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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

SAUL HERNANDEZ MEJIA, on behalf of
himself and others similarly situated; MANUEL
ENRIQUEZ, on behalf of himself, others
similarly situated, and other aggrieved
employees,

Plaintiffs,

v.

SWISSTEX CALIFORNIA, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21STCV02796

Consolidated with Case No. 21STCV04668
and Case No. 21STCV12242

CLASS ACTION

[Hon. Yvette M. Palazuelos, Department 9]

STIPULATION OF SETTLEMENT

Complaint filed: January 22, 2021
Trial date: Not set

STIPULATION OF SETTLEMENT

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This Stipulation of Settlement is made by and between the Named Plaintiffs, SAUL HERNANDEZ MEJIA and MANUEL ENRIQUEZ (“Named Plaintiffs”), on their own behalf and on behalf of all members of the Settlement Class, as defined below, and Defendant SWISSTEX CALIFORNIA, INC. (“Defendant,” and together with Plaintiffs, the “Parties”), in the lawsuit entitle *Mejia et. al. v. Swisstex California, Inc.* currently pending in Los Angeles Superior Court, Case No. 21STCV02796. This action is consolidated with Case No. 21STCV 04668 and Case No. 21STCV12242. This Stipulation of Settlement resolves all claims that were asserted or could have been asserted against Defendant pertaining to the claims in the Litigation.

I. DEFINITIONS

A. “Administrative Costs” means all administrative costs of settlement, including the cost of notice to the Settlement Class, claims administration, and any fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Stipulation of Settlement.

B. “Aggrieved Employees” or “Participating PAGA Members” means all persons who were employed by Defendant in California and performed work in California for Defendant in California as a non-exempt employee during the PAGA Period.

C. “Class Counsel” or “Plaintiffs’ Counsel” mean WILSHIRE LAW FIRM, PLC and LAVI & EBRAHIMIAN, LLP and all the lawyers of the two firms acting on behalf of Named Plaintiffs and the Settlement Class.

D. “Class Members” or “Settlement Class” means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Settlement Period (collectively referred to as the “Class”).

E. “Court” means the Superior Court of the State of California for the Los Angeles County.

F. “Defendant” means Swisstex California, Inc.

G. “Effective” or “Effective Date” means the later of: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters Final Approval and the

1 Settlement is fully funded; (b) if an objection is filed and not withdrawn, the date for filing an appeal
2 and no such appeal being filed; or (c) if any timely appeals are filed, the date of the resolution (or
3 withdrawal) of any such appeal in a way that does not alter the terms of the settlement.

4 **H. “Final Approval Order”** means the final formal judgment entered by the Court
5 granting final approval of this Agreement.

6 **I. “Employer Taxes”** means employer-funded taxes and contributions imposed on the
7 wage portions of the Settlement Payment under the Federal Insurance Contributions Act, the Federal
8 Unemployment Tax Act, and any similar state taxes and contributions required of employers, such
9 as for unemployment insurance.

10 **J. “Litigation”** means the action currently pending in Los Angeles County Superior
11 Court, Case No. 21STCV02796, which is consolidated with Case No. 21STCV04668 and Case No.
12 21STCV12242.

13 **K. “Named Plaintiffs”** means Saul Hernandez Mejia and Manuel Enriquez.

14 **L. “Net Settlement Amount” or “Net Settlement Fund”** means the Settlement
15 Amount minus any award of attorneys’ fees and Litigation costs, Administrative Costs, enhancement
16 fees to the Named Plaintiffs, and penalties recoverable pursuant to California’s Private Attorney
17 General Act (“PAGA”) (the “PAGA Settlement”), and as provided in Sections XIII, VIII, XIV, and
18 XVI, respectively.

19 **M. “Individual Settlement Payment(s)”** shall include payments made to the Settlement
20 Class as part of the Settlement, including wages, penalties and interest and will be distributed on a
21 pro rata basis based on the number of workweeks the Settlement Class member worked during the
22 Settlement Period.

23 **N. “PAGA Period”** as used herein means the period from January 22, 2020 through
24 May 31, 2022.

25 **O. “Settlement,” “Settlement Agreement,” or “Agreement”** means this Stipulation of
26 Settlement.

27 **P. “Settlement Administrator”** means Phoenix Settlement Administrators, which will
28 be responsible for the administration of the Settlement Amount, as defined below, and all related

1 matters.

2 **Q. “Settlement Amount”** means the sum of Nine Hundred and Seventy-Five Thousand
3 Dollars and Zero Cents (\$975,000.00), which shall be paid by Defendant, and from which all
4 Individual Settlement Payments, Court-approved attorneys’ fees and Litigation costs pursuant to
5 Section XIII, Administrative Costs pursuant to Section VIII, enhancement to Named Plaintiffs
6 pursuant to Section XIV, statutory penalties, interest, and PAGA Settlement pursuant to Section XVI
7 shall be paid, except as provided herein.

8 **R. “Settlement Period”** means the period from January 22, 2017 through May 31,
9 2022.

10 **II. BACKGROUND**

11 **A.** In the Litigation, the Named Plaintiffs allege, *inter alia*, on behalf of themselves and
12 all others similarly situated, that Defendant violated California state wage and hour laws, the
13 California *Business and Professions Code* Section 17200 *et seq.*, and PAGA, as a result of
14 Defendant’s California wage and hour policies and practices. Specifically, Plaintiffs allege that
15 Defendant failed to pay its employees at or above the applicable minimum wage rates, failed to
16 provide regular and overtime wages, failed to authorize and permit meal and rest periods, failed to
17 timely pay earned wages during employment, failed to timely pay all earned wages and final
18 paychecks due at time of separation, and failed to provide complete and accurate wage statements.
19 Plaintiffs further allege that, as a result of the above violations, Defendant is liable to pay civil
20 penalties under PAGA.

21 Class Counsel conducted informal discovery concerning the claims set forth in the Litigation,
22 such as a sample of class member timekeeping and payroll records, Defendant’s policies and
23 procedures concerning the payment of wages, the provision of meal and rest breaks, issuance of
24 wage statements, and providing all wages at separation, as well as information regarding the number
25 of putative class members and the mix of current versus former employees, the wage rates in effect,
26 and the amount of meal and rest period premium wages paid to class members.

27 **B.** Named Plaintiffs and Class Counsel have engaged in good faith, arms-length
28 negotiations with Defendant concerning possible settlement of the claims asserted in the Litigation.

1 The Parties participated in a full day of mediation before Hon. Lisa Cole (Ret.), a retired Judge in
2 the Los Angeles Superior Court, that resulted in a tentative settlement of the Litigation, subject to
3 the approval of the Court, and finalization of a formal Stipulation of Settlement. The Parties have
4 engaged in extensive negotiations about the terms and conditions of the Settlement at the mediation
5 and subsequent thereto. The Parties have now formalized the Settlement Agreement for submission
6 to the Court for preliminary and final approval.

7 C. Class Counsel has conducted an investigation of the law and facts relating to the
8 claims asserted in the Litigation and has concluded, taking into account the sharply contested issues
9 involved, the defenses asserted by Defendant, the expense and time necessary to pursue the Litigation
10 through trial and any appeals, the risks and costs of further prosecution of the Litigation, the risk of
11 an adverse outcome, the uncertainties of complex litigation, and the substantial benefits to be
12 received by the Named Plaintiffs and the members of the Settlement Class and Aggrieved Employees
13 pursuant to this Agreement, that a settlement with Defendant on the terms and conditions set forth
14 herein is fair, reasonable, adequate, and in the best interests of the Settlement Class. Named
15 Plaintiffs, on their own behalf and on behalf of the Settlement Class and Aggrieved Employees, have
16 agreed to settle the Litigation with Defendant on the terms set forth herein.

