar claims (in this case all current and former non-exempt or hourly-paid employees who are or were employed by Defendant in the State of California at any time from June 9, 2016 through February 7, 2021). All of these people are referred to here as Class Members. In a class action, one court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the class. The Riverside County Superior Court is in charge of this class action.

3. Why is there a settlement?

The Court has not decided in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement which is memorialized in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement”). On [DATE OF PRELIMINARY APPROVAL], the Court granted preliminary approval of the Settlement, appointed Plaintiff Luis Arambula as the Class Representative, and appointed his attorneys at Protection Law Group as counsel for the Class (“Class Counsel”).

The Class Representative and Class Counsel think the Settlement is best for the Class.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the settlement?

You are part of the Settlement, and a Class Member, if you were employed by Defendant as a non-exempt or hourly-paid employee in the state of California at any time between June 9, 2016 and February 7, 2021.

THE SETTLEMENT BENEFITS—WHAT YOU GET

5. What does the settlement provide?

The Settlement provides that Defendant will pay a maximum of Eight Hundred and Twenty-Five Thousand Dollars (\$825,000) (“Gross Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed 33.33% of the Gross Settlement Amount or Two Hundred Seventy-Four Thousand Nine Hundred Seventy-Two Dollars (\$274,972);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Thirty-Nine Thousand Dollars (\$39,000);
- C. **Incentive Payment to the Class Representative** in an amount not to exceed Five Thousand Dollars (\$5,000);
- D. **Settlement Administration Costs** which are currently estimated to be Twelve Thousand Four Hundred and Seventy Dollars and Twenty-Five Cents (\$12,470.25)); and
- E. **PAGA Penalties** in the amount of Fifty Thousand Dollars (\$50,000) for the settlement of claims arising under the Private Attorney’s General Act of 2004 (PAGA). Seventy-Five percent (75%) of this amount, (\$37,500) shall be paid to the LWDA. The remaining twenty-five percent (25%) (\$12,500) will be distributed to hourly-paid, non-exempt employees of Defendant in the state of California at any time from June 9, 2019 to February 7, 2021, for the release of their claims arising under PAGA.

The amount you are eligible to receive from the settlement, your “Individual Settlement Payment,” will be determined on a *pro rata* basis, based on the number of weeks you worked in California as an hourly-paid, non-exempt employee of Defendant from June 9, 2016 to February 7, 2021 (“workweeks”). Your Individual Settlement Payment includes both your estimated share of the Net Settlement Amount and, if eligible, your share of the PAGA Penalties.

Your Individual Settlement Payment will be apportioned as twenty percent (20%) wages, forty percent (40%) interest, and forty percent (40%) penalties. The wage portion of the Individual Settlement Payment will be subject to withholding for the employee taxes and will be reported on a W-2 Form. Employer-side payroll taxes shall be paid separately from and in addition to the Gross Settlement Amount. The penalties and interest portions of each class member’s settlement payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

You worked XXX workweeks during the class period. Your Individual Settlement Payment is \$XXX.XX. The amount of the payment may change depending on the number of timely and valid requests for exclusions submitted in the Settlement, if any.

This Amount was determined based on Defendant's record of your employment between June 9, 2016 and February 7, 2021 and is presumed correct. If you dispute the accuracy of Defendant's records as to the number of weeks worked during the Class Period, you must contact the Settlement Administrator and provide any documentation you have supporting such dispute by [DATE]. All disputes regarding your workweeks will be resolved and decided by the Parties or if the Parties cannot agree, the Court, after you submit evidence to the Settlement Administrator. The Settlement Administrator's contact information is listed below:

[Settlement Administrator]

[Address]

[Telephone No].

[Fax No.]

HOW TO GET A PAYMENT FROM THE SETTLEMENT

6. How can I get a payment?

You do not have to do anything to qualify for a payment of your portion of the Settlement.

7. What am I giving up if I do not request to be excluded from the Settlement?

Upon the funding of the Gross Settlement Amount, in exchange for the consideration set forth by the Settlement, Plaintiff and all Class Members who do not submit a timely request for exclusion shall release the "Released Parties" from the "Released Claims" for the Class Period.

The "Released Parties" include Excel Cabinets, Inc. and any of their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, or agents.

