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and Adam Sardoni and Proposed Class Counsel
8

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

12 DEREK DOWNEY, ADAM SARDONI,
13 individually and on behalf of all similarly
14 situated individuals, on behalf of the
15 general public, and all “aggrieved
employees” pursuant to Labor Code § 2698
et seq.

16 Plaintiffs,

17 v.

18 NATIONAL TECHNICAL SYSTEMS,
19 INC., a California corporation, and DOES
20 1 through 10, inclusive,

21 Defendants.
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Case No.: 22STCV00946

Assigned to the Hon. Stuart M. Rice, Dept. 1

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
DANIEL F. GAINES IN SUPPORT OF
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: May 30, 2023

Time: 10:00 a.m.

Dept.: SSC-1

Action Filed: May 4, 2021

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I am
3 a shareholder of Gaines & Gaines, APLC, counsel for Plaintiffs DEREK DOWNEY and ADAM
4 SARDONI (“Plaintiffs”) and proposed Class Counsel in this action. I have personal knowledge
5 of the facts set forth herein and if called as a witness to testify to them, I could and would do so
6 competently.

7 2. Attached hereto as **Exhibit A** is a true and correct copy of the Court’s January 10,
8 2023 Checklist for Preliminary Approval of Class Action Settlement (the “Checklist”) regarding
9 Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement.

10 3. In advance of mediation, my office obtained and reviewed multiple documents,
11 including (i) Plaintiffs’ employee files and wage statements, (ii) policy documents relating to the
12 employment of Plaintiff and Class Members, and (iii) data relating to the alleged Labor Code
13 violations and the value of the recoverable damages and penalties, including time and payroll data.
14 My office reviewed a 25% sample of Defendants National Technical Systems, Inc., NTS Technical
15 Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc. and National Quality
16 Assurance – USA, Inc.’s (all together, “Defendants”) payroll records.

17 4. Plaintiffs’ strongest claim was their meal period claims because Defendants did not
18 keep meal period records. This claim drove the settlement.

19 5. Plaintiffs contend that Defendants failed to provide them and Class Members with
20 legally compliant rest periods, or premium wages of one hour’s pay in lieu thereof, as required by
21 Labor Code § 226.7 and Wage Order 4-2001. Plaintiffs report that they and other Class Members
22 were routinely not authorized and unable to take an off-duty, 10-minute rest period for every four
23 (4) hours of work or major fraction thereof but were not paid premium wages of one hour’s pay for
24 each missed rest period. Plaintiffs allege that Defendants’ violation rate is theoretically 100%,
25 affecting more than 15,200 pay periods during the Class Period and exposing Defendants to up to
26 \$8,765,000 in theoretical damages. However, in my experience, claims for rest periods are very
27 difficult to ascertain and certify, and this was a relatively weak claim, particularly compared to the
28 meal period claims. Defendants provided my office with their perfect rest period policies and

1 argued that their compliant written policy was rigorously enforced among their workforce. Because
2 employees needn't record their rest periods under California law, Defendants argue it would be
3 unmanageable to determine which employees were purportedly denied rest periods and when, and
4 it would require thousands of mini-trials to gauge liability on, and damages for, this claim, which
5 they contended would easily defeat certification and make litigating the PAGA claim
6 unmanageable. Risks as to class certification and difficulties of proof easily justify the
7 compromised settlement amount here because it represents a fair middle ground in light of the
8 litigation risks that lied ahead.

9 6. The Parties jointly prepared the First Amended Joint Stipulation of Class Action
10 Settlement and Release Between Plaintiffs, on Behalf of Themselves and all Others Similarly
11 Situated and Aggrieved, and Defendant (the "Amended Settlement" or "Amended Settlement
12 Agreement"). A true and correct copy of the Amended Settlement is attached hereto as **Exhibit B**.
13 A true and correct copy of the redlined changes made between the original Settlement Agreement
14 and the Amended Settlement is attached hereto as **Exhibit C**.

15 7. Attached hereto as **Exhibit D** are true and correct copies of each Plaintiffs'
16 Settlement Agreement and General Release of all Claims.

17 8. The Parties jointly prepared the Amended Notice of Pendency of Proposed Class
18 Action Settlement and Final Hearing ("Amended Class Notice"). A true and correct copy of the
19 Amended Class Notice is attached to **Exhibit B** as Exhibit A. A true and correct copy of the
20 Redlined Amended Class Notice is attached hereto as **Exhibit E**.

21 9. Attached hereto as **Exhibit F** are true and correct copies of email confirmations
22 showing that the original Settlement Agreement and motion documents were uploaded to the
23 LWDA on December 16, 2022 and the Amended Settlement and these supplemental documents
24 were uploaded to the LWDA on May 19, 2023.

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1 I declare, under penalty of perjury, under the laws of the State of California, that the
2 foregoing is true and correct. Executed on May 19, 2023 at Westlake Village, California
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5 *Daniel F. Gaines*
6 _____
7 DANIEL F. GAINES
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EXHIBIT A

01/10/2023

David W. Slayton, Executive Officer / Clerk of Court

By: A. He Deputy

LOS ANGELES SUPERIOR COURT, COMPLEX CIVIL DEPARTMENT
CHECKLIST FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT

Department: SSC-1

RE: *Downey, et al. vs National Technical Systems, Inc. (Case No. 22STCV00946)*

In reviewing your motion for preliminary approval of class action settlement, the Court orders further briefing on the items checked below.

The additional briefing shall be due by May 19, 2023. To provide Plaintiff an opportunity to do so, the hearing is continued to the next available date of May 30, 2023, at 10:30 a.m. in Department 1 Spring Street Courthouse. No appearance is necessary on January 11.

This checklist provides direction on what information and argument the court requires to grant a motion for preliminary approval of a class action settlement. All parties are urged to carefully review the checklist and fully comply with each item that applies to the case in order that the motion may be promptly ruled upon. The content of the motion should follow the same order as this checklist, as that is how the judge and research attorney review the motion.

You should also consider using the form wage and hour settlement agreements now available on the court's website at <https://www.lacourt.org/forms/all> – “Civil Forms” section. With input and unanimous consensus from an Ad Hoc Wage and Hour Committee (chaired by Judge Hogue and Judge Cunningham and comprised of 8 plaintiff's attorneys and 8 defense attorneys), the court has posted: (1) [a form class action settlement agreement](#), (2) [a form class action/PAGA settlement agreement](#), (3) and [a form PAGA settlement agreement](#). Using these forms should cut down on attorney negotiation time and reduce the lag time between a successful mediation and execution of a long form agreement. Filing a motion that is based on a form agreement and includes a redlined copy identifying modifications will also expedite the court's review process and help reduce the current backlog on hearings. These forms are encouraged but entirely optional.

I. MOVING PAPERS (Motion and Declarations)

All facts submitted for the court to consider must be provided in the form of a declaration or other admissible evidence. The court will not consider facts stated only in the motion.

A. Introductory Information

- ☐ Summary of the litigation, including identity of the parties, brief procedural history, claims asserted, and general factual basis for the claims.

B. Dunk/Kullar Analysis

☐ Summary of the case, including the legal and factual basis for each claim. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133 (*Kullar*); *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 409.)

☒ **Provide further information as to the summary of the investigation and discovery conducted, including the specific documents reviewed prior to agreeing to settle the case. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802, as modified Sept. 30, 1996 (*Dunk*)). Mr. Gaines states that some payroll records were reviewed (Gaines Decl., ¶11), but does not elaborate as to how many. If counsel's analysis was informed by a data sample, show that the sample is statistically reliable.**

☐ Summary of settlement negotiations, including when the settlement was reached, and whether the parties were assisted by a mediator. (*Dunk, supra*, 48 Cal.App.4th at p. 1802.)

☐ A summary of the risks, expenses, complexity, and duration of further litigation if the settlement is not approved.

☐ A summary of the risks of achieving and maintaining class action status.

☒ **Provide further specific information sufficient for the court to make an independent determination that the consideration being received for the release of class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation. (*Kullar, supra*, 168 Cal.App.4th at 129.) This discussion should specify the maximum realistic recovery of each claim asserted in the operative complaint, defenses asserted by Defendant, and any other relevant factors justifying the amount offered in settlement. Counsel has failed to provide an exposure analysis for the unpaid wages and rest break claims.**

☐ If approval of the settlement of class claims is requested together with approval of non-class claims (such as claims under the Labor Code's Private Attorney General Act (PAGA)) discuss why the amount allocated to the non-class claims is fair to those affected. See *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77 (*Moniz*).

C. Class Certification

☐ Numerosity: Total number of members in the settlement class and number of members in each sub-class (if applicable).

☐ Ascertainability: The manner by which members of the class will be identified and when. (*Noel v. Thrifty Payless* (2019) 7 Cal.5th 955.)

☐ Community of Interest: Discuss specific facts showing that the proposed class representatives have claims or defenses typical of the class and can adequately represent the class. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

☒ **Adequacy:**

Class Counsel: A summary of Class Counsels' experience and a listing of all prior cases in which each named Class Counsel has been approved by a court to act as lead or co-counsel. (See *Dunk, supra*, 48 Cal.App.4th at p. 1802.)

Class Representative(s): Provide evidence that each proposed class representative has agreed to act as same and understands his or her responsibilities. (See *Soderstedt v. CBIZ Southern California, LLC* (2011) 197 Cal.App.4th 133, 155-156; *Jones v. Farmers Ins. Exchange* (2013) 221 Cal.App.4th 986, 998-999).

D. Claim Requirement (if applicable)

☐ If class members are required to submit a claim to receive compensation, explain why a claim form is necessary and either 1) provide an estimate of the anticipated claims rate or 2) provide an explanation why a claims rate cannot be provided.

☐ Provide a detailed explanation why a "claims made" settlement is appropriate in this case.

☐ Indicate what actions class counsel will take to encourage claim submission.

☐ Explain why the claims process is not so burdensome that relief would be inaccessible to class members (if applicable).

E. Miscellaneous

☐ If appropriate, explain why the settlement includes terms that are outside the scope of the operative complaint. (*Trotsky v. Los Angeles Fed. Savings & Loan Assn.* (1975) 48 Cal.App.3d 134, 148.) If approval of settlement of a PAGA claim is requested provide a copy of Plaintiff's notice letter to the LWDA.

☐ If notice will be given in English only, explain why this is sufficient.

☐ A statement of any affirmative obligations to be undertaken by the class member or class counsel and the reason for such obligations.

☐ Provide information regarding any fee splitting agreement and whether the client has given written approval. (*Mark v. Spencer* (2008) 166 Cal.App.4th 219; Rules Prof. Conduct, rule 1.5.1; Cal. Rules of Court, rule 3.769.)