17 D. Defendant has concluded that, because of the substantial expense of defending against
18 the Litigation, the length of time necessary to resolve the issues presented herein, the inconvenience
19 involved, and the concomitant disruption to its business operations, it is in Defendant's best interests
20 to accept the terms of this Agreement. Defendant denies each of the allegations and claims asserted
21 against them in the Litigation. However, Defendant nevertheless desires to settle the Litigation for
22 the purpose of avoiding the burden, expense and uncertainty of continuing litigation and for the
23 purpose of putting to rest the controversies engendered by the Litigation.

24 E. This Agreement is intended to and does effectuate the full, final and complete
25 settlement of all allegations and claims that were asserted, or could have been asserted, in the
26 Litigation by Named Plaintiffs and members of the Settlement Class and the Aggrieved Employees
27 as set forth in Section II.A.

28 ///

1 **III. JURISDICTION**

2 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
3 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
4 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
5 Final Approval of the Settlement and after the Court has ordered the entry of Judgment, pursuant to
6 California *Code of Civil Procedure* Section 664.6 the Court shall retain jurisdiction of this action
7 solely for the purpose of interpreting, implementing, and enforcing this Settlement consistent with
8 the terms set forth herein. In the event that a motion to enforce this Agreement is required to be filed
9 due to a party's failure to comply with the terms herein, the prevailing party shall be awarded
10 reasonable attorney's fees and costs, which shall be in addition to any amounts to be paid under this
11 Settlement Agreement.

12 **IV. STIPULATION OF CLASS CERTIFICATION**

13 The Parties stipulate to the certification of this Settlement Class for purposes of Settlement
14 only. This Stipulation is contingent upon the Preliminary and Final approval and certification of the
15 Settlement Class only for purposes of Settlement. Should the Settlement not become final, for
16 whatever reason, the fact that the Parties were willing to stipulate provisionally to class certification
17 as part of the Settlement shall have no bearing on, and shall not be admissible in connection with,
18 the issue of whether a class should be certified in a non-settlement context in the Litigation.
19 Defendant expressly reserves the right to oppose class certification and/or proactively move to deny
20 certification should this Settlement be modified or reversed on appeal or otherwise not become final.

21 **V. MOTION FOR PRELIMINARY APPROVAL**

22 Named Plaintiffs will bring a motion before the Court for an order preliminarily approving
23 the Settlement including the Notice of Proposed Class Action Settlement, and Workweek Dispute
24 Form, which are attached hereto as **Exhibits "A" and "B,"** respectively, and including certification
25 of the Settlement Class for settlement purposes only.

26 The date that the Court grants Preliminary Approval of this Agreement will be the
27 "Preliminary Approval Date." Class Counsel will prepare the Motion for Preliminary Approval and
28 will provide Defendant's counsel the opportunity to review it and provide input before it is filed. On

the same date on which it is filed with the Court, Class Counsel shall concurrently submit the Motion for Preliminary Approval to the Labor & Workforce Development Agency in compliance with Labor Code § 2698 *et seq.*, the Private Attorneys General Act.

VI. STATEMENT OF NO ADMISSION

A. Defendant denies liability to Named Plaintiffs 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 Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against them in the Litigation.

B. Nothing in this 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 the negotiations leading to this Agreement or the Settlement, is intended by the Parties to constitute, nor will any of the foregoing 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 and filed 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 implementation of the Settlement.

C. None of the documents produced or created by Named Plaintiffs, the Settlement Class, and the Aggrieved Employees in connection with the claims procedures or claims settlement procedures constitute, and they are not intended to constitute, an admission by Defendant 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. The Parties agree that class certification pursuant to California *Code of Civil*

1 *Procedure* Section 382 under the terms of this Agreement is for settlement purposes only, and that
2 certification of the class as defined herein is appropriate and meets the standards set forth in
3 California Code of Civil Procedure section 382. Nothing in this Agreement will be construed as an
4 admission or acknowledgment of any kind that any class should be certified or given collective
5 treatment in the Litigation or in any other action or proceeding. Further, neither this Agreement nor
6 the Court's actions with regard to this Agreement will be admissible in any court or other tribunal
7 regarding the propriety of class certification or collective treatment. In the event that this Agreement
8 is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable,
9 Named Plaintiffs will not be deemed to have waived, limited, or affected in any way any claims,
10 rights, or remedies in the Litigation, and Defendant will not be deemed to have waived, limited, or
11 affected in any way any of their objections or defenses in the Litigation.

12 **VII. WAIVER, RELEASE AND CONFIDENTIALITY**

13 **A. Release as to All Settlement Class Members.**

14 Upon the date on which Defendant fully funds the settlement and the settlement becomes
15 Effective, Named Plaintiffs and all members of the Settlement Class, except those that make a valid
16 and timely request to be excluded from the Settlement Class and Settlement, waive, release,
17 discharge, and promise never to assert in any forum any and all wage-related claims that were alleged
18 in the Litigation or which could have been alleged in the Litigation based on the facts asserted in the
19 Litigation arising during the Settlement Period against Defendant, and its parents, subsidiaries,
20 affiliates, officers, shareholders, directors, agents, employees, attorneys, and insurers, including the
21 following claims: 1) all claims alleged in the operative complaint or arising from the factual
22 allegations contained therein, for the failure to pay overtime or double time wages owed pursuant to
23 California Labor Code §§ 204, 510, 1194, and 1198, the IWC Wage Orders or any comparable
24 federal statute under any theory of liability; 2) all claims alleged in the operative complaint, under
25 any legal theory of liability, for the failure to pay all wages of any kind, including any minimum
26 wage or straight time wages, owed pursuant to California Labor Code §§ 204, 510, 1194, 1194.2,
27 and 1198, the IWC Wage Orders, or any comparable federal statute under any theory of liability; 3)
28 all claims alleged in the operative complaint, under any legal theory of liability, for failure to provide

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meal periods pursuant to California Labor Code §§ 226.7 and 512, and the IWC Wage Orders; 4) all claims alleged in the operative complaint, under any legal theory of liability, for the failure to provide rest periods pursuant to California Labor Code § 226.7 and the IWC Wage Orders; 5) all claims alleged in the operative complaint, under any legal theory of liability, for the failure to properly calculate any premiums owed and/or paid pursuant to California Labor Code § 226.7(b); 6) all claims alleged in the operative complaint, under any legal theory of liability, for failure to indemnify employees for expenditures pursuant to California Labor Code § 2802; 7) all claims alleged in the operative complaint, under any legal theory of liability, for violation of Business & Professions Code §§ 17200, *et seq.*; 8) all claims alleged in the operative complaint, under any legal theory of liability, for penalties pursuant to PAGA (Labor Code §§ 2698 *et seq.*); 9) all claims alleged in the operative complaint, under any legal theory of liability, for any penalties of any kind arising from an alleged failure to pay final wages or other amounts allegedly owed to Class Members pursuant to California Labor Code §§ 201-203; 10) all claims alleged in the operative complaint, under any legal theory of liability, for any penalties of any kind arising from an alleged wage statement violations pursuant to California Labor Code §§ 226 and 1174.5; and 11) all claims alleged in the operative complaint, under any legal theory of liability, for any penalties or any another amounts that could be potentially owed to Class Members arising out of and/or related to the allegations in the Lawsuit arising during the Settlement Period, including penalties owed pursuant to California Labor Code §§ 210, 226.3, 558, and 1197.1.

B. Release as to All Aggrieved Employees.

Upon the date on which Defendant fully funds the settlement and the settlement becomes Effective, Named Plaintiffs and all Aggrieved Employees waive, release, discharge, and promise never to assert in any forum any and all wage-related claims for penalties pursuant to PAGA (Labor Code §§ 2698 *et seq.*) against Defendant, and its parents, subsidiaries, affiliates, officers, shareholders, directors, agents, employees, attorneys, and insurers, during the PAGA Period as based on PAGA claims alleged in the Litigation or which could have been alleged in the Litigation based on the facts included in Plaintiffs' notices sent to the California Labor and Workforce Development Agency ("LWDA"), including, e.g., claims relating to the alleged failure of the Defendant to provide

any of the Aggrieved Employees with compensation as required by law relating to wages, claims for overtime hours worked, meal periods, rest periods, business expense reimbursements, itemized wage statement/pay stub violations, civil penalties, or waiting-time penalties as required by law or regulations, and the failure to pay penalties. This release as to all Aggrieved Employees will apply so long as as the Court enters a Final Approval Order and Defendant fully funds the Settlement. Aggrieved Employees will release PAGA claims even if the Aggrieved Employee requests exclusion from the Settlement pursuant to Section IX (C).