The "Released Claims" means any and all claims, rights, demands, liabilities, and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the operative complaint filed in the Action including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse employees for necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (ix) failure to maintain required payroll records and (x) all claims under the California Labor Code Private Attorneys General Act of 2004 or for civil penalties that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint including but not limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699.

This release of these claims pertains to the Class Period from May 16, 2016 to February 7, 2021.

All PAGA Members will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged any and all Released Claims arising under PAGA with respect to all of the Released Parties irrespective of whether a Class Member submits a request for exclusion.

EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS

If you want to keep the right to sue or continue to sue Defendant with respect to the Released Claims (other than those which arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*), then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive payment from the Net Settlement Amount. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Penalties because the Request for Exclusion does not apply to this claim.

8. How can I not participate in the Settlement?

To exclude yourself from the release of Released Claims you must sign and return the Request for Exclusion Form that was included with this Notice. You must include your name, address, telephone number and the last four digits of your social security number and/or Employee ID number. Your request for exclusion must also include a statement that you do not wish to be included in this action similar to the following: I wish to exclude myself from the class action settlement reached in the matter of *Arambula v. Excel Cabinets, Inc.* I understand that by excluding myself I will not receive money from the class portion of the settlement.”

The written request for exclusion must be mailed to the Settlement Administrator at the address listed below, post-marked by [DATE]. You cannot exclude yourself by phone.

[Settlement Administrator]

[Address]

[Telephone No.]

[Fax No.]

You will not be legally bound by the release of Released Claims (except for Released Claims that arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*)).

9. If I don't exclude myself, can I sue Defendant for the same thing later?

No. Unless you submit a request for exclusion, you give up the right to sue Defendant and the Released Parties for the Released Claims. If you have a pending lawsuit involving the Released Claims, speak to your lawyer in that lawsuit immediately.

10. If I exclude myself, can I get money from this settlement?

No, except if you worked between June 9, 2019 and February 7, 2021, in which case you will still receive the portion of your Individual Settlement Payment for Released Claims that arise under PAGA.

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in this case?

The Court has approved PROTECTION LAW GROUP, LLP as Class Counsel. The firm's contact information is:

PROTECTION LAW GROUP LLP
Heather Davis, Esq.

Amir Nayebdadash, Esq.
237 California Street
El Segundo, California 90245
Telephone: (424) 290-3095
Facsimile: (866) 264-7880

Class Counsel will ask the Court for attorneys' fees of up to \$274,972 and reimbursement of litigation cost/expenses of up to \$39,000. These amounts are subject to Court approval and the Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

You can object to the Settlement or some part of it.

13. How do I tell the Court if I don't like the settlement?

If you are a Class Member, you can object to the Settlement and you can give reasons for why you think the Court should not approve it. The Court will consider your views. To object, you must mail your objection to the Settlement Administrator no later than [DATE]. An Objection Form has been included with this Notice for you to use. Your objection must include your full name, address, telephone number, the last four digits of your social security number or employee ID number, and the specific reason for your objection. You may also come to the Final Approval Hearing on [DATE] and make an objection at that time, regardless of whether you submitted a written objection.

14. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement ("Final Approval Hearing"). You may attend, but you do not have to attend.

15. When and where will the Court decide whether to approve the settlement?

The Court will hold the Final Approval Hearing at [] a.m./p.m. on [], 2021], at the Riverside Superior Court, located at 4050 Main Street, Riverside, CA 92501.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

16. Do I have to come to the hearing?

No. If you agree to the Settlement you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf. You may attend in person, but you may also attend remotely if you wish. Please see <https://riverside.courts.ca.gov/PublicNotices/telephonic-remote-appearances.php> for information on how to schedule remote appearances.

17. How will I learn if the settlement was approved?

A notice of final judgment will be posted on the Settlement Administrator website located at www. [REDACTED].

IF YOU DO NOTHING

18. What happens if I do nothing at all?

If you do nothing, you will receive your share of the Settlement, and you will release the Released Claims. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant and/or the Released Parties about the Released Claims, ever again.