☐ Any agreement that has injunctive relief against a class representative generally is not appropriate in a class action case. Provide the authority and factual reasons why this case is an exception. See *Moniz, supra*, 72 Cal.App.5th at 84. (“[T]he preclusive effect of a prior judgment is determined by the court in which it is asserted, not the court that rendered it.” (*Fireside Bank Cases* (2010) 187 Cal.App.4th 1120, 1131 [115 Cal. Rptr. 3d 80].))

☐ Explanation as to why any class representative enhancement is reasonable, including what the class representative did beyond the expected services of any class representative. (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412; *Radcliffe v. Experian Information Solutions Inc.* (9th Cir. 2013) 715 F.3d 1157, 1165.) In PAGA settlements explanation should be provided as to why an incentive award is appropriate.

SETTLEMENT AGREEMENT

The settlement agreement should address the following:

A. The Basics

☐ Class definition. If a PAGA representative action is settled with a proposed Class Settlement consider whether there should be separate definitions for Class Members and Aggrieved Employees.

☐ Class and Release Period: If the class and release periods extend beyond the preliminary approval explain why this is appropriate.

B. Release of Claims

☒ **Scope: The scope of any release given by class members must be defined with precision and clarity. Any released claims not presented directly in the operative complaint should be based on the facts alleged in the operative complaint. (See *Amaro v. Anaheim Arena Mgmt.* (2021) 69 Cal. App. 5th 521, 537 and FN. 5; *Uribe v. Crown Building Maintenance Co.* 70 Cal. App. 5th 986, 1005.)**

- **The class Release in ¶33 purports to release “federal” claims without providing for an opt-in mechanism for FLSA Claims.**
- **The release in ¶33 purports to have Class Members release PAGA Claims. Revise to remove reference to such claims being released by Class Members.**

☐ Class cases which include a PAGA claim should have a separate release for the PAGA claim tied to the facts alleged in the notice given to the LWDA. *Id.*

☐ If PAGA and Class Settlement: The Release should provide an explanation that released claims include all PAGA claims that could have been premised on the facts alleged in the Plaintiff’s Notice and aggrieved employees will release PAGA claims even

if class members request exclusion from the class. See *Robinson v. Southern Counties Oil Co.* (2020) 53 Cal.App.5th 476.

☐ A Civil Code section 1542 waiver is generally not appropriate in a class action case as to the putative class members (if applicable). Provide the authority and factual reasons why this case is an exception. (*Israel-Curley v. California Fair Plan* (2005) 126 Cal.App.4th 123, 129; *Salehi v. Surfside III Condominium Owners' Assn.* (2011) 200 Cal.App.4th 1146, 1159–1161.)

☒ **Release Effective Date: Indicate the point in time at which the release will be deemed effective as to the absent class members. If the release will be effective before settlement funds are paid, explain why this is in the best interest of the class. The PAGA Releases in ¶71 and 28 should not take effect until after the settlement is funded.**

☒ **Paragraph 47 states “In light of their requested Class Representative Enhancement Payments, which Defendant agrees not to oppose, Plaintiffs Downey and Sardoni agree to execute a separate general release of all claims, including a waiver of California Civil Code § 1542.” (¶47) Provide a copy of said releases for the court to review.**

☐ **The court will not typically enjoin absent class members. Revise ¶72.h accordingly.**

C. Monetary Terms of Settlement

☐ **Settlement Amount: Indicate the amount of the gross settlement, how and when the settlement will be paid, and information regarding payment plan, if any. If a class claim is being settled with a PAGA claim the amounts allocated should be separated and paid only to the aggrieved employees.**

☐ **Deductions from the settlement fund: Indicate the amounts to be deducted from the gross settlement for attorneys’ fees and costs, plaintiff incentive awards, administrative costs, PAGA payment and allocation of award to LWDA and the parties, and any other existing deductions.**

☐ **If there are subclasses, explain why the monetary distribution is fair to each subclass. Ensure there is a class representative who fits the definition of each subclass.**

☐ **Information about how attorney fees will be calculated. The percentage method, with or without a lodestar cross-check, may be used in common fund cases. (*Laffitte v. Robert Half Internat., Inc.* (2016) 1 Cal.5th 480, 503.) In other cases, counsel should fully brief how the fees are calculated.**

☐ **If wages are involved, explain how Defendant’s share of taxes will be paid.**

☐ Whether, and under what circumstances, amounts may revert to Defendant, and a justification for such reversion (if applicable). (*Cundiff v. Verizon California, Inc.* (2008) 167 Cal.App.4th 718, 728–729.)

☐ Payment Formula: Amount and manner of distribution of the compensation to each class member, including the estimated amount each class member will receive and the timeline on which payments will be issued.

☐ Tax allocation of settlement payments.

☐ Nature of injunctive relief (if any), and valuation of such relief.

D. Notice Administration

The following issues regarding notice administration should be addressed in the settlement agreement. A copy of the proposed notice must be attached to the settlement agreement as an exhibit.

☐ Indicate the administrator for the settlement and why the bid for administration is fair.

☐ Provide the qualifications and experience of the Administrator, including evidence that the settlement administrator has procedures in place to protect the security of class data and adequate insurance in the event of a data breach or defalcation of funds.

☐ Indicate how/when the administrator will receive the class list.

☐ Indicate whether the list will be updated by the administrator prior to the initial mailing by use of National Change of Address Registry.

☐ Provide the deadline for the initial issuance of notice to class members.

☒ **Ensure the content of the notice complies with California Rules of Court, rule 3.766(d). In wage and hour cases the notice should indicate the specific amount the class member will receive and how that amount was calculated. A separate breakdown for PAGA payments should be provided. The terms of the release(s) should be reflected in the Notice. Make sure the notice makes it clear that class members may appear and orally object without first having submitted a written objection or notice of intent to appear.**

☐ Ensure the notice accurately reflects the Court's current social distancing procedures for attendance at hearings and review of court files. (Counsel should check the Court website for most current information.)

☐ Indicate how and when payments will be processed.

- ☐ Indicate how notices returned to the administrator as undeliverable will be handled.
- ☐ Explain how re-mailed notices, if any, will be handled. Will class members who receive re-mailed notices be given an extended deadline to respond (i.e., opt-out, object, and dispute workweeks)?
- ☐ Explain how notice of any change of the date or location of the will hearing be given.
- ☐ Indicate whether there will be a settlement website. If so, provide the URL.
- ☐ If publication notice will be given indicate the timing, locations, and manner by which publication notice will be disseminated.
- ☐ Explain how notice of final judgment will be given to the class. (Cal. Rules of Court, rule 3.771(b)) (e.g., Posted on claims administrator's website.)

E. Responses to Notice

- ☐ Description of the procedures for submitting written objections, requests for exclusion, claim forms (if applicable) and disputes to estimated payments.
- ☒ **Indicate the deadline to submit disputes to workweeks. Confirm the deadline is reasonable and that class members who receive re-mailed notices will be given an extension. Paragraph 58 does not provide a deadline.**
- ☐ The objection procedure the same as the opt-out procedure, with the only requirement being that objections be mailed to the settlement administrator and not filed with the court.
- ☒ **Do not include language indicating that class members may only be heard at final approval if they have complied with all objection procedures or that they must use specific language to request exclusion, or, if a specific procedure is sought, explain why it is necessary. In general, the court will hear from any class member who attends the final approval hearing and asks to speak regarding his or her objection. Revise ¶61 and the notice accordingly.**

F. Cy Pres Distribution

- ☐ Indicate the length of time from issuance for which settlement checks will remain valid.
- ☐ Identify the fund to which uncashed checks will be directed and detail the steps that will be taken to ensure compliance with Code of Civil Procedure section 384. The Court's Omnibus Trailer Bill of 2018 replaced the language of the prior statutory

distribution scheme under Code of Civil Procedure, section 384 with a requirement that the Court re-open judgments following the final distribution of funds to include the cy pres in the judgment and to include the unclaimed amount, plus an unspecified amount of interest. Such information should be actively contemplated/provided for within the current terms of the settlement.

☐ Explain why the cy pres distribution fills the purposes of the lawsuit or is otherwise appropriate. (*State of California v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 472; *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 722; *Nachshin v. AOL, Inc.* (9th Cir. 2011) 663 F.3d 1034, 1038–1041; *Dennis v. Kellogg Co.* (9th Cir. 2012) 697 F.3d 858, 865; Code Civ. Proc., § 384.)

☐ Provide declarations disclosing the interest or involvement (or lack thereof) by any counsel or party in the governance or work of the cy pres recipient.

G. MISCELLANEOUS

☐ Assure the Settlement Agreement and Notice are consistent and that the Settlement Agreement has been signed by all parties and counsel. Carefully proofread both.

☐ The Settlement Agreement and paperwork derivative thereof should not suggest that the end result of court approval will be dismissal of the Action with prejudice or entry of a Final Judgment and Order dismissing with prejudice all claims. See California Rules of Court, rule 3.769(h).

III. EXHIBITS TO THE MOTION

☒ **Provide proof of submission of the proposed settlement agreement to the LWDA. (Lab. Code, § 2699, subd. (l)(2).)**

☐ Include a proposed Judgment, which should not include a dismissal or any findings not contained in the Final Approval Order. (Cal. Rules of Court, rule 3.769(h).)

☐ All exhibits should be bookmarked, as set forth in the Presiding Judge's First Amended General Order of May 3, 2019 re: Electronic Filing, available on the Court website.

If the Settlement Agreement is modified pursuant to this checklist, please submit both a red-lined copy showing changes made as well as a final version signed by all parties. Do not submit an addendum in lieu of a full amended settlement agreement including all operative settlement terms.

Modify notice to match any alterations to the Settlement Agreement.

Date: January 10, 2023

Judge Stuart M. Rice

JUDICIAL OFFICER

EXHIBIT B

DANIEL F. GAINES, ESQ. SBN 251488
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Attorneys for Plaintiffs Derek Downey and Adam Sardoni on behalf of themselves, all others similarly situated, and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*

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Attorneys for Defendant
NATIONAL TECHNICAL SYSTEMS, INC.

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

Derek Downey and Adam Sardoni,
individually and on behalf of all similarly
situated individuals, on behalf of the general
public, and all "aggrieved employees"
pursuant to Labor Code § 2698 *et seq.*,

Plaintiff,

v.

NATIONAL TECHNICAL SYSTEMS, INC.,
a California corporation, and DOES 1 through
10, inclusive,

Defendants.