C. General Release by Named Plaintiffs Only.

In addition to the releases made in Section VII (A) and Section VII (B), the Named Plaintiffs make the following additional general release of all claims, known or unknown. Named Plaintiffs release Defendant, and each of its respective parents, subsidiaries, affiliates, officers, shareholders, directors, agents, employees, attorneys, and insurers, from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with Named Plaintiffs' employment with Defendant as well as any and all acts or omissions by or on the part of Defendant. (The release set forth in this Paragraph B shall be referred to hereinafter as the "General Release.")

With respect to the General Release, Named Plaintiffs stipulate and agree that, in exchange for a full release of Named Plaintiffs' claims upon the Date of Final Approval, Named Plaintiffs shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

"SECTION 1542. [CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE.] 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

1 **RELEASED PARTY.”**

2 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be
3 other than or different from the facts now believed to be true, the release of claims contained herein
4 shall be effective as to all unknown claims.

5 **VIII. SETTLEMENT ADMINISTRATOR**

6 Named Plaintiffs and Defendant, through their respective counsel, have selected Phoenix
7 Settlement Administrators as the Settlement Administrator to administer the Settlement, which
8 includes but is not limited to distributing and responding to inquiries about the Notice of Proposed
9 Class Action Settlement and Workweek Dispute Form, determining the validity of any disputes and
10 opt-outs, and calculating all amounts to be paid from the Net Settlement Amount, and maintaining a
11 website with information about the Settlement. The Settlement Administrator shall update the
12 website to include any changes of the location or date of the Final Approval hearing and final
13 judgment. Charges and expenses of the Settlement Administrator, estimated to be no more
14 \$10,000.00, will be paid from the Settlement Amount, not in addition to the Settlement Amount.
15 Any charges and expenses of the Settlement Administrator greater than the allocated \$10,000.00 will
16 come from the Settlement Amount. If the actual Settlement Administrator fees are less than the
17 Parties' estimation, the difference between the actual and estimated Settlement Administrator fees
18 will revert to the participating Settlement Class members. The Parties agree that this Agreement
19 may be provided to the Settlement Administrator to effectuate its implementation of the settlement
20 procedures herein.

21 **IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

22 **A. Notice.**

23 Named Plaintiffs and Defendant, through their respective attorneys, have jointly prepared a
24 Notice of Class Action and Proposed Settlement (the “Notice”) and a Workweek Dispute Form,
25 which in substance will be provided to the members of the Settlement Class as follows:

26 As soon as practicable following Preliminary Approval of the Settlement, but no later than
27 thirty (30) calendar days after the Court’s Preliminary Approval order, Defendant will provide to the
28 Settlement Administrator the following information about each Settlement Class member (“Class

1 List”): (1) name; (2) last known home address; (3) number of workweeks as a class member during
2 the Settlement Period or the dates of employment for each Settlement Class member and any such
3 other information as may be necessary to calculate each Settlement Class Member’s payments; and
4 (4) Social Security number. Defendant further agrees to consult with the Settlement Administrator
5 prior to the production date to ensure that the format will be acceptable to the Settlement
6 Administrator. Plaintiffs’ Counsel shall also receive a redacted Class List that shall only disclose an
7 identification number attributed to each class member and the number of workweeks each class
8 member worked during the Settlement Period.

9 The Settlement Administrator shall run all the addresses provided through the United States
10 Postal Service NCOA database (which provides updated addresses for any individual who has moved
11 in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain
12 current address information, and shall mail the Notice to the members of the Settlement Class via
13 first-class regular U.S. Mail using the most current mailing address information available, within ten
14 (10) calendar days of the receipt of the Class List from Defendant. The Settlement Administrator
15 shall also provide members of the Settlement Class with a separate Spanish version of the Class
16 Notice and Workweek Dispute Form. The Notice shall provide the members of the Settlement Class
17 forty-five (45) days’ notice of all applicable dates and deadlines (“Response Deadline”).

18 The court approved Notice will also include information regarding the nature of the
19 Litigation; a summary of the terms of the Settlement; the definition of the Settlement Class; a
20 statement that the Court has preliminarily approved the Settlement; the nature and scope of the claims
21 being released; the procedure and time period for objecting to the Settlement, the date and location
22 of the Final Approval hearing; information regarding the opt-out procedure; Defendant’s calculation
23 of the number of Eligible Workweeks that each Settlement Class member has worked as an employee
24 in California at any time during the Settlement Period, and the estimated potential recovery for the
25 proposed Settlement Class Member.

26 In the event a class member disputes the hours stated on the class notice, the class member
27 shall provide a letter to the claims administrator within 45 days of the postmark date of class notice
28 stating his/her hours and providing any supporting documents.

1 If a Notice is returned from the initial notice mailing, the Settlement Administrator will
2 perform a skip trace in an attempt to locate a more current address. If the Settlement Administrator
3 is successful in locating a new address, it will re-mail the Notice to the Settlement Class member
4 within three (3) business days of locating the new address. Further, any Notices returned with a
5 forwarding address to the Settlement Administrator, as non-deliverable before the deadline date,
6 shall be sent to the forwarding address affixed thereto. With respect to any Notice that is re-mailed,
7 the Response Deadline for the Class Member whose Notice is re-mailed will be extended an
8 additional fifteen (15) calendar days.

9 No later than twenty-five (25) days before the Final Approval Hearing, the Settlement
10 Administrator shall provide counsel for Defendant and Class Counsel with a declaration attesting to
11 the completion of the Notice process, including the number of attempts to obtain valid mailing
12 addresses for and re-sending of any returned Notices, as well as the number of valid Workweek
13 Dispute Forms, opt-outs and deficiencies that the Settlement Administrator received.

14 **B. Objections.**

15 In order for any Settlement Class member to object to this Settlement, or any term of it, the
16 person making the objection must not submit a request for exclusion (i.e., must not opt out). To
17 object to the Settlement in writing, a Class Member may send the objection to the Settlement
18 Administrator by the Response Deadline. A Settlement Class member making an objection may
19 appear at the Final Approval Hearing with or without submitting any written objection. The
20 Settlement Class member may appear personally or through an attorney, at his or her own expense,
21 at the Final Approval hearing to present his or her objection directly to the Court. However, any
22 attorney who will represent an individual objecting to this Settlement must file a notice of appearance
23 with the Court and serve Class Counsel and Defendant's Counsel no later than the Response
24 Deadline. If a Settlement Class member objects to the Settlement, the Settlement Class member will
25 remain a member of the Settlement Class and if the Court approves this Agreement, the Settlement
26 Class member will be bound by the terms of the Settlement and Final Approval Order in the same
27 way and to the same extent as a Settlement Class member who does not object. The date of mailing
28 of the Notice to the objecting Settlement Class member shall be conclusively determined according

1 to the records of the Settlement Administrator. The Court retains final authority with respect to the
2 consideration and admissibility of any Settlement Class member objections. Any Settlement Class
3 member who submits an objection may also participate in the settlement.

4 Named Plaintiffs hereby endorse the Settlement as fair, reasonable and adequate and in the
5 best interests of the Settlement Class.

6 **C. Opportunity to be Excluded and Defendant's Opt-Out Threshold.**

7 In order for any Settlement Class member to validly exclude himself or herself from the
8 Settlement Class and the Settlement (i.e., to validly opt out), a written request for exclusion ("Request
9 to be Excluded") must be signed by the Settlement Class member or his or her authorized
10 representative and must be sent to the Settlement Administrator, postmarked by no later than
11 Response Deadline. The Notice shall contain instructions on how to opt out.