If the settlement is approved, the payment will be mailed to you within 90 days after the Final Fairness Hearing. This check will remain valid and negotiable for 180 days. If you do not cash your settlement check within 180 days, these funds will be transferred to the Controller of the State of California's Unclaimed Property Fund. You may then claim these funds from there.

GETTING MORE INFORMATION

19. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by viewing the settlement located on the Settlement Administrator's website at www. [REDACTED] or by contacting the Settlement Administrator or Class Counsel.

WHAT IF MY INFORMATION CHANGES?

19. What if my contact information changes?

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE
CLERK OF THE COURT OR THE JUDGE**

Exhibit B

OBJECTION FORM

Arambula v. Excel Cabinets, Inc.
Riverside Superior Court, Case No. RIC2001588

INSTRUCTIONS: If you wish to tell the Court that you do not like the Settlement or some part of it, you may make an objection by completing, signing and returning this Objection Form to the Settlement Administrator at the address listed below. Please state each reason for your objection and any legal support for your objection. You must sign and complete this form accurately and its entirety. You must mail this form to the Settlement Administrator at the address below so that it is postmarked on or before **[insert Response Deadline]**.

ILYM Group, Inc.
14771 Plaza Drive, Unit L
Tustin, CA 92780

The Court will consider your objection at the Final Approval Hearing if you submit a timely and valid written statement of objection. All of the information on this form is required. If you do not provide all of the information below, your objection will be deemed null and void. Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims, unless the Court does not approve the Settlement. You cannot object to the Settlement if you request exclusion from the Settlement. You may come to the Final Fairness Hearing and be heard even if you do not complete this form.

1. CONTACT INFORMATION

Name: _____

Home Street Address: _____

City, State, Zip Code: _____

Home Telephone Number: (____) _____

2. REASON FOR OBJECTION

Please state each reason you do not like the Settlement and any legal support for your objection:

Signed: _____ Dated: _____

Print Name: _____

Exhibit C

1 **REQUEST FOR EXCLUSION FROM THE SETTLEMENT**

2 *Arambula v. Excel Cabinets, Inc.*

3 Riverside Superior Court, Case No. RIC2001588

4 **IF YOU COMPLETE THIS FORM YOU WILL NOT RECEIVE YOUR SHARE OF**
5 **BENEFITS UNDER THE SETTLEMENT**

6 **DO NOT COMPLETE THIS FORM IF YOU WANT TO PARTICIPATE IN THE**
7 **SETTLEMENT**

8 *TO BE EXCLUDED FROM THE SETTLEMENT, THIS OPT OUT FORM MUST BE SIGNED AND MAILED TO*
9 *THE SETTLEMENT ADMINISTRATOR VIA U.S. MAIL POSTMARKED ON OR BEFORE [REDACTED], 2021*

10 **INSTRUCTIONS**

11 If you do **not** want to participate in this lawsuit and Settlement, you may “opt out” of the
12 Settlement. If you opt out of this lawsuit and the Settlement, (a) you will have no right to receive
13 any benefit under the Settlement in this case; (b) you will not be bound by the terms of the
14 Settlement; and (c) you will have no right to object to the Settlement and be heard at the Final
15 Fairness Hearing.

16 If you were employed between June 9, 2019 and February 7, 2021 you will still receive your share
17 of penalties arising under PAGA because the opt-out provision does not apply to this claim.
18 However, you **will not** receive your share of the settlement for the class claims.

19 To opt out, you must fill out all information in the section below, sign, and return this Opt Out
20 Form to the Settlement Administrator at the address below. To be timely, your Opt Out Form
21 must be postmarked **on or before [insert Response Deadline]**

22 ILYM Group, Inc.
23 14771 Plaza Drive, Unit L
24 Tustin, CA 92780

25 **OPT OUT SIGNATURE**

26 By signing this Opt Out Form, I hereby opt out of this lawsuit and Settlement reached in the
27 matter of *Arambula v. Excel Cabinets, Inc.* By signing this Opt Out Form, I understand that I will
28 not receive money from the class portion of the settlement and I will have no right to object to the
29 Settlement and be heard at the Final Fairness Hearing.

30 Signed: _____ Dated: _____

31 Print Name: _____

32 Address: _____

33 Home Telephone Number: _____

34 Last 4 Digits of Social Security Number or Employee ID Number: _____