Case No.: 22STCV00946

[Assigned to Hon. Stuart M. Rice, Dept. 1]

**FIRST AMENDED JOINT STIPULATION OF
CLASS ACTION SETTLEMENT AND RELEASE
BETWEEN PLAINTIFFS, ON BEHALF OF
THEMSELVES AND ALL OTHERS SIMILARLY
SITUATED AND AGGRIEVED, AND
DEFENDANT**

Complaint filed: May 4, 2021

1 **FIRST AMENDED JOINT STIPULATION OF CLASS ACTION SETTLEMENT**

2 This First Amended Joint Stipulation of Class Action Settlement (“Settlement,” “Agreement” or
3 “Settlement Agreement”) is made and entered into by and between Plaintiffs Derek Downey
4 (“Downey”) and Adam Sardoni (“Sardoni”) (collectively, “Plaintiffs” or “Class Representatives”), as
5 individuals and on behalf of all others similarly situated and aggrieved, and Defendant National
6 Technical Systems, Inc. on behalf of itself and its present and former subsidiaries and affiliated
7 companies (collectively with Plaintiffs, the “Parties”).

8 This settlement shall be binding on Plaintiffs and the settlement class and aggrieved employees
9 Plaintiffs purport to represent and (i) Defendant; (ii) each of Defendant’s respective past, present and
10 future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability
11 company, partnership, trust, foundation, and non-profit entity which controls, is controlled by, or is
12 under common control with Defendant; (iii) the past, present and future shareholders, directors, officers,
13 agents, owners, employees, attorneys, insurers, members, partners, managers, contractors, agents,
14 consultants, representatives, administrators, payroll service providers, fiduciaries, benefit plans,
15 transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or
16 entity which could be jointly liable with any of the foregoing, subject to the terms and conditions hereof
17 and the approval of the Court.

18 **RECITALS**

19 1. On February 24, 2021, Plaintiffs exhausted administrative remedies pursuant to California
20 Labor Code § 2699, *et seq.* by providing notice of their claims to the Labor and Workforce Development
21 Agency (“LWDA”). On April 15, 2022, the notice to the LWDA was supplemented to allege the same
22 claims against NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc.
23 and/or National Quality Assurance-USA, Inc.

24 2. On May 4, 2021, Plaintiffs filed a civil Complaint against Defendant originally in the Santa
25 Clara County Superior Court entitled *Derek Downey, Adam Sardoni, individually and on behalf of all*
26 *similarly situated individuals, on behalf of the general public, and all “aggrieved employees” pursuant*
27 *to Labor Code § 2698 et seq. v. National Technical Systems, Inc., a California corporation, and Does 1*
28 *through 10, inclusive*, Case Number 21CV381341, alleging: (1) failure to provide rest periods or

1 compensation in lieu thereof (Labor Code § 226.7; IWC Wage Order 4-2001); (2) failure to provide meal
2 periods or compensation in lieu thereof (Labor Code §§ 226.7, 510, 512 and 1194; IWC Wage Order 4-
3 2001); (3) knowing and intentional failure to comply with itemized employee wage statement provisions
4 (Labor Code § 226(a), (e)); (4) failure to pay wages due at separation of employment (Labor Code §§ 201-
5 203); (5) violation of Business and Professions Code § 17200; and (6) penalties pursuant to labor code §
6 2699(f) for violations of labor code §§ 201-203, 226(a), 226.7, 510, 512, and 1194 and pursuant to Labor
7 Code § 2699(a) for violations of Labor Code §§ 226.3 and 558. Plaintiffs also allege unpaid wages
8 pursuant to Labor Code §§ 510 and 1194. On September 6, 2022, Plaintiff filed a First Amended Class
9 and Representative Action Complaint.

10 3. On January 10, 2022, Plaintiffs filed a notice of transfer of venue to the Superior Court of
11 California County of Los Angeles, Case No. 22STCV00946 (the “Action”).

12 4. Defendant denies all material allegations set forth in the Action. Notwithstanding, in the
13 interest of avoiding further litigation, the Parties desire to fully and finally settle all actual or potential
14 claims by the putative Class Members.

15 5. Plaintiffs’ counsel in the Action diligently investigated the proposed putative Class
16 Members’ claims against Defendant, including any and all applicable defenses and the applicable law.
17 The investigation included, *inter alia*, the exchange of information pursuant to informal discovery
18 methods, review of numerous corporate policies and practices, and review and analysis of voluminous
19 time and payroll records.

20 6. On April 13, 2022, the Parties participated in a mediation before David A. Rotman, Esq.
21 (the “Mediator”), a highly respected mediator of wage and hour class actions. On the same day, with the
22 assistance of the Mediator, the Parties reached agreement on the principal terms of a class action settlement
23 that would fully resolve the Action.

24 7. The settlement discussions before and during the mediation were conducted at arm’s length
25 and the settlement is the result of an informed and detailed analysis of Defendant’s alleged potential
26 liability in relation to the costs and risks associated with continued litigation.

27 8. Based on the data and documents produced pursuant to informal discovery, as well as Class
28 Counsel’s own independent investigation and evaluation, and the Mediator’s efforts, Class Counsel

1 believe that the settlement with Defendant for the consideration and on the terms set forth in this
2 Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members in
3 light of all known facts and circumstances, including the risk of significant delay and uncertainty
4 associated with litigation, various defenses asserted by Defendant, the sharply contested legal and factual
5 issues involved, and numerous appellate issues.

6 9. This Settlement Agreement is made and entered into by and between Plaintiffs,
7 individually and on behalf of all others similarly situated and aggrieved, on the one hand, and Defendant,
8 on the other hand, and is subject to the terms and conditions hereof, and to the Court's approval. The
9 Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of
10 compromising significantly disputed claims and that nothing herein is an admission of any liability or
11 wrongdoing by Defendant. If, for any reason the Settlement Agreement is not approved, it will be of no
12 force or effect, and the Parties shall be returned to their original respective positions.

13 **DEFINITIONS**

14 The following definitions are applicable to this Settlement Agreement. Definitions contained
15 elsewhere in this Settlement Agreement will also be effective:

16 10. "Action" means *Derek Downey, Adam Sardoni, individually and on behalf of all similarly*
17 *situated individuals, on behalf of the general public, and all "aggrieved employees" pursuant to Labor*
18 *Code § 2698 et seq, v. National Technical Systems, Inc., a California corporation, and Does 1 through*
19 *10, inclusive, Los Angeles County Superior Court Case No. 22STCV00946.*

20 11. "Aggrieved Employees" mean all Class Members employed by Defendant during the
21 PAGA Period (from February 24, 2020 through June 13, 2022).

22 12. "Attorneys' Fees and Costs" means attorneys' fees agreed upon by the Parties and
23 approved by the Court for Class Counsel's litigation and resolution of this Action, and all costs incurred
24 and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated with
25 documenting the Settlement, securing the Court's approval of the Settlement, responding to any
26 objections to the settlement and appeals arising therefrom, administering the Settlement, obtaining entry
27 of a judgment terminating this Action, and expenses for any experts. Class Counsel will request
28 attorneys' fees not in excess of one-third (33 1/3%) of the Maximum Settlement Amount, estimated to

1 be up to Two Hundred Ninety-Five Thousand Dollars (\$295,000.50). The Attorneys' Fees and Costs
2 will also mean and include the additional reimbursement of Class Counsel's actual costs associated with
3 Class Counsel's litigation and settlement of the Action per Class Counsel's billing statements, up to
4 Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), subject to the Court's approval. Defendant
5 has agreed not to oppose Class Counsel's request for fees and reimbursement of costs as set forth above.

6 13. "Class Counsel" means Gaines & Gaines, APLC, which will seek to be appointed counsel
7 for the Settlement Class.

8 14. "Class List" means a complete list of all Class Members that Defendant will diligently
9 and in good faith compile from its records and provide to the Settlement Administrator within fifteen
10 (15) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a
11 readable Microsoft Office Excel spreadsheet and will include Class Members' names, last-known
12 addresses, last-known telephone numbers, social security numbers, and workweek data (i.e., the start
13 and end dates of employment for each class member for the Settlement Administrator to use in
14 calculating the workweeks) during the Class Period.

15 15. "Class Member(s)" or "Settlement Class" means all persons employed in California by
16 Defendant, NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc.,
17 or National Quality Assurance-USA, Inc. as current or former hourly-paid or non-exempt employees
18 at any time during the period between May 4, 2017, through June 13, 2022. The Settlement Class does
19 not include any person who previously settled or released any of the claims covered by this Settlement,
20 or any other person who previously was paid or received awards through civil or administrative actions
21 for the claims covered by this Settlement. Defendant represents that there are approximately 619
22 individuals who compose the Settlement Class.

23 16. "Class Period" means the period from May 4, 2017, through June 13, 2022.

24 17. "Class Representatives" mean Plaintiffs Derek Downey and Adam Sardoni, who will
25 seek to be appointed as the representatives for the Settlement Class.

26 18. "Class Representative Enhancement Payments" means the amounts to be paid to
27 Plaintiffs in recognition of Plaintiffs' effort and work in prosecuting the Action on behalf of Class
28 Members and negotiating the Settlement. Defendant agrees not to dispute that the Class Representatives

1 will be paid, subject to Court approval, up to Five Thousand Dollars and Zero Cents (\$5,000.00) each
2 for a total not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), from the Maximum
3 Settlement Amount for Plaintiffs' services on behalf of the class, subject to the occurrence of the
4 Effective Date. Should the Court reduce the Class Representative Enhancement Payments, any such
5 reduction shall revert to the Net Settlement Amount distributed to Participating Class Members.

6 19. "Court" means the Superior Court of California, County of Los Angeles or any other
7 court taking jurisdiction of the Action.

8 20. "Defendant" means National Technical Systems, Inc., NTS Technical Systems, NTS
9 Engineering Services, Inc., Unitek Technical Services, Inc., or National Quality Assurance-USA, Inc.

10 21. "Effective Date" means the date on which the settlement embodied in this Settlement
11 Agreement shall become effective after all of the following events have occurred: (i) this Settlement
12 Agreement has been executed by all parties and by counsel for the Settlement Class and Defendant; (ii)
13 the Court has given preliminary approval to the Settlement; (iii) notice has been given to the putative
14 members of the Settlement Class, providing them with an opportunity to object to the terms of the
15 Settlement or to opt-out of the Settlement; (iv) the Court has held a formal fairness hearing and entered
16 a final order and judgment certifying the Class, and approving this Settlement Agreement; and (v) only
17 in the event there are written objections filed prior to the formal fairness hearing which are not later
18 withdrawn or denied, the later of the following events: (a) five (5) business days after the period for
19 filing any appeal, writ or other appellate proceeding opposing the Court's final order approving the
20 Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or (b)
21 five (5) business days after any appeal, writ or other appellate proceeding opposing the Settlement has
22 been dismissed finally and conclusively with no right to pursue further remedies or relief.

23 22. "Individual Settlement Payment" means each Participating Class Member's share of the
24 Net Settlement Amount, to be distributed to the Class Members who do not submit a valid Request for
25 Exclusion.