12 The date of the initial mailing of the Notice, and the date the signed Request to be Excluded
13 was postmarked, shall be conclusively determined according to the records of the Settlement
14 Administrator. Any Settlement Class member who timely and validly submits a Request to be
15 Excluded from the Settlement Class and the Settlement will not be entitled to any portion of the Net
16 Settlement Amount, will not be bound by the terms and conditions of the Settlement, and will not
17 have any right to object, appeal, or comment thereon, except that Participating PAGA Members
18 claim for PAGA penalties will still be released.

19 Any member of the Settlement Class who does not timely file and mail a Request to be
20 Excluded from the Settlement Class will be deemed included in the Settlement Class in accordance
21 with this Settlement.

22 In the event that five percent (5%) or more of the Class Members exercise their right to
23 exclude themselves and opt out of the Settlement and Settlement Agreement, Defendant retains the
24 exclusive right, but not the obligation, to withdraw from and terminate the Settlement and the
25 Settlement Agreement and return all parties back to their same position before the Settlement was
26 reached and the Settlement Agreement was entered into. In the event that Defendant exercises such
27 rights under this paragraph, the Plaintiffs and Defendant shall resume the Litigation through and until
28 there is a final settlement of the Litigation. Defendant must notify Class Counsel and the Court of

1 such a decision to withdraw and terminate the Settlement no later than five (5) days prior to the date
2 of the Final Approval Hearing. In the event of Defendant's withdrawal, no party may use the fact
3 that the Parties agreed to the Settlement for any reason, and Defendant shall pay all administration
4 expenses incurred through the date of its termination of the Settlement.

5 **D. Cooperation**

6 The Parties and their respective counsel agree not to encourage members of the Settlement
7 Class to refrain from participating in the Settlement, to opt out of the Settlement, or to object to the
8 Settlement, directly or indirectly, through any means. However, if a Settlement Class member
9 contacts Class Counsel, Class Counsel may discuss the terms of the Settlement and the Settlement
10 Class member's options.

11 **X. DISPUTES PROCEDURE**

12 Named Plaintiffs and Defendant have agreed upon the following payment formula to resolve
13 all disputes submitted by Settlement Class members during the Settlement Period.

14 The Settlement Administrator will calculate the total number of workweeks for all Class
15 Members who were employed by any Defendant during the Settlement Period ("Total Workweeks").
16 The value of each Workweek shall be determined by the Settlement Administrator by dividing the
17 Net Settlement Fund (not including the amount the Court approves in PAGA penalties) by the total
18 number of Workweeks available to the Class Members who do not opt out in accordance with Section
19 IX(C) above during the Settlement Period ("Workweek Point Value").

20 An "Individual Settlement Payment" for each Class Member will then be determined by
21 multiplying a Class Member's workweeks worked during the Settlement Period ("Eligible
22 Workweeks") by the Workweek Point Value. The Individual Settlement Payment will be reduced by
23 any required legal deductions, for each participating Class Member.

24 As to distribution of PAGA penalties, the Settlement Administrator will calculate the total
25 number of workweeks for all Participating PAGA Members who were employed by Defendant during
26 the PAGA Period ("Total PAGA Workweeks"). The value of each PAGA Workweek shall be
27 determined by the Settlement Administrator by dividing 25% of the total amount the Court approves
28 in PAGA penalties by the total number of PAGA Workweeks available to Participating PAGA

1 Members ("PAGA Workweek Point Value"). Each payment to Participating PAGA Members shall
2 be treated as 100% penalties.

3 If a member of the Settlement Class does not dispute the number of Eligible Workweeks set
4 forth in the Workweek Dispute Form, such person need not take further action to participate in the
5 Settlement. If the member of the Settlement Class disputes the number of Eligible Workweeks set
6 forth in the Workweek Dispute Form, such person must follow the directions in the Workweek
7 Dispute Form and in the Notice, including preparing a statement setting forth the number of Eligible
8 Workweeks that such person believes in good faith is correct, and stating that the member of the
9 Settlement Class authorizes the Settlement Administrator to review the Settlement Class member's
10 personnel file and leave management records to determine such information, and attaching any
11 relevant documentation in support thereof. The member of the Settlement Class must mail the signed
12 and completed statement no later than the Response Deadline, or the number of Eligible Workweeks
13 set forth in the Notice and Workweek Dispute Form will govern the Individual Settlement Payment
14 to the member of the Settlement Class.

15 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation with
16 Class Counsel and counsel for Defendant, will review the pertinent payroll records showing the dates
17 the Settlement Class member was employed and the pertinent leave(s) taken, which records
18 Defendant agrees to make available to the Settlement Administrator and Class Counsel.

19 After consulting with Class Counsel and counsel for Defendant, the Settlement Administrator
20 shall compute the number of Eligible Workweeks to be used in computing the Settlement Class
21 member's pro rata share of the Net Settlement Amount. In the event there is a disparity between the
22 dates a Settlement Class member claims he or she worked during the Settlement Period and the dates
23 indicated by Defendant's records, Defendant's records will control unless inconsistent with paycheck
24 stub(s) (or bona fide copies thereof) provided by the Settlement Class member, in which case the
25 paycheck stub(s) will control. The Settlement Administrator's decision as to the total number of
26 Eligible Workweeks shall be final and non-appealable. The Settlement Administrator shall send
27 written notice of the decision on any such claim to the Settlement Class member, to Class Counsel,
28 and counsel for Defendant within ten (10) calendar days of receipt of the dispute.

1 **XI. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

2 **A. Distribution Formula.**

3 Members of the Settlement Class not opting out will receive a lump sum payment (i.e.,
4 Individual Settlement Payment) as good and valuable consideration for the waiver and release of
5 claims set forth in Section VII(A), above, in an amount determined by the Settlement Administrator
6 in accordance with the provisions of this Agreement.

7 The lump sum payment to each member of the Settlement Class not excluding him/herself
8 will be determined in accordance with the procedure set forth in Section X.

9 **B. Funding of Settlement.**

10 Upon the court's order approving the Settlement Agreement or after the dismissal of any
11 abovementioned challenges to the Settlement Agreement, and upon a determination of the pro-rata
12 share of the settlement amount to which each member of the Settlement Class is entitled, Defendant
13 will deposit the Settlement Amount and the Employer Taxes into an interest-bearing trust account
14 for the benefit of the participating Settlement Class members and Class Counsel, through the
15 Settlement Administrator. At no time prior to Final Approval of the Settlement shall Defendant be
16 required to escrow any portion of the Settlement Amount. The funding of the Settlement shall be
17 made in two equal installments; the first half in the amount of \$487,500 shall be paid when the Court
18 grants final approval of the Settlement; the second half in the amount of \$487,500 shall be paid
19 within six months thereafter.

20 **C. Time for Distribution.**

21 The Settlement Administrator shall cause the Settlement Amount (inclusive of the Net
22 Settlement Amount, the Court approved attorney's fees and Litigation costs, Court approved
23 enhancement to Named Plaintiff, and PAGA Settlement) and the Employer Taxes to be mailed within
24 twenty-one (21) calendar days following the full funding of the Settlement Amount. The payment
25 to the Settlement Class and the Aggrieved Employees shall be made in one distribution.

26 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
27 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
28 search and, if another address is identified, shall mail the check to the newly identified address.

Any checks issued by the Settlement Administrator to Settlement Class Members and PAGA Group Members will be negotiable for at least one hundred eighty (180) calendar days. If a Settlement Class Member or PAGA Group Member does not cash his or her settlement check within 180 days, the uncashed funds, subject to Court approval, shall be provided to the California Unclaimed Property Fund, pursuant to California Civil Procedure Code § 384. The Individual Settlement Payment provided to Settlement Class Members and PAGA Group Members shall prominently state the expiration date or contain a statement that the settlement check will expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the Individual Settlement Payment. Expired Individual Settlement Payments will not be reissued, except for good cause and as mutually agreed by the Parties in writing. The Parties agree no unclaimed funds will result from the Settlement.