26 23. "Labor and Workforce Development Agency Payment" means the amount that the Parties
27 have agreed to pay to the LWDA in connection with the Labor Code Private Attorneys General Act of
28 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The Parties have agreed that Twenty Thousand

Dollars and Zero Cents (\$20,000.00) of the Maximum Settlement Amount will be allocated to the resolution of any Class Members' claims arising under PAGA ("PAGA Settlement Amount"). Pursuant to PAGA, Seventy-Five Percent (75%), or Fifteen Thousand Dollars and Zero Cents (\$15,000.00), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency as the Labor and Workforce Development Agency Payment, and Twenty-Five Percent (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00) ("Net PAGA Settlement Amount"), of the PAGA Settlement Amount will be distributed proportionately among all Aggrieved Employees based on their Compensable Workweeks during the PAGA Period ("Individual PAGA Settlement Payment").

24. "Maximum Settlement Amount" means the maximum settlement amount of Eight Hundred Eighty-Five Thousand Dollars and Zero Cents (\$885,000.00) to be paid by Defendant, jointly and severally, in full satisfaction of all claims arising from the Action, which includes all Individual Settlement Payments to Participating Class Members, the Class Representative Enhancement Payments, Settlement Administration Costs to the Settlement Administrator, the PAGA Settlement Amount, and the Attorneys' Fees and Costs to Class Counsel. The Maximum Settlement Amount does not include Defendant's share of employer payroll taxes. This Maximum Settlement Amount has been agreed to by Plaintiffs and Defendant based on the aggregation of the agreed-upon settlement value of individual claims. In no event will Defendant be liable for more than the Maximum Settlement Amount except as otherwise explicitly set forth herein. The Maximum Settlement Amount is non-reversionary.

25. "Net Settlement Amount" means the portion of the Maximum Settlement Amount remaining after deduction of the approved Class Representative Enhancement Payments, Settlement Administration Costs, PAGA Settlement Amount, and Attorneys' Fees and Costs for the portion of the Net Settlement Amount allocated to wages. The Net Settlement Amount will be distributed to Participating Class Members.

26. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address, telephone number, and the last four digits of the objector's social security number, (b) the dates the objector was employed by Defendant in California, (c) a written statement of all grounds for the objection accompanied by any legal support for such objection, and (d) copies of any

papers, briefs, or other documents upon which the objection is based.

27. “Notice Packet” or “Notice” means the Notice of Class Action Settlement, substantially in the form attached as **Exhibit A**.

28. “PAGA Released Claims” mean the claims to be released by the Aggrieved Employees, upon the Effective Date and subject to Defendant’s full payment of the Maximum Settlement Amount, which arise out of the claims and allegations made in the Action under PAGA, or which could have been made under PAGA based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the PAGA Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; “off-the-clock” work during meal periods; wage statement violations; waiting time penalties; and civil penalties, including penalties under PAGA, based on the allegations set forth above; interest; fees; and costs.

29. “Parties” means Plaintiffs and Defendant collectively.

30. “Participating Class Members” means all Class Members who do not submit valid Requests for Exclusion.

31. “Plaintiffs” means Derek Downey and Adam Sardoni collectively.

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

33. The claims to be released by the Participating Class Members, upon the Effective Date and subject to Defendant’s full payment of the Maximum Settlement Amount, include all claims under state, federal or local law, whether statutory, common law or administrative law, which arise out of the claims and allegations made in the Action or which could have been made based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the Class Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; “off-the-clock” work during meal periods; wage statement violations; waiting time penalties; violations of Business and Professions Code section 17200 based on the allegations set forth above; including, but not limited to, claims for injunctive relief; punitive damages; liquidated damages, penalties of any nature; interest; fees; and costs

1 (“Released Claims”).

2 34. The following language will be printed on the reverse of each Settlement Payment Check,
3 or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read,
4 understood, and agree to the terms set forth in the Notice of Pendency of Proposed Class Action
5 Settlement and Final Hearing and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of
6 the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA
7 claims that are covered by the Settlement.” Only those Participating Class Members who cash their
8 settlement checks will be bound by the release of claims under the FLSA.

9 35. “Released Parties” as referenced herein and as released in this Settlement are Defendant
10 and all of its present and former, direct and indirect, parent companies, subsidiaries, owners, divisions,
11 concepts, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys,
12 insurers, successors and assigns, and any individual or entity which could be liable for any of the
13 Released Claims (hereinafter “Released Parties”), and Defendant’s counsel of record in the Action.

14 36. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a
15 request to be excluded from the settlement. The Request for Exclusion must: (a) be signed by the Class
16 Member; (b) contain the name, address, telephone number, and the last four digits of the Social Security
17 Number of the Class Member requesting exclusion; (c) clearly state that the Class Member received the
18 Notice, does not wish to participate in the settlement, and wants to be excluded from the settlement; (d)
19 be returned by first class mail or equivalent to the Settlement Administrator at the specified address;
20 and, (e) be postmarked on or before the Response Deadline. The date of the postmark on the return
21 mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been
22 timely submitted. A Class Member who does not request exclusion from the settlement will be deemed
23 a Participating Class Member and will be bound by all terms of the settlement if the settlement is granted
24 final approval by the Court. The Parties agree that there is no right for any Class Member to opt out or
25 otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

26 37. “Response Deadline” means the deadline by which Class Members must postmark to the
27 Settlement Administrator valid Requests for Exclusion, objections to the settlement, or disputes
28 regarding the information provided in the Notice Packet. The Response Deadline will be forty-five (45)

1 calendar days from the initial mailing of the Notice Packet by the Settlement Administrator, unless the
2 45th day 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, and unless the Court requires a longer Response
4 Deadline, in which case the Court-imposed period shall apply. The Response Deadline will be extended
5 fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet by the Settlement
6 Administrator, unless the 15th day falls on a Sunday or federal holiday, in which case the Response
7 Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response
8 Deadline may also be extended by express agreement between Class Counsel and Defendant. Under no
9 circumstances, however, will the Settlement Administrator unilaterally have the authority to extend the
10 deadline for Class Members to submit a Request for Exclusion, objection to the settlement, or a dispute
11 regarding the information provided in the Notice Packet.

12 38. "Settlement Administrator" means Phoenix Class Action Settlement Administration
13 Solutions, or any other third-party class action settlement claims administrator agreed to by the Parties
14 and approved by the Court for purposes of administering this settlement. The Parties each represent
15 that they do not have any financial interest in the Settlement Administrator or otherwise have a
16 relationship with the Settlement Administrator that could create a conflict of interest.

17 39. "Settlement Administration Costs" means the costs payable from the Maximum
18 Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not
19 limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated
20 amounts per Class Member, tax reporting, distributing the appropriate settlement amounts, and
21 providing necessary reports and declarations, and other duties and responsibilities set forth herein to
22 process this Settlement, and as requested by the Parties. The Settlement Administration Costs will be
23 paid from the Maximum Settlement Amount, including, if necessary, any such costs in excess of the
24 amount represented by the Settlement Administrator as being the maximum costs necessary to
25 administer the settlement. The Settlement Administration Costs are currently estimated to be Twelve
26 Thousand Dollars and Zero Cents (\$12,000.00). To the extent actual Settlement Administration Costs
27 are greater than \$12,000.00, such excess amount will be deducted from the Maximum Settlement
28 Amount.

40. The Claims Administrator will calculate the number of workweeks worked by the Class Members in an hourly-paid or non-exempt position in California during the Class Period and PAGA Period (“Compensable Workweeks”) based upon the records in Defendant’s possession, custody or control, the amount to be paid per workweek, and the individual settlement awards to eligible Class Members. The Compensable Workweeks will be calculated by the Claims Administrator for each Class Member. Defendant’s workweek data will be presumed to be correct, unless a particular Class Member proves otherwise to the Claims Administrator by credible evidence. All workweek disputes will be resolved and decided by the Claims Administrator and the Claims Administrator’s decision on all workweek disputes will be subject to the Court’s final review. As to Participating Class Members, the individual settlement awards will be determined by dividing the Net Settlement Fund by the total number of Compensable Workweeks for the entire Settlement Class during the Class Period, resulting in the Class Workweek Value; and then multiplying the Class Workweek Value by the number of Compensable Workweeks worked by each Class Member. As to the Aggrieved Employees, the individual settlement awards to Aggrieved Employees will be determined by dividing the Net PAGA Settlement Amount by the total number of Compensable Workweeks for all Aggrieved Employees during the PAGA Period, resulting in the PAGA Workweek Value; and then multiplying the PAGA Workweek Value by the number of Compensable Workweeks worked by each Aggrieved Employee.

CLASS CERTIFICATION

41. Solely for purposes of settling the Action, and not for purposes of class certification should the matter not be settled or for any other reason, the Parties stipulate and agree that the requisites for establishing class certification with respect to the Settlement Class have been met and are met. More specifically, the Parties stipulate and agree for purposes of this settlement only that:

(a) The Settlement Class is ascertainable and so numerous as to make it impracticable to join all Class Members;

(b) There are common questions of law and fact including, but not limited to, the following:

i. Whether Defendant failed to pay Plaintiffs and Class Members all minimum and overtime wages, in violation of Labor Code Labor Code §§ 510 and 1194;

- 1 ii. Whether Defendant failed to properly provide rest periods or
2 compensation in lieu thereof to Plaintiffs and Class Members, in violation of Labor Code § 226.7 and
3 IWC Wage Order 4-2001;
- 4 iii. Whether Defendant failed to properly provide meal periods or
5 compensation in lieu thereof to Plaintiffs and Class Members, in violation of Labor Code §§ 226.7, 512
6 and 1197, and IWC Wage Order 4-2001;
- 7 iv. Whether Defendant failed to maintain proper meal period records for
8 Class Members;
- 9 v. Whether Defendant failed to provide Plaintiffs and Class Members with
10 accurately itemized wage statements, in accordance with Labor Code § 226(a) and (e);
- 11 vi. Whether Defendants failed to timely pay Plaintiffs and Class Members all
12 wages due and owing at the separation of their employment, in violation of Labor Code §§ 201-203,
13 221, 510 and 1194;
- 14 vii. Whether Defendant's policies and/or practices for the timing and amount
15 of payment of final wages to Class Members at the time of their separation of employment were lawful;
- 16 viii. Whether Plaintiffs and Class Members are entitled to equitable relief
17 pursuant to Business & Professions Code § 17200 *et seq.*;
- 18 ix. Whether Defendant is liable for pre-judgment interest; and
- 19 x. Whether Defendant is liable for attorneys' fees and costs.

20 Should this Settlement not be approved or be terminated, these stipulations shall be null and void
21 and shall not be admissible, in this or any other action, for any purpose whatsoever.

22 42. The Class Representatives' claims are typical of the claims of the members of the
23 Settlement Class; should this Settlement not be approved or be terminated, this stipulation shall be null
24 and void and shall not be admissible, in this or any other action, for any purpose whatsoever.

25 43. The Class Representatives and Class Counsel will fairly and adequately protect the
26 interests of the Settlement Class; should this Settlement not be approved or be terminated, this
27 stipulation shall be null and void and shall not be admissible, in this or any other action, for any purpose
28 whatsoever.