The Parties each represent that they do not have any financial interest in the California Unclaimed Property Fund or otherwise have a relationship with the California Unclaimed Property Fund that could create a conflict of interest.

XII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant, policies or bonus programs. Any payments made under the terms of this Settlement shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan, policy or bonus program. Defendant retain the right to modify the language of their benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement.

///

XIII. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS

Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$325,000, which represents 33 1/3% of the Settlement Amount for all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation and this Settlement. Additionally, Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$35,000.00, which represents all past and future Litigation costs and expenses necessary to prosecute, settle and administer the Litigation and this Settlement. Any attorneys' fees or Litigation costs awarded to Class Counsel by the Court as part of the Settlement Amount shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount. The "future" aspect of these amounts include, without limitation, all time and expenses expended by Class Counsel in defending the Settlement and securing preliminary and Final Approval (including any appeals therein). There will be no additional charge of any kind to either the members of the Settlement Class or request for additional consideration from Defendant for such work. This amount shall include all attorneys' fees, Litigation costs, and expenses for which Named Plaintiff and Class Counsel could claim under any legal theory whatsoever. Within twenty-one (21) calendar days following the full funding of the Settlement Amount, the Settlement Administrator shall disburse payment from the Settlement Amount for the amount of attorneys' fees and Litigation costs approved by the Court to Class Counsel. Should the Court approve a lesser percentage or amount of fees and/or Litigation costs than the amount that Class Counsel ultimately seeks, then any such unapproved portion or portions shall revert into the Net Settlement Amount to be distributed between the participating Settlement Class Members on a pro-rata basis. For purposes of settling this matter only, Defendant agrees that Wilshire Law Firm PLC and Lavi & Ebrahimian, LLP are adequate Class Counsel.

XIV. ENHANCEMENT TO NAMED PLAINTIFFS

Defendant shall not oppose an application by Named Plaintiffs, and each of Named Plaintiffs shall not seek or receive an amount in excess of \$10,000.00 for each of their participation in and assistance with the Litigation (*i.e.*, Named Plaintiffs' class representative enhancement/service award). Any enhancement awarded to Named Plaintiffs by the Court as part of the Settlement

Amount shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount, and shall be reported on IRS Form 1099. If the Court approves an enhancement of less than \$10,000.00 to any of Named Plaintiff, then the unapproved portion or portions shall revert into the Net Settlement Amount to be distributed between the participating Settlement Class Members on a pro-rata basis. For purposes of settling this matter only, Defendant agrees that Plaintiffs Saul Hernandez Mejia and Manuel Enriquez should be deemed adequate to represent the Class.

XV. TAXATION AND ALLOCATION

The Parties agree that all employment taxes and other legally required withholdings will be withheld from payments to the members of the Settlement Class and Named Plaintiffs based on the Parties stipulated allocation of the Net Settlement Amount as provided for in this Section.

In Defendant's sole discretion, and to which Named Plaintiffs and Class Counsel do not object, the amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations.

For withholding tax characterization purposes and payment of taxes, the Net Settlement Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"):

- (1) 15% as wages; and
- (2) 85% as penalties and interest.

Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement, by the Settlement Administrator. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

Finally, any and all Employer Taxes which Defendant normally would be responsible for paying based on the Individual Settlement Payments made to the individual Class Members will be paid by Defendant in addition to and not as a deduction from the Settlement Amount based on the

1 stipulated Net Settlement Allocation.

2 **XVI. PRIVATE ATTORNEY GENERAL ACT ALLOCATION**

3 In order to implement the terms of this Settlement and to settle claims alleged under the
4 Private Attorneys' General Act, California *Labor Code* section 2698 *et seq.*, the Parties agree to
5 allocate \$50,000.00 from the Settlement Amount as penalties authorized by the California Labor
6 Code Private Attorneys General Act of 2004 (PAGA). Seventy-five percent (75%) of this amount
7 will be paid to the Labor and Workforce Development Agency and 25% of this amount will be
8 distributed to the Aggrieved Employees, through the Settlement Administrator and at no additional
9 cost to Defendant. Each Aggrieved Employee's share of the 25% portion of the PAGA payment will
10 be determined by dividing their total weeks worked within the PAGA Period by the total weeks
11 worked by all Aggrieved Employees within the PAGA Period. That fraction will then be multiplied
12 by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share.
13 These payments to Aggrieved Employees shall be allocated as 100% penalties. Aggrieved
14 Employees will be responsible for paying any personal income taxes owed on the amounts they
15 received. Within twenty-one (21) calendar days following the full funding of the Settlement Amount,
16 the Settlement Administrator shall disburse the PAGA Settlement to the California Labor and
17 Workforce Development Agency ("LWDA") and will provide notice to the LWDA of the fact that
18 the settlement has been approved by the court along with a copy of the settlement agreement and the
19 court order confirming the approval of the settlement through the appropriate LWDA/DIR website.

20 **XVII. COURT APPROVAL**

21 This Agreement and the Settlement is contingent upon Final Approval by the Court and the
22 entry of judgment. Named Plaintiffs and Defendant agree to take all steps as may be reasonably
23 necessary to secure both Preliminary Approval and Final Approval of the Settlement, to the extent
24 not inconsistent with the terms of this Agreement, and will not take any action adverse to each other
25 in obtaining court approval, and, if necessary, appellate approval, of the Settlement in all respects.
26 Named Plaintiffs and Defendant expressly agree that they will not file any objection to the terms of
27 the Settlement or assist or encourage any person or entity to file any such objection.

28 In the event it becomes impossible to secure approval of the Settlement, the Parties shall be

1 restored to their respective positions in the Litigation, as of the date of the hearing on the Motion for
2 Preliminary Approval, except as otherwise provided in Section XVIII, below.

3 **XVIII. MISCELLANEOUS PROVISIONS**

4 **A. Stay of Litigation.**

5 Named Plaintiffs and Defendant agree to the stay of all discovery in the Litigation, pending
6 Final Approval of the Settlement by the Court.

7 **B. Interpretation of the Agreement.**

8 This Agreement constitutes the entire agreement between Named Plaintiffs and Defendant.
9 Except as expressly provided herein, this Agreement has not been executed in reliance upon any
10 other written or oral representations or terms, and no such extrinsic oral or written representations or
11 terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree
12 that this Agreement is to be construed according to its terms and may not be varied or contradicted
13 by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State
14 of California, both in its procedural and substantive aspects, without regard to its conflict of laws
15 provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will
16 be resolved solely and exclusively in the Superior Court of the State of California for the County of
17 Los Angeles, and Named Plaintiffs and Defendant hereby consent to the personal jurisdiction of the
18 Court over them solely in connection therewith. Named Plaintiffs, on their own behalf and on behalf
19 of the Settlement Class, and Defendant participated in the negotiation and drafting of this Agreement
20 and had available to them the advice and assistance of independent counsel. As such, neither Named
21 Plaintiffs nor Defendant may claim that any ambiguity in this Agreement should be construed against
22 the other.

23 The terms and conditions of this Agreement constitute the exclusive and final understanding
24 and expression of all agreements between Named Plaintiffs and Defendant with respect to the
25 Settlement of the Litigation. The Agreement may be modified only by a writing signed by the
26 original signatories and approved by the Court.

27 **C. Further Cooperation.**

28 Named Plaintiffs and Defendant and their respective attorneys shall proceed diligently to

1 prepare and execute all documents, to seek the necessary approvals from the Court, and to do all
2 things reasonably necessary or convenient to consummate the Agreement as expeditiously as
3 possible.

4 **D. Confidentiality of Documents.**

5 Except for communications between Class Counsel and Class members, Plaintiffs and their
6 counsel agree not to make any public statements, issue any pressure releases, place information
7 regarding this settlement on their web site, or make any other announcements publicizing this
8 settlement. After the expiration of any appeals period, Named Plaintiffs, the Settlement
9 Administrator, and Class Counsel shall maintain the confidentiality of all documents, declarations
10 and other information obtained in the lawsuit, unless necessary for appeal or such documents are
11 ordered to be disclosed by the Court or by a subpoena.

12 **E. Counterparts.**

13 The Agreement may be executed in one or more actual or non-original counterparts, all of
14 which will be considered one and the same instrument and all of which will be considered duplicate
15 originals.

16 **F. Authority.**

17 Each individual signing below warrants that he or she has the authority to execute this
18 Agreement on behalf of the party for whom or which that individual signs.

19 **G. No Third-Party Beneficiaries.**

20 Named Plaintiffs, members of the Settlement Class, and Defendant are direct beneficiaries of
21 this Agreement, but there are no third-party beneficiaries.

22 **H. Modification.**

23 This Agreement may not be changed, altered, or modified, except in a writing signed by the
24 Parties, and approved by the Court. Notwithstanding the foregoing, the Parties agree that any dates
25 contained in this Agreement may be modified by agreement of the Parties in writing without Court
26 approval if the Parties agree and cause exists for such modification. This Agreement may not be
27 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

28 In addition to the above, this Agreement may be modified based on the final size of the

Settlement Class. Defendant's best estimate for the number of workweeks at issue for the Class Members during the Settlement Period is 28,868 workweeks. If the number of workweeks for the Settlement Period is determined to be more than 10% higher than this estimate (i.e., 31,755 or more workweeks), the Settlement Amount shall be increased by the same percentage as the percentage of increase in the class size. Therefore, for example, if the number of workweeks for the Settlement Period is determined to be 34,641 (i.e., 20% more than 28,868 workweeks), the Settlement Amount shall be increased to \$1,170,000 (i.e., 20% more than \$975,000). The Settlement Amount will not be reduced due to Defendant's estimate.

I. Deadlines Falling on Weekends or Holidays.

To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

J. Fees and Costs. With the exception of fees and costs to be paid from the Settlement Amount, all Parties are to bear their own fees and costs.

K. Severability.

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

L. Fair, Adequate, and Reasonable Settlement.

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

APPROVED AS TO FORM AND CONTENT:

Date: septiembre 12, 2023

SAUL HERNANDEZ MEJIA, on behalf of
himself and all others similarly situated

DocuSigned by:


SAUL HERNANDEZ MEJIA, *Plaintiff*

1 Date: _____, 2023

MANUEL ENRIQUEZ, on behalf of himself and
all others similarly situated

3 By: _____

MANUEL ENRIQUEZ, *Plaintiff*

5 Date: 09 / 15 / 2023
6 _____, 2023

SWISSTEX CALIFORNIA, INC., *Defendant*

7 By: _____

8 Name: Thomas Schrieder
9 Position: President
10 For SWISSTEX CALIFORNIA, INC.,
11 *Defendant*

12 APPROVED AS TO FORM:

13 Date: _____, 2023

WILSHIRE LAW FIRM

15 By: _____

16 Justin F. Marquez, Esq.
17 Benjamin H. Haber, Esq.
18 Arrash T. Fattahi, Esq.
19 *Attorneys for Plaintiff*

20 Date: September 12, 2023
21 _____, 2023

LAVI & EBRAHIMIAN, LLP

22 By: _____

23 DocuSigned by:
24 Joseph Lavi
25 071E0168F0CF244D
26 Joseph Lavi, Esq.
27 *Attorneys for Plaintiff*

28 Date: 9/15/23
_____, 2023

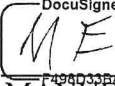
ATTWOOD GREGG LLP

By: _____

Jessica C. Gregg
Jessica C. Gregg, Esq.
Joel P. Kelly, Esq.
Attorneys for Defendant

1 Date: 9/12/2023, 2023

MANUEL ENRIQUEZ, on behalf of himself and
all others similarly situated

2
3 By:  DocuSigned by:
4 MANUEL ENRIQUEZ, *Plaintiff*

5
6 Date: _____, 2023

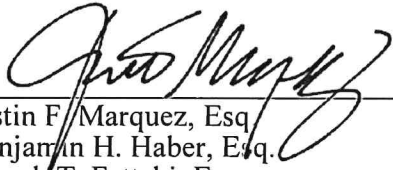
SWISSTEX CALIFORNIA, INC., *Defendant*

7 By: _____
8 Name: _____
9 Position: _____
10 For SWISSTEX CALIFORNIA, INC.,
11 *Defendant*

12 APPROVED AS TO FORM:

13 Date: September 12, 2023

WILSHIRE LAW FIRM

14
15 By: 
16 Justin F. Marquez, Esq.
17 Benjamin H. Haber, Esq.
18 Arrash T. Fattahi, Esq.
19 *Attorneys for Plaintiff*

20 Date: _____, 2023

LAVI & EBRAHIMIAN, LLP

21 By: _____
22 Joseph Lavi, Esq.
23 *Attorneys for Plaintiff*

24 Date: _____, 2023

ATTWOOD GREGG LLP

25 By: _____
26 Jessica C. Gregg, Esq.
27 Joel P. Kelly, Esq.
28 *Attorneys for Defendant*

“EXHIBIT A”

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Mejia et. al. v. Swisstex California, Inc.

Case No. 21STCV02796 (Consolidated with Case No. 21STCV04668 and Case No. 21STCV12242)

Indicate Name/Address Changes, if any:

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX - _ _ _ _

YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT.

**SWISSTEX CALIFORNIA, INC. WILL NOT RETALIATE AGAINST YOU FOR
PARTICIPATING IN THIS SETTLEMENT.**

THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY.

A California court authorized this notice. This is not a solicitation from a lawyer.

YOU ARE HEREBY NOTIFIED that a proposed settlement (“the Settlement”) of the above-captioned class action (“the Action”) filed in the Los Angeles County Superior Court has been reached by Swisstex California, Inc. (“Swisstex” or “Defendant”) and Saul Hernandez Mejia and Manuel Enriquez (“Plaintiffs”), two individuals, on behalf of themselves and all others similarly situated and has been granted Preliminary Approval by the Court supervising the Action. The Los Angeles County Superior Court has ordered that this Class Notice be sent to you because you may be a Settlement Class member. The purpose of this Class Notice is to inform you of the Settlement of this class action and your legal rights under the Settlement as follows:

- Swisstex has agreed to settle a lawsuit brought on behalf of all persons who worked for Swisstex in California as a non-exempt employee during the period from January 22, 2017 to May 31, 2022 (the “Settlement Period”) (hereafter, “Settlement Class”).
- The proposed Settlement resolves all alleged claims regarding the following wage and hour policies and/or practices of Swisstex: failure to pay minimum, straight time, and overtime wages, meal and rest breaks and any premiums thereon, wage statement violations, waiting time penalties, or other penalties of any kind arising from an alleged failure to pay wages. Finally, the settlement resolves claims for unfair competition and penalties under California’s Private Attorney General Act (“PAGA”) arising out of the alleged wage and hour policies and practices of Swisstex. The settlement avoids costs and risks to you from continuing the lawsuit, pays money to employees, and releases Swisstex from liability for these claims.
- The parties in the lawsuit disagree on whether Swisstex is liable for the allegations raised in this case and how much money could have been won if the employees won at trial. Swisstex denies that it did anything wrong and believes that it paid you and other employees properly and fairly.
- **Your legal rights may be affected. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Get a Payment	If you are a member of the Settlement Class, you will automatically receive a payment if you do not exclude yourself. If you accept a payment and do not exclude yourself you will give up certain rights as set forth on pages 4 and 5 below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below.
Exclude Yourself	Get no payment. Send a letter to the Settlement Administrator as provided below. This is the only option that allows you to bring your own claim against Swisstex about the legal claims in this case. The Settlement will bind all Settlement Class Members who do not request exclusion.
Object	Write to the Court about why you do not like the settlement. Directions are provided below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a lawsuit and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of a class on whose behalf this lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs filed this lawsuit in Los Angeles County Superior Court on behalf of the Settlement Class. The lawsuit alleges that members of the Settlement Class were not paid for or properly provided meal and rest breaks, were not issued accurate wage statements, were not paid all overtime wages, were not paid all wages due at termination and/or resignation, and were subjected to unfair competition. The lawsuit seeks recovery of wages, restitution, statutory and civil penalties, interest, and attorneys' fees and costs.