44. The prosecution of separate actions by individual members of the Settlement Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct; should this Settlement not be approved or be terminated, this stipulation shall be null and void and shall not be admissible, in this or any other action, for any purpose whatsoever.

45. With respect to the Settlement Class, the Class Representatives believe that questions of law and fact common to the members of the Settlement Class predominate over any questions affecting any individual member in such Class, and a class action is superior to other available means for the fair and efficient adjudication of the controversy; should this Settlement not be approved or be terminated, this stipulation shall be null and void and shall not be admissible, in this or any other action, for any purpose whatsoever.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

46. Funding of the Maximum Settlement Amount. Within seven (7) business days after entry of Final Approval, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendant pursuant to the terms of the Settlement. Within fourteen (14) calendar days after the Effective Date, Defendant will make a one-time deposit of the Maximum Settlement Amount, plus all employer payroll taxes associated with wage payments to be made from the Net Settlement Amount, into a Qualified Settlement Account to be established by the Settlement Administrator. Within ten (10) business days of the funding of the Settlement, the Settlement Administrator will issue payments to (a) Participating Class Members; (b) the Labor and Workforce Development Agency; (c) Plaintiffs; and (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the settlement.

47. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for Attorneys' Fees and Costs of up to one-third of the Maximum Settlement Amount (projected to be Two Hundred Ninety-Five Thousand Dollars (\$295,000.00)) in Attorneys' Fees, plus the reimbursement of actual costs and expenses associated with Class Counsel's litigation and settlement of the Action up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), both of

1 which will be paid from the Maximum Settlement Amount.

2 48. Class Representative Enhancement Payments and General Release. In exchange for a
3 general release, and in recognition of their effort and work in prosecuting the Action on behalf of Class
4 Members and negotiating the Settlement, Defendant agrees not to oppose or impede any application or
5 motion for Class Representative Enhancement Payments of up to a total of Ten Thousand Dollars and
6 Zero Cents (\$10,000) to the Class Representatives, with up to Five Thousand Dollars and Zero Cents
7 (\$5,000.00) to Plaintiff Derek Downey and up to Five Thousand Dollars and Zero Cents (\$5,000.00) to
8 Plaintiff Adam Sardoni, subject to the Court's approval. The Class Representative Enhancement
9 Payments, which will be paid from the Maximum Settlement Amount, will be in addition to Plaintiffs'
10 Individual Settlement Payments paid pursuant to the Settlement. In light of their requested Class
11 Representative Enhancement Payments, which Defendant agrees not to oppose, Plaintiffs Downey and
12 Sardoni agree to execute a separate general release of all claims, including a waiver of California Civil
13 Code § 1542, in addition to the Released Claims described above, against Defendant for this payment.
14 The Settlement Administrator will issue an IRS Form 1099 for the enhancement payments to the Class
15 Representatives, and the Class Representatives shall be solely and legally responsible for correctly
16 characterizing this compensation for tax purposes and for paying any taxes on the amount received. The
17 Class Representatives agree to indemnify and hold Defendant harmless from any claim or liability for
18 taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payments.
19 Should the Court reduce the Class Representative Enhancement Payments, any such reduction shall
20 revert to the Net Settlement Amount distributed to Participating Class Members.

21 49. Settlement Administration Costs. The Settlement Administrator will be paid for the
22 reasonable costs of administration of the Settlement and distribution of payments from the Maximum
23 Settlement Amount, which is currently estimated to be Twelve Thousand Dollars and Zero Cents
24 (\$12,000.00). These costs, which will be paid from the Maximum Settlement Amount, will include, *inter*
25 *alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 IRS Forms,
26 distributing the Notice Packet, calculating and distributing the Maximum Settlement Amount and
27 Attorneys' Fees and Costs, and providing necessary reports and declarations.

28 50. Labor and Workforce Development Agency Payment. Subject to Court approval, the

Parties agree that the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Maximum Settlement Amount will be designated for satisfaction of Plaintiffs' and Class Members' PAGA claims. Pursuant to PAGA, 75%, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00) of the PAGA Settlement Amount will be paid to the LWDA, and 25%, or Five Thousand Dollars and Zero Cents (\$5,000.00) ("Net PAGA Settlement Amount"), will be paid to all Aggrieved Employees based on the formula in paragraph 52(d) below as their Individual PAGA Settlement Payment.

51. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual Settlement Payments to Participating Class Members from the Settlement Class in accordance with the terms of this Agreement.

52. Acknowledgement of Potential Administration Cost Increases. The Parties hereby acknowledge that Settlement Administration Costs may increase above the current estimate of \$12,000.00 and that any such additional Settlement Administration Costs will be taken out of the Maximum Settlement Amount. Any portion of the estimated or designated Class Administration Costs which are not in fact required to fulfill the total Settlement Administration Costs will become part of the Net Settlement Amount.

53. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the Compensable Workweeks a Participating Class Member worked during the Class Period. Specific calculations of Individual Settlement Payments will be made as follows:

a. The Settlement Administrator will calculate the number of Compensable Workweeks per Participating Class Member during the Class Period based on records in Defendant's possession, custody or control. Defendant's workweek data will be presumed to be correct unless a particular Class Member proves otherwise to the Settlement Administrator by credible written evidence. All workweek disputes will be resolved and decided by the Settlement Administrator in consultation with Class Counsel and counsel for Defendant. The Court may resolve any disputes where the Settlement Administrator's outcome is challenged.

b. The Settlement Administrator will calculate the total number of Compensable Workweeks for each individual Class Member ("Individual Workweeks"). The Settlement

1 Administrator will calculate the total number of Compensable Workweeks for all Participating Class
2 Members ("Participating Class Workweeks").

3 c. To determine each Class Member's "Individual Settlement Payment" the
4 Settlement Administrator will use the following formula: Individual Settlement Payment = (Net
5 Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each individual
6 Participating Class Member.

7 d. The Net PAGA Settlement Amount will be distributed among all Aggrieved
8 Employees. The individual settlement awards to Aggrieved Employees will be determined by dividing
9 the Net PAGA Settlement Amount by the total number of Compensable Workweeks for all Aggrieved
10 Employees (those Class Members employed during the PAGA Period) during the PAGA Period,
11 resulting in the PAGA Workweek Value; and then multiplying the PAGA Workweek Value by the
12 number of Compensable Workweeks worked by each Aggrieved Employee.

13 54. Settlement Awards Do Not Trigger Additional Benefits. All settlement awards to Class
14 Members shall be deemed to be paid to such Class Members solely in the year in which such payments
15 actually are received by the Class Members. It is expressly understood and agreed that the receipt of
16 such individual settlement awards will not entitle any Class Member to additional compensation or
17 benefits under any company bonus, commission or other compensation or benefit plan or agreement in
18 place during the period covered by the Settlement, nor will it entitle any Class Member to any increased
19 retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the intent of
20 this Settlement that the individual settlement awards provided for in this Settlement are the sole
21 payments to be made by Defendant to the Class Members, and that the Class Members are not entitled
22 to any new or additional compensation or benefits as a result of having received the individual settlement
23 awards (notwithstanding any contrary language or agreement in any benefit or compensation plan
24 document that might have been in effect during the period covered by this Settlement).

25 55. Settlement Administration Process. The Parties agree to cooperate in the administration
26 of the settlement and to make all reasonable efforts to control and minimize the costs and expenses
27 incurred in administration of the Settlement.

28 56. Delivery of the Class List. Within fifteen (15) calendar days after Preliminary Approval,

1 Defendant will provide the Class List to the Settlement Administrator.

2 57. Notice by First-Class U.S. Mail. Within twenty-eight (28) calendar days of Preliminary
3 Approval, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-
4 Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

5 58. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement
6 Administrator will perform a search based on the National Change of Address Database for information
7 to update and correct for any known or identifiable address changes. Any Notice Packets returned to
8 the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent
9 promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
10 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address
11 is provided, the Settlement Administrator will promptly attempt to determine the correct address using
12 a skip-trace, or other search using the name, address and/or Social Security number of the Class Member
13 involved and will then perform a single re-mailing. Those Class Members who receive a re-mailed
14 Notice Packet, whether by skip-trace or by request, will have between the later of (a) an additional
15 fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or file and
16 serve an objection to the Settlement.

17 59. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet
18 will be substantially in the form attached hereto as **Exhibit A.**

19 60. Disputed Information on Notice Packets. Class Members will have an opportunity to
20 dispute the information provided in their Notice Packets. Any dispute to the information in a Notice
21 Packet must be submitted to the Settlement Administrator by the Response Deadline. To the extent Class
22 Members dispute the number of weeks he/she worked during the Class Period, or the amount of their
23 Individual Settlement Payment, Class Members may produce evidence to the Settlement Administrator
24 showing that such information is inaccurate. Absent evidence rebutting Defendant's records,
25 Defendant's records will be presumed determinative. However, if a Class Member produces evidence
26 to the contrary, the Settlement Administrator will evaluate the evidence submitted by the Class Member
27 in consultation with Class Counsel and counsel for Defendant and will make the final decision as to the
28 Individual Settlement Payment to which the Class Member may be entitled, subject to judicial review.

1 61. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
2 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement
3 Administrator no later than the Response Deadline. The date of the postmark on the return mailing
4 envelope will be the exclusive means to determine whether a Request for Exclusion has been timely
5 submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who will
6 certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely
7 submitted. Any Class Member who submits a Request for Exclusion shall be prohibited from objecting
8 to the Settlement Agreement. The Parties agree that there is no right for any Class Member to opt out
9 or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

10 62. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
11 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
12 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released
13 Claims, as well as the Judgment that will be entered by the Court when it grants final approval to the
14 Settlement.

15 63. Objection Procedures. To object to the Settlement Agreement, a Class Member shall
16 either submit a valid Notice of Objection to the Settlement Administrator on or before the Response
17 Deadline or appear at the final approval motion and orally object. The Court will hear from any Class
18 Member who attends the final approval motion and asks to speak regarding his or her objection. The
19 Settlement Administrator shall serve all objections as received on Class Counsel and Defendant's
20 Counsel, who shall file all such objections with the Court with the final approval motion. The Notice
21 of Objection shall be signed by the Class Member and contain all information required by this Settlement
22 Agreement. The postmark date of submission to the Settlement Administrator will be deemed the
23 exclusive means for determining that the Notice of Objection is timely. At no time will any of the
24 Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement
25 Agreement or appeal from the Order and Judgment. Class Counsel will not represent any Class
26 Members with respect to any such objections to this Settlement. The Parties agree that there is no right
27 for any Class Member or Aggrieved Employee to object to the Settlement of the PAGA claims in the
28 Action.

64. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; and (b) whether any Class Member has submitted a challenge to any information contained in their Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

65. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to Participating Class Members will expire 180 calendar days from the date the check was issued. Upon the expiration of 180 calendar days, uncashed settlement award checks will not be re-issued, except for good cause and as mutually agreed upon by the Parties in writing. All uncashed checks will not be reissued and will be sent to the State of California Unclaimed Property Fund.

66. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

67. Administration Costs if Settlement Fails. If the Settlement is voided or rejected by the Court, and the Settlement Administrator seeks to recover its fees, any costs incurred by the Settlement Administrator will be paid equally by the Parties (half by Defendant and half by Class Counsel), unless otherwise specified in this Agreement.

68. Treatment of Individual Settlement Payments. All Individual Settlement Payments will be allocated as follows: of each Individual Settlement Payment 10% will be allocated as alleged unpaid wages, 45% will be allocated as alleged unpaid interest, and the remaining 45% will be allocated as alleged unpaid penalties. The 10% of each Individual Settlement Payment allocated as wages will be reported on an IRS Form W-2 by the Settlement Administrator. The remaining 90% of each Individual Settlement Payment allocated as interest and penalties will be reported on an IRS Form 1099 by the Settlement Administrator. All Individual PAGA Settlement Payments shall be allocated as alleged unpaid civil penalties and reported on an IRS Form 1099 by the Settlement Administrator.

69. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiffs, Participating Class Members, and Class Counsel any W-2,

1 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement.
2 Within seven (7) business days after entry of the Court's order granting final approval of the Settlement,
3 the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by
4 Defendant pursuant to the terms of the Settlement, including the amount of the employer contribution
5 for payroll taxes to be paid from the Net Settlement Amount. The Settlement Administrator will also
6 be responsible for timely forwarding all payroll taxes and penalties to the appropriate government
7 authorities.

8 70. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect
9 of the payments called for hereunder, and Plaintiffs, Participating Class Members, and Class Counsel
10 are not relying on any statement, representation, or calculation by Defendant or by the Settlement
11 Administrator in this regard. Plaintiffs, Participating Class Members, and Class Counsel understand
12 and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the
13 payments described herein and will defend, indemnify, and hold Defendant free and harmless from and
14 against any claims resulting from any failure to pay all taxes and/or penalties due.

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

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

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

13 73. Release of Claims by Class Members. Upon the Effective Date, and subject to
14 Defendant's full payment of the Maximum Settlement Amount, Plaintiffs and all Participating Class
15 Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished,
16 and discharged with respect to all the Released Parties, any and all Released Claims. The Settlement
17 Class and each member of the Class who has not submitted a valid Request for Exclusion, fully releases
18 and discharges the Released Parties for the Released Claims for any period during the Class Period.

19 74. Release of Claims by Aggrieved Employees. Upon the Effective Date, and subject to
20 Defendant's full payment of the Maximum Settlement Amount, Plaintiffs and all Aggrieved Employees,
21 whether or not they are Participating Class Members, will be deemed to have fully, finally, and forever
22 released, settled, compromised, relinquished, and discharged with respect to all the Released Parties,
23 any and all PAGA Released Claims. The Aggrieved Employees each fully releases and discharges the
24 Released Parties for the PAGA Released Claims for any period during the PAGA Period. The Parties
25 agree that there is no right for any Aggrieved Employee to opt out or otherwise exclude himself or
26 herself from the Settlement of the PAGA claims in the Action.

27 75. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this
28 Settlement Agreement to the Court in support of Plaintiffs' Motion for Preliminary Approval and

determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Settlement Agreement, the Parties shall apply to the Court for the entry of an order:

a. Scheduling a fairness hearing on the question of whether the proposed settlement, including but not limited to, payment of attorneys' fees and costs, and the Class Representatives' Enhancement Payments, should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class;

b. Certifying the Settlement Class;

c. Approving, as to form and content, the proposed Notice;

d. Approving the manner and method for Class Members to request exclusion from the Settlement as contained herein and within the Notice;

e. Approving the manner and method for Class Members to object to the Settlement as contained herein and within the Notice;

f. Directing the mailing of the Notice, by first class mail to the Class Members;

g. Preliminarily approving the Settlement subject only to the objections of Participating Class Members and final review by the Court; and

h. Enjoining Plaintiffs from filing or prosecuting any claims, suits or administrative proceedings (including filing claims with the California Division of Labor Standards Enforcement and the Labor and Workforce Development Agency) encompassed within the Released Claims unless and until such Class Members have filed valid Requests for Exclusion with the Settlement Administrator.

76. Duties of the Parties Following Final Court Approval. Following final approval by the Court of the Settlement provided for in this Settlement Agreement, Class Counsel will submit a proposed final order of approval and judgment:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and costs;

(c) Approving the Class Representative Enhancement Payments to the Class Representatives;

(d) Approving the Settlement Administration Costs of the Settlement Administrator;

1 and

2 (e) Entering judgment in this Action barring and enjoining all members of the
3 Settlement Class from prosecuting against any of the Released Parties, any individual or class, collective
4 or representative claims released herein, upon satisfaction of all payments and obligations hereunder.

5 77. Rescission of Settlement Agreement (by Defendant). If more than ten percent (10%) of
6 the Class Members opt-out of the Settlement by submitting timely and valid Request for Exclusion
7 forms, Defendant may, at its option, rescind and void the Settlement and all actions taken in furtherance
8 of it will thereby be null and void. Defendant must exercise this right of rescission, in writing, to Class
9 Counsel within fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the
10 total number of Requests for Exclusion received by the Response Deadline. If the option to rescind is
11 exercised, Defendant shall be solely responsible for all costs of the Settlement Administrator accrued
12 through that time.

13 78. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
14 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
15 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
16 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
17 likewise be treated as void from the beginning.

18 79. Preliminary Approval Hearing. Plaintiffs will obtain a hearing before the Court to
19 request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval
20 Order for: (a) conditional certification of the Settlement Class for settlement purposes only, (b)
21 Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final
22 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Notice
23 Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval
24 hearing, Plaintiffs will submit this Settlement Agreement, which sets forth the terms of this Settlement,
25 and the proposed Notice Packet, i.e., the proposed Notice of Class Action Settlement document, attached
26 as Exhibit A. Class Counsel will be responsible for drafting all documents necessary to obtain
27 preliminary approval. Defendant agrees not to oppose the Motion for Preliminary Approval.

28 80. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the

1 deadlines to requests exclusion or submit objections to the Settlement Agreement, and with the Court's
2 permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final
3 Approval of the Settlement Agreement along with the amounts properly payable for (a) Individual
4 Settlement Payments and Individual PAGA Settlement Payments; (b) the Labor and Workforce
5 Development Agency Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative
6 Enhancement Payments; (e) all Settlement Administration Costs; and (f) the employer's share of payroll
7 taxes for wages paid in connection with the Individual Settlement Payments. The Final
8 Approval/Settlement Fairness Hearing will not be held until approximately thirty (30) calendar days
9 after the Response Deadline. Class Counsel will be responsible for drafting all documents necessary to
10 obtain final approval, including responding to any objections and appeals arising therefrom. Class
11 Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the
12 final approval hearing.

13 81. Termination of Settlement. Subject to the obligation(s) of cooperation set forth herein,
14 either Party may terminate this Settlement if the Court declines to enter the Preliminary Approval Order,
15 the Final Approval Order or final judgment in substantially the form submitted by the Parties, or the
16 Settlement Agreement as agreed does not become final because of appellate court action. The
17 Terminating Party shall give to the other Party (through its counsel) written notice of its decision to
18 terminate no later than ten (10) business days after receiving notice that one of the enumerated events
19 has occurred. Termination shall have the following effects:

20 a. The Settlement Agreement shall be terminated and shall have no force or effect,
21 and no Party shall be bound by any of its terms;

22 b. In the event the Settlement is terminated, Defendant shall have no obligation to
23 make any payments to any Party, Class Member or Class Counsel, except that the Terminating Party shall
24 pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is
25 notified that the settlement has been terminated;

26 c. The Preliminary Approval Order, Final Approval Order and Judgment, including
27 any order of class certification, shall be vacated;

28 d. The Settlement Agreement and all negotiations, statements and proceedings

relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the settlement;

e. Neither this Stipulated Settlement, nor any ancillary documents, actions, statements or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

82. Judgment; Notice Thereof; and Continued Jurisdiction. Upon final approval of the Settlement by the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment pursuant to California Rules of Court, Rule 3.769. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Agreement. The Settlement Administrator shall post a copy of the Judgment on its website for no fewer than 365 days after Judgment is entered, as required by California Rules of Court, Rule 3.771(b).

83. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

84. Confidentiality. The Parties and their counsel agree that they will not issue any media or press releases, initiate any contact with the media or press, respond to any media or press inquiry, or have any communication with the media or press about the fact, amount, or terms of the Settlement. In addition, the Parties and their counsel agree that they will not engage in any advertising or distribute any marketing materials relating to the Settlement of this case. The Class Representatives and Class Counsel will not make any public disclosure of the Settlement prior to the filing of a motion for preliminary approval with the court. Class Counsel will take all steps necessary to ensure the Class Representatives are aware of, and will instruct the Class Representatives to adhere to, the restrictions set forth in this paragraph. Any communication about the Settlement to Class Members prior to the Court-approved mailing will be limited to a statement that a settlement has been reached and the details will be communicated in a forthcoming Court-approved notice. Nothing set forth herein, however, shall prohibit the parties from providing this Agreement to the Court or the LWDA in connection with the

Parties' efforts to seek the Court's approval of this Settlement, or from communicating with Class Members, Aggrieved Employees, the LWDA or the Court about the Settlement. Neither Plaintiffs nor Class Counsel shall hold a press conference or otherwise seek to affirmatively contact the media about the Settlement. Plaintiffs and Class Counsel agree not to disparage or otherwise take any action which could reasonably be expected to adversely affect the personal or professional reputation of Defendant or the Settlement. Defendant shall provide Plaintiffs with a neutral employment reference stating only their dates of employment and last position held.

85. Other Lawsuits. To the fullest extent permissible under applicable law, and solely for the purposes of this Settlement Agreement and not for any other purpose, counsel for Plaintiffs represent and warrant on behalf of themselves and all others acting on their behalf, that they: (i) have not been retained by any other individuals with claims against Defendant (other than those of which Defendant and/or its counsel have been advised); and (ii) are not aware of, and have not been informed of, any other plaintiff, class member, or attorney who intends to bring a claim against Defendant including, but not limited to, any claim based on the subject matter of the Action. To the fullest extent permissible under applicable law, and solely for the purposes of this Settlement Agreement and not for any other purpose, Defendant and counsel for Defendant represent and warrant on behalf of themselves and all others acting on their behalf, that they are not aware of, and have not been informed of, any other plaintiff, class member, or attorney who intends to bring a claim against Defendant related to any claim based on the subject matter of the Action.