Swisstex denies any liability or wrongdoing of any kind associated with the claims alleged in the lawsuit. Swisstex contends, among other things, that they complied at all times with the California Labor Code, the California Business and Professions Code, and all other applicable law. Swisstex further denies that the lawsuit is appropriate for class treatment for any purpose other than settling this lawsuit.

The Court has made no ruling and will make no ruling on the merits of the Litigation and its allegations and claims.

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did **not** decide in favor of the Plaintiffs or Swisstex. Plaintiffs think they would have prevailed on his claims at a trial. Swisstex does not think that Plaintiffs would have won anything from a trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the costs, risks, and uncertainty of a trial, and the class members will get compensation. Plaintiffs and Plaintiffs' attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all class members.

B. Who is in the Class?

The Settlement Class consists of all persons who were employed by Swisstex in California and performed work for Swisstex in California as an hourly-paid or non-exempt employee during the Settlement Period.

C. What does the Settlement provide?

1. Settlement Amount.

Swisstex will pay a total of Nine Hundred and Seventy-Five Thousand Dollars and Zero Cents (\$975,000.00) (the "Settlement Amount") to settle the lawsuit.

The following sums will be paid from the Settlement Amount: all Individual Settlement Payments (inclusive of all employment taxes and all other legally required withholdings that would otherwise be due from the individual class members) to the Settlement Class, Attorneys' Fees (not to exceed 33 ⅓ % of the Settlement Amount, or \$325,000.), Litigation Expenses not to exceed \$35,000.00, Settlement Administrative Costs estimated in an amount not to exceed \$20,000.00, the PAGA Settlement Payment in the amount of \$50,000.00, and enhancement payments to each of the Named Plaintiffs not to exceed \$10,000.00. Any and all Employer Taxes which Swisstex normally would be responsible for paying on the Individual Settlement Payments made to individual Class Members will be paid by Swisstex separately and apart from the Settlement Amount.

The funds used for the Settlement Amount shall be paid to the Settlement Administrator. The Settlement Administrator shall disburse the Court-approved enhancement to the Named Plaintiffs, Court-approved Attorneys' Fees and Litigation Expenses, Settlement Administration Costs, and the PAGA Settlement Payment at the same time and manner as the Individual Settlement Payments to the Settlement Class members.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search and, if another address is identified, shall mail the check to the newly identified address. Any settlement checks remaining uncashed after one hundred and eighty (180) days shall be deemed unpaid residue pursuant Code of Civil Procedure Section 384(a). Unpaid residue (uncashed or returned checks) will be paid to California Unclaimed Property Fund.

2. Net Settlement Amount

"Net Settlement Amount" means the Settlement Amount minus the Attorneys' Fees, Litigation Expenses, Settlement Administrative Costs, the portion of the PAGA Settlement payment payable to the Labor and Workforce Development Agency, and the enhancement payment to the Named Plaintiff.

3. Your Individual Payment Amount.

The Claims Administrator will calculate the total number of workweeks for all Class Members who were employed by Defendants Swisstex during the Settlement Period ("Total Workweeks"). The value of each Workweek shall be determined by the Claims Administrator by dividing the Net Settlement Amount by the total number of Workweeks available to the Class Members who do not "opt out" (as defined on page 5 below) during the Settlement Period ("Workweek Point Value").

An "Individual Settlement Payment" for each Class Member will then be determined by multiplying a

Class Member's workweeks ("Eligible Workweeks") by the Workweek Point Value. The Individual Settlement Payment will be reduced by any required legal deductions, for each participating Class Member.

4. Tax Matters.

The Settlement Administrator will distribute IRS Forms W-2 and 1099 (and the equivalent California forms) to Settlement Class members reflecting the payments each Settlement Class member receives under the Settlement. For tax purposes, Individual Settlement Payments will be allocated as follows: 15% as wages and 85% as penalties and interest. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code and the California Franchise Tax Board.

Interest and penalties paid under this Settlement shall not be subject to federal, state and local payroll withholding taxes. The Settlement Administrator shall issue an IRS form 1099 for payments of interest and penalties. The usual and customary deductions will be taken out of the amounts attributable to unpaid wages. Settlement Class members should consult with their tax advisors concerning the tax consequences of the payment they receive under the Settlement.

5. PAGA Release

Upon the date on which Defendant fully funds the settlement and the settlement becomes Effective, Named Plaintiffs and all Aggrieved Employees (i.e., all persons who were employed by Defendant in California and performed work for Defendant as a non-exempt employee during the time period January 22, 2020 through May 31, 2022) against Defendant, and its parents, subsidiaries, affiliates, officers, shareholders, directors, agents, employees, attorneys, and insurers, during the PAGA Period as based on PAGA claims alleged in the Litigation or which could have been alleged in the Litigation based on the facts included in Plaintiffs' notices sent to the California Labor and Workforce Development Agency ("LWDA"), including, e.g., claims relating to the alleged failure of the Defendant to provide any of the Aggrieved Employees with compensation as required by law relating to wages, claims for overtime hours worked, meal periods, rest periods, business expense reimbursements, itemized wage statement/pay stub violations, civil penalties, or waiting-time penalties as required by law or regulations, and the failure to pay penalties.

D. What are you giving up to get a payment and stay in the Class?

Upon the date on which Defendant fully funds the settlement and the settlement becomes Effective, Named Plaintiffs and all members of the Settlement Class, except those that make a valid and timely request to be excluded from the Settlement Class and Settlement, waive, release, discharge, and promise never to assert in any forum any and all wage-related claims that were alleged in the Litigation or which could have been alleged in the Litigation based on the facts asserted in the Litigation arising during the Settlement Period against Defendant, and its parents, subsidiaries, affiliates, officers, shareholders, directors, agents, employees, attorneys, and insurers, including the following claims: 1) all claims alleged in the operative complaint or arising from the factual allegations contained therein, for the failure to pay overtime or double time wages owed pursuant to California Labor Code §§ 204, 510, 1194, and 1198, the IWC Wage Orders or any comparable federal statute under any theory of liability; 2) all claims alleged in the operative complaint, under any legal theory of liability, for the failure to pay all wages of any kind, including any minimum wage or straight time wages, owed pursuant to California Labor Code §§ 204, 510, 1194, 1194.2, and 1198, the IWC Wage Orders, or any comparable federal statute under any theory of liability; 3) all claims alleged in the operative complaint, under any legal theory of liability, for failure to provide meal periods pursuant to California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

4) all claims alleged in the operative complaint, under any legal theory of liability, for the failure to provide rest periods pursuant to California Labor Code § 226.7 and the IWC Wage Orders; 5) all claims alleged in the operative complaint, under any legal theory of liability, for the failure to properly calculate any premiums owed and/or paid pursuant to California Labor Code § 226.7(b); 6) all claims alleged in the operative complaint, under any legal theory of liability, for failure to indemnify employees for expenditures pursuant to California Labor Code § 2802; 7) all claims alleged in the operative complaint, under any legal theory of liability, for violation of Business & Professions Code §§ 17200, *et seq.*; 8) all claims alleged in the operative complaint, under any legal theory of liability, for penalties pursuant to PAGA (Labor Code §§ 2698 *et seq.*); 9) all claims alleged in the operative complaint, under any legal theory of liability, for any penalties of any kind arising from an alleged failure to pay final wages or other amounts allegedly owed to Class Members pursuant to California Labor Code §§ 201-203; 10) all claims alleged in the operative complaint, under any legal theory of liability, for any penalties of any kind arising from an alleged wage statement violations pursuant to California Labor Code §§ 226 and 1174.5; and 11) all claims alleged in the operative complaint, under any legal theory of liability, for any penalties or any another amounts that could be potentially owed to Class Members arising out of and/or related to the allegations in the Lawsuit arising during the Settlement Period, including penalties owed pursuant to California Labor Code §§ 210, 226.3, 558, and 1197.1.