86. Entire Agreement. This Settlement Agreement and the two attached Exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil Code section 1625 and California Code of Civil Procedure section 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Agreement.

87. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument signed by the named Parties and counsel for all Parties or their successors-

1 in-interest.

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

11 89. Signatories. It is agreed that because the members of the Class are so numerous, it is
12 impossible or impractical to have each member of the Class execute this Settlement Agreement. The
13 Notice, attached hereto as Exhibit A, will advise all Class Members of the binding nature of the release,
14 and the release shall have the same force and effect as if this Settlement Agreement were executed by
15 each member of the Class.

16 90. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
17 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

18 91. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
19 will be governed by and interpreted according to the laws of the State of California.

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

25 93. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
26 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at
27 this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into
28 account all relevant factors, present and potential. The Parties further acknowledge that they are each

represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement.

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

95. Plaintiffs' Waiver of Right to Be Excluded and Object. Plaintiffs agree to sign this Settlement Agreement and, by signing this Settlement Agreement, are hereby bound by the terms herein. For good and valuable consideration, Plaintiffs further agree that they will not request to be excluded from the Settlement Agreement, nor object to any terms herein. Any such request for exclusion or objection by Plaintiffs will be void and of no force or effect. Any efforts by Plaintiffs to circumvent the terms of this paragraph will be void and of no force or effect.

96. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that Plaintiffs or Class Counsel may appeal any reduction in the Attorneys' Fees and Costs and Enhancement Payments below the amounts requested from the Court, and either Party may terminate this Settlement or appeal any Court order which is not in substantially the form submitted by the Parties.

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

on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

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

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

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

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

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

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

104. Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiffs and the Settlement Class:

Daniel F. Gaines
Alex P. Katofsky
4550 East Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

To Defendant:

Nicky Jatana
Michael D. Thomas
Paul J. Cohen
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017

105. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

106. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

107. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

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1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this First
2 Amended Joint Stipulation of Settlement and Release Between Plaintiffs and Defendant as of the date(s)
3 set forth below:

4 **SIGNATURES**

5 **READ CAREFULLY BEFORE SIGNING**

6 **PLAINTIFFS:** Derek Downey and Adam Sardoni

7 Dated: 05 / 16 / 2023, 2023

Derek Downey

Derek Downey

8
9 Dated: _____, 2023

Adam Sardoni

10
11 **DEFENDANT:** National Technical Systems, Inc.

12 Dated: _____, 2023

13
14 _____
Please Print Name of Authorized Signatory

15 **GAINES & GAINES, APLC**

16
17 Dated: May 17, 2023

[Signature]

Daniel F. Gaines

Alex P. Katofsky

Evan S. Gaines

Attorneys for Plaintiffs Derek Downey and Adam
Sardoni

18
19
20
21 **JACKSON LEWIS P.C.**

22 Dated: _____, 2023

Nicky Jatana

Michael D. Thomas

Paul J. Cohen

Attorneys for Defendant National Technical Systems, Inc.

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Derek Downey

8
9 Dated: 05 / 16 / 2023 _____, 2023

Adam Sardoni

Adam Sardoni

11 **DEFENDANT:** National Technical Systems, Inc.

12 Dated: _____, 2023

13
14 _____

Please Print Name of Authorized Signatory

15 **GAINES & GAINES, APLC**

16
17 Dated: _____, 2023

Daniel F. Gaines

Alex P. Katofsky

Evan S. Gaines

Attorneys for Plaintiffs Derek Downey and Adam
Sardoni

21 **JACKSON LEWIS P.C.**

22 Dated: _____, 2023

Nicky Jatana

Michael D. Thomas

Paul J. Cohen

Attorneys for Defendant National Technical Systems, Inc.

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4 **SIGNATURES**

5 **READ CAREFULLY BEFORE SIGNING**

6 **PLAINTIFFS:** Derek Downey and Adam Sardoni

7 Dated: _____, 2023

8 _____
Derek Downey

9 Dated: _____, 2023

10 _____
Adam Sardoni

11 **DEFENDANT:** National Technical Systems, Inc.

12 Dated: May 18 _____, 2023

13 

14 _____
Dave Robertson, Chief HR Officer, NTS

15 _____
Please Print Name of Authorized Signatory

16 **GAINES & GAINES, APLC**

17 Dated: _____, 2023

18 _____
Daniel F. Gaines
Alex P. Katofsky
Evan S. Gaines
Attorneys for Plaintiffs Derek Downey and Adam
Sardoni

21 **JACKSON LEWIS P.C.**

22 Dated: May 18 _____, 2023

23 

24 _____
Nicky Jatana
Michael D. Thomas
Paul J. Cohen
Attorneys for Defendant National Technical Systems, Inc.

EXHIBIT A

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

Derek Downey and Adam Sardoni, individually
and on behalf of all similarly situated individuals,
on behalf of the general public, and all “aggrieved
employees” pursuant to Labor Code § 2698 *et*
seq,

Plaintiffs,

v.

NATIONAL TECHNICAL SYSTEMS, INC., a
California corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: 22STCV00946

Assigned to the Hon. Stuart M. Rice, Dept. 1

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

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**

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

- A settlement will provide \$885,000 to pay claims to all individuals who worked for Defendant National Technical Systems, Inc. or any of its present and former subsidiaries and affiliated companies (“Defendant”) as an hourly-paid or non-exempt employee in California at any time between May 4, 2017 and June 13, 2022.
- The settlement resolves a lawsuit alleging that Defendant failed to pay all minimum and overtime wages due; provide compliant meal and rest periods or premium compensation in lieu thereof; timely issue final wages upon separation of employment; and issue accurate and complete itemized wage statements. The Settlement avoids costs and risks of continuing the lawsuit; pays money to employees; and releases Defendant from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$295,000 as attorneys’ fees and \$25,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- Defendant denies liability and the Parties disagree on how much money could have been awarded if employees won at trial.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If your address has changed, you must notify the Settlement Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendant, as detailed below.
Exclude Yourself from the Class Settlement but not the PAGA Settlement	To exclude yourself from the class settlement, you must send a written Request for Exclusion to the Settlement Administrator by the applicable deadline, as detailed below. If you request exclusion, you may receive no money from the Settlement . This is the only option that allows you to ever be part of any other lawsuit against Defendant about the legal claims that were brought in this case except that Aggrieved Employees may not exclude themselves from the PAGA resolution herein.
Object	Write to the Settlement Administrator about why you don't like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

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

WHAT IS THIS LAWSUIT ABOUT?

On May 4, 2021, Plaintiffs Derek Downey and Adam Sardoni ("Plaintiffs"), former employees of Defendant, filed this class action lawsuit ("Action"). The Action alleges violations of the California Labor Code and California Business and Professions Code. The Action seeks to certify a class of all current and former hourly-paid or non-exempt employees of Defendant employed from May 4, 2017 through June 13, 2022 ("Class Period") in California. Specifically, the Action alleges that members of the Class were not paid all minimum and overtime wages due; were not provided all compliant meal and rest periods or premium compensation in lieu thereof; were not timely issued final wages upon separation of employment; and were not issued accurate and complete itemized wage statements. The Settlement seeks recovery of wages, damages, interest, statutory and civil penalties, restitution, attorneys' fees, and costs. Defendant denies all of the material allegations in the Action, denies that it owes Class Members any remedies, and contends it complied with all applicable laws. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiffs' Attorneys

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Alex P. Katofsky, Esq.
Gaines & Gaines, APLC
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Phone: (866) 550-0855

Defendant's Attorneys

Nicky Jatana, Esq.
Michael D. Thomas, Esq.
Paul J. Cohen, Esq.
Jackson Lewis P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, CA 90017

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Plaintiffs believe they would have prevailed on their claims at a trial. Defendant does not believe that Plaintiffs would have won anything from a trial. There has been no trial. Instead, both sides agreed to a settlement, which is memorialized in the Joint Stipulation of Class Action Settlement and Release Between Plaintiffs, on Behalf of Themselves and all Others Similarly Situated and Aggrieved, and Defendant ("Settlement Agreement" or "Stipulation of Settlement"), in order to avoid the further costs, risks, and uncertainty of a trial. 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 Settlement Class?

The Settlement encompasses a class composed of all persons employed in California by National Technical Systems, Inc., NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc., or National Quality Assurance-USA, Inc. ("NTS Employers") as hourly-paid or non-exempt employees at any time during the period between May 4, 2017, through June 13, 2022 ("Class Members"). Class Members who worked for NTS Employers from February 24, 2020 through June 13, 2022 ("PAGA Period") are also defined herein as "Aggrieved Employees."

C. What does the Settlement provide?

1. Maximum Settlement Amount.

The Settlement provides that Defendant will pay \$885,000 (the "Maximum Settlement Amount") to settle the Action.

2. Net Settlement Amount.

The "Net Settlement Amount" is the portion of the Maximum 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 ("Participating Class Members"). The Net Settlement Amount is the Maximum Settlement Amount less the following amounts that will be requested at the Final Approval Hearing and are subject to comment or objection by Participating Class Members. The Court will fix these amounts at the Final Approval Hearing.

(a) **Class Counsel's Attorneys' Fees** in an amount set by the Court, not to exceed \$295,000;

(b) **Class Counsel's Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed \$25,000;

(c) **Enhancement Payments to the Class Representatives** in an amount set by the Court, not to exceed \$5,000 each, for their service in the Action;

(d) **Settlement Administration Costs** which are currently estimated to not exceed \$12,000, for administering the settlement; and the

(e) **PAGA Settlement Amount** in the total amount of \$20,000 for the settlement of claims arising under the California Private Attorneys General Act ("PAGA") (the "PAGA Settlement Amount"). Seventy-Five percent (75%), or \$15,000, shall be paid to the California Labor and Workforce Development Agency ("LWDA"). The remaining Twenty-Five percent (25%), or \$5,000 (the "Net PAGA Settlement Amount"), will be distributed proportionately among all Aggrieved Employees based on their Compensable Workweeks during the PAGA Period.

3. Individual Settlement Payments.

Your share of the Net Settlement Amount and Net PAGA Settlement Amount will be determined by the formula detailed in section E below.

D. What Are You Giving Up To Get A Payment Or Stay In The Class?

Upon Judgment being entered by the Court and becoming final, and subject to Defendant's full payment of the Maximum Settlement Amount, Plaintiffs and all Participating Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged with respect to the Defendant and all of its present and former, direct and indirect, parent companies, subsidiaries, owners, divisions, concepts, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims ("Released Parties"), and Defendant's counsel of record in the Action, from any and all claims under state, federal or local law, whether statutory, common law or administrative law, which arise out of the claims and allegations made in the Action or which could have been made based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the Class Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; "off-the-clock" work during meal periods; wage statement violations; waiting time penalties; violations of Business and Professions Code section 17200 based on the allegations set forth above; including, but not limited to, claims for injunctive relief; punitive damages; liquidated damages, penalties of any nature; interest; fees; and costs ("Released Class Claims"). Each Class Member who has not submitted a valid Request for Exclusion, fully releases and discharges the Released Parties for the Released Claims for any period during the Class Period.