THE FINAL APPROVAL HEARING

The Court will conduct a Final Approval Hearing regarding the proposed settlement (the “Final Approval Hearing”) on [REDACTED], 2023, at 312 North Spring Street, in Department 9 of the Los Angeles County Superior Court. The Court will determine: (i) whether the settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the Settlement Class members; (ii) whether the Settlement Class members should be bound by the terms of the settlement; (iii) the amount of the attorneys’ fees and costs to Plaintiffs’ counsel; (iv) the amount that should be provided to the Settlement Administrator for the costs of administering the Settlement; and (v) the amount that should be awarded to the Plaintiff as an enhancement payment. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed Settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

All persons entering any courthouse - regardless of vaccination status - shall wear a face mask over both the nose and mouth while in public areas of the courthouse, including courtrooms. Children under the age of two (2) are exempt from the order. Court employees must wear masks that meet the Cal/OSHA requirements. The Court encourages persons seeking services from the Clerk’s Office, court support services, and/or the Self-Help Centers to schedule an appointment. The telephone numbers to schedule appointments for each courthouse are listed at courthouse entrances and are posted on the Court’s website, www.lacourt.org.

The Final Approval Hearing may be continued without further notice to the Class. You may contact Plaintiff’s counsel, listed in this Notice, to inquire into the date and time of the Final Approval Hearing.

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

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WHAT ARE YOUR OPTIONS?

- **OPTION 1 – GET A PAYMENT**

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS AND WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT, THEN YOU DO NOT HAVE TO DO ANYTHING AND YOU WILL AUTOMATICALLY RECEIVE A SETTLEMENT PAYMENT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE.

The estimated amount of your Settlement Payment is set forth on the Workweek Dispute Form which accompanies this Notice.

The amount of the Settlement Payment paid to each Settlement Class member is based upon the number of workweeks you worked between January 22, 2017 and May 31, 2022. The number of workweeks applicable to your claim is also set forth on the accompanying Workweek Dispute Form. If you believe that the number of workweeks stated is incorrect, you may dispute the number of workweeks by following the instructions on the Workweek Dispute Form. If you believe that the number of workweeks stated is correct, you do not have to do anything.

The Settlement Payment you will receive will be a full and final settlement of your released claims described in Section D above.

- **OPTION 2 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself (“opt out”) from the Settlement Class, but if you choose to do so, you will not receive any benefits from the proposed settlement. You will **not** be bound by a judgment in this case and you will have the right to file your own lawsuit against Swisstex, subject to time limits called statute of limitations and other potential defenses that Swisstex may assert, and to pursue your own claims in a separate suit. However, you cannot opt out of the PAGA claims. If you opt out of the class settlement, you will still receive a portion of the PAGA settlement

You can opt out of the Settlement Class by sending a letter to the Settlement Administrator by first class U.S. mail which must: (1) state your name, address, telephone number, and the last four digits of your Social Security number; (2) be dated; (3) state that you do not wish to be bound by the Settlement and you wish to opt-out of the Settlement; and (4) be signed by you. To be valid, your request for exclusion must be postmarked no later than [redacted] [45 days after mailing].

- **OPTION 3 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Approval Hearing, you may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense.

Any written objection may be mailed to the Settlement Administrator at Phoenix Settlement Administrators. (Address).

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PLAINTIFF'S/CLASS COUNSEL

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CHANGE OF ADDRESS

If you move after receiving this Notice, if it was misaddressed, or if for any reason you want your Settlement Award or future correspondence concerning this Action to be sent to a different address, you must supply your preferred address to the Settlement Administrator at Phoenix Settlement Administrators. (Address).

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you may review the detailed "Stipulation of Settlement" which is available for viewing online on the following website:

URL: [Insert website provided by Settlement Administrator]

ANY INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO PLAINTIFF'S COUNSEL LISTED ABOVE OR TO THE SETTLEMENT ADMINISTRATOR, Phoenix Settlement Administrators, [address], [telephone]. Please refer to the *Mejia et. al. v. Swisstex California, Inc.* Class Action Settlement.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS

“Exhibit B”

CLASS WORKWEEK DISPUTE FORM

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Mejia et. al. v. Swisstex California, Inc.

Case No. 21STCV02796 (Consolidated with Case No. 21STCV04668 and Case No. 21STCV12242)

Indicate Name/Address Changes, if any:

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX - _ _ _ _

INSTRUCTIONS

IF YOU WERE EMPLOYED BY SWISSTEX CALIFORNIA, INC. ("SWISSTEX") IN CALIFORNIA AND PERFORMED WORK FOR SWISSTEX IN CALIFORNIA AS AN HOURLY PAID OR NONEXEMPT EMPLOYEE BETWEEN JANUARY 22, 2017 and May 31, 2022, THEN YOU ARE A SETTLEMENT CLASS MEMBER.

The amount of your estimated Settlement Payment is based upon the Eligible Workweeks you worked for Swisstex in California from January 22, 2017 and May 31, 2022.

"Eligible Workweeks" are defined as any week in which you worked at least one (1) day during the calendar week. The number of Eligible Workweeks applicable to your claim is set forth in Section I below. If you believe that the number of workweeks stated is incorrect, you may dispute the number of workweeks by submitting this completed Workweek Dispute Form with supporting documents on or before [redacted] [45 days after initial mailing]. **If you believe that the number of workweeks stated below is correct, you do not have to do anything.**

If you have moved or may move in the future, you must immediately send your new address to the Settlement Administrator at the address listed above; otherwise, your individual settlement payment may not reach you. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment.

I. YOUR COMPENSABLE WORKWEEKS

You worked as an hourly-paid or non-exempt employee for Swisstex in California, which qualifies you as a Settlement Class Member, and your total number of Eligible Workweeks in this position are: <<NUMBER OF WORKWEEKS>>.

II. YOUR ESTIMATED SETTLEMENT PAYMENT

Based upon the number of workweeks stated above, your estimated pre-tax Settlement Payment is <<INSERT>>.

III. CHALLENGE TO WORKWEEKS

If you wish to dispute the Eligible Workweeks data listed, you must postmark your dispute and provide all supporting information and/or documentation to the Settlement Administrator by **<<NOTICE PERIOD DEADLINE>>**.

Check the box below ONLY if you wish to dispute the data listed in Section I:

☐ I wish to dispute the number of Eligible Workweeks listed in Section I. I believe the correct amount of my workweeks is _____. I have also included information and/or documentary evidence that support my dispute. I understand that, by submitting this dispute, I hereby authorize the Settlement Administrator to review Swisstex's records and make a determination as to the validity of my dispute based upon Swisstex's records as well as the records and information that I submit to the Settlement Administrator.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the information I provided in this Workweek Dispute Form is true and correct.

Dated: _____

Signature: _____

Print or Type Name: _____

MAIL TO:

MEJIA ET. AL. V. SWISSTEX CALIFORNIA, INC.
CLASS ACTION SETTLEMENT
c/o
Phoenix Settlement Administrators
[address]

IF YOU ARE CONTESTING THE AMOUNT OF YOUR ELIGIBLE WORKWEEKS, YOU MUST SIGN, POSTMARK, AND RETURN THIS FORM TO THE SETTLEMENT ADMINISTRATOR ON OR BEFORE «OPT-OUT DEADLINE**».**