The following language will be printed on the reverse of each Settlement Payment Check, or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Pendency of Proposed Class Action Settlement and Final Hearing and I consent to join in the Fair Labor Standards Act ("FLSA") portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement." Only those Participating Class Members who cash their settlement checks will be bound by the release of claims under the FLSA.

Upon the Judgment being entered by the Court and becoming final, and subject to Defendant's full payment of the Maximum Settlement Amount, Plaintiffs and all Aggrieved Employees, whether or not they are Participating Class Members, will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged with respect to all the Released Parties, any and all claims and allegations made in the Action under PAGA, or which could have been made under PAGA based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the PAGA Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; "off-the-clock" work during meal periods; wage statement violations; waiting time penalties; and civil penalties, including penalties under PAGA, based on the allegations set forth above; interest; fees; and costs ("PAGA Released Claims"). Each Aggrieved Employee fully releases and discharges the Released Parties for the PAGA Released Claims for any period during the PAGA Period. The Parties agree that there is no right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

E. How Is My Share Of The Settlement Calculated?

Each Participating Class Member (those who do not opt out of the Settlement) shall receive an "Individual Settlement Payment," which is distributable to each Class Member who participates in the Settlement (i.e., who does not submit a valid request for exclusion form). Each Aggrieved Employee will also receive an "Individual PAGA Settlement Payment," which is distributable to each Aggrieved Employee, regardless of if they request exclusion from the class settlement or not.

Individual Settlement Payments and Individual PAGA Settlement Payments will be calculated based on the number of eligible workweeks worked by the Class Members during the Class Period and PAGA Period, respectively ("Compensable Workweeks"). Specific calculations of the Individual Settlement Payments and Individual PAGA Payments will be made as follows:

A. The Net Settlement Amount will be distributed proportionately among all Participating Class Members. The Settlement Administrator will calculate the total number of Compensable Workweeks during the Class Period for each individual Class Member ("Individual Workweeks"). The Settlement Administrator will calculate the total number of Compensable Workweeks for all Participating Class Members ("Participating Class Workweeks"). To determine each Class Member's "Individual Settlement Payment" the Settlement Administrator will use the following formula: Individual Settlement Payment = (Net Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each individual Participating Class Member.

B. The Net PAGA Settlement Amount will be distributed proportionately among all Aggrieved Employees. The Individual PAGA Settlement Payments will be determined by dividing the Net PAGA Settlement Amount by the total number of Compensable Workweeks for all Aggrieved Employees during the PAGA Period, resulting in the PAGA Workweek Value; and then multiplying the PAGA Workweek Value by the number of Compensable Workweeks worked by each Aggrieved Employee during the PAGA Period.

For tax purposes, all Individual Settlement Payments will be allocated as follows: of each Individual Settlement Payment 10% will be allocated as alleged unpaid wages, 45% will be allocated as alleged unpaid interest, and the remaining 45% will be allocated as alleged unpaid penalties. The 10% of each Individual Settlement Payment allocated as wages will be reported on an IRS Form W-2 by the Settlement Administrator. The remaining 90% of each Individual Settlement Payment allocated as interest and penalties will be reported on an IRS Form 1099 by the Settlement Administrator. All Individual

PAGA Settlement Payments shall be allocated as alleged unpaid civil penalties and reported on an IRS Form 1099 by the Settlement Administrator.

According to the records of Defendant, you worked [REDACTED] Compensable Workweeks in California from May 4, 2017 through June 13, 2022. Based on these Compensable Workweeks worked, you are entitled to an Individual Settlement Payment of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

According to the records of Defendant, you worked [REDACTED] Compensable Workweeks in California from February 24, 2020 to June 13, 2022. Based on these Compensable Workweeks worked, you are entitled to an Individual PAGA Settlement Payment of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than [REDACTED], 2023. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the “Final Settlement Hearing”) on [REDACTED], at [REDACTED] a.m., in the Courtroom of Judge Stuart M. Rice of the Los Angeles County Superior Court, Department 1, located at 312 North Spring Street, Los Angeles, CA 90012. 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 Participating Class Members; (ii) whether the Participating Class Members should be bound by the terms of the settlement; (iii) the amount of the attorneys’ fees and costs to be awarded to Plaintiffs’ Attorneys; and (iv) the amount that should be awarded to Plaintiffs as Enhancement Payments. At the Final Settlement Hearing, the Court will hear all properly filed 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.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than [REDACTED]. The Settlement Administrator’s address is [Settlement Administrator address].

- **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Participating 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 Settlement 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. All written objections, supporting papers, and/or notices of

intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than [redacted]. The Court will hear from any Class Member who attends the final approval motion and asks to speak regarding his or her objection, regardless of if he or she submitted a valid Notice of Objection or Notice of Intent to Appear.

For the written Notice of Objection to be valid, it must include:

- (a) the objector's full name, signature, address, telephone number, and the last four digits of the objector's social security number;
- (b) the dates the objector was employed by NTS Employers in California;
- (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; and
- (d) copies of any papers, briefs, or other documents upon which the objection is based.

• **OPTION 3 – 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 can opt out of the Class by mailing a written Request for Exclusion statement to the Settlement Administrator at the above-stated address, such that it is postmarked no later than [redacted].

To be effective, the written Request for Exclusion statement must:

- (a) be signed by the Class Member;
- (b) contain the name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion;
- (c) clearly state that the Class Member received the Notice, does not wish to participate in the settlement, and wants to be excluded from the settlement;
- (d) be returned by first class mail or equivalent to the Settlement Administrator at the specified address; and
- (e) be postmarked on or before the response deadline.

There is no right for any Class Member to opt out or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

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 should review the detailed “Joint Stipulation of Class Action Settlement and Release Between Plaintiffs, on Behalf of Themselves and all Others Similarly Situated and Aggrieved, and Defendant” which is on file with the Clerk of the Court. The pleadings and other records in the Action may be examined at any time during regular business hours at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number] or Gaines & Gaines, APLC, Counsel for the Class, at (866) 550-0855.

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT C

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Attorneys for Plaintiffs Derek Downey and Adam Sardoni on behalf of themselves, all others similarly situated, and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

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Attorneys for Defendant
NATIONAL TECHNICAL SYSTEMS, INC.

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

Derek Downey and Adam Sardoni,
individually and on behalf of all similarly
situated individuals, on behalf of the general
public, and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*,

Plaintiff,

v.

NATIONAL TECHNICAL SYSTEMS, INC.,
a California corporation, and DOES 1 through
10, inclusive,

Defendants.

Case No.: 22STCV00946

[Assigned to Hon. Stuart M. Rice, Dept. 1]

**FIRST AMENDED JOINT STIPULATION OF
CLASS ACTION SETTLEMENT AND RELEASE
BETWEEN PLAINTIFFS, ON BEHALF OF
THEMSELVES AND ALL OTHERS SIMILARLY
SITUATED AND AGGRIEVED, AND
DEFENDANT**

Complaint filed: May 4, 2021

This First Amended Joint Stipulation of Class Action Settlement (“Settlement,” “Agreement” or “Settlement Agreement”) is made and entered into by and between Plaintiffs Derek Downey (“Downey”) and Adam Sardoni (“Sardoni”) (collectively, “Plaintiffs” or “Class Representatives”), as Plaintiffs and on behalf of all others similarly situated and aggrieved, and Defendant National Instruments, Inc. on behalf of itself and its present and former subsidiaries and affiliated companies (collectively with Plaintiffs, the “Parties”).

This settlement shall be binding on Plaintiffs and the settlement class and aggrieved employees Plaintiffs purport to represent and (i) Defendant; (ii) each of Defendant's respective past, present and future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, partnership, trust, foundation, and non-profit entity which controls, is controlled by, or is under common control with Defendant; (iii) the past, present and future shareholders, directors, officers, agents, owners, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, payroll service providers, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing, subject to the terms and conditions hereof and the approval of the Court.

1. On February 24, 2021, Plaintiffs exhausted administrative remedies pursuant to California Labor Code § 2699, *et seq.* by providing notice of their claims to the Labor and Workforce Development Agency (“LWDA”). On April 15, 2022, the notice to the LWDA was supplemented to allege the same claims against NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc. and/or National Quality Assurance-USA, Inc.

2. On May 4, 2021, Plaintiffs filed a civil Complaint against Defendant originally in the Santa Clara County Superior Court entitled *Derek Downey, Adam Sardoni, individually and on behalf of all similarly situated individuals, on behalf of the general public, and all “aggrieved employees” pursuant to Labor Code § 2698 et seq, v. National Technical Systems, Inc., a California corporation, and Does 1 through 10, inclusive*, Case Number 21CV381341, alleging: (1) failure to provide rest periods or

1 compensation in lieu thereof (Labor Code § 226.7; IWC Wage Order 4-2001); (2) failure to provide meal
2 periods or compensation in lieu thereof (Labor Code §§ 226.7, 510, 512 and 1194; IWC Wage Order 4-
3 2001); (3) knowing and intentional failure to comply with itemized employee wage statement provisions
4 (Labor Code § 226(a), (e)); (4) failure to pay wages due at separation of employment (Labor Code §§ 201-
5 203); (5) violation of Business and Professions Code § 17200; and (6) penalties pursuant to labor code §
6 2699(f) for violations of labor code §§ 201-203, 226(a), 226.7, 510, 512, and 1194 and pursuant to Labor
7 Code § 2699(a) for violations of Labor Code §§ 226.3 and 558. Plaintiffs also allege unpaid wages
8 pursuant to Labor Code §§ 510 and 1194. On September 6, 2022, Plaintiff filed a First Amended Class
9 and Representative Action Complaint.

10 3. On January 10, 2022, Plaintiffs filed a notice of transfer of venue to the Superior Court of
11 California County of Los Angeles, Case No. 22STCV00946 (the “Action”).

12 4. Defendant denies all material allegations set forth in the Action. Notwithstanding, in the
13 interest of avoiding further litigation, the Parties desire to fully and finally settle all actual or potential
14 claims by the putative Class Members.

15 5. Plaintiffs’ counsel in the Action diligently investigated the proposed putative Class
16 Members’ claims against Defendant, including any and all applicable defenses and the applicable law.
17 The investigation included, *inter alia*, the exchange of information pursuant to informal discovery
18 methods, review of numerous corporate policies and practices, and review and analysis of voluminous
19 time and payroll records.

20 6. On April 13, 2022, the Parties participated in a mediation before David A. Rotman, Esq.
21 (the “Mediator”), a highly respected mediator of wage and hour class actions. On the same day, with the
22 assistance of the Mediator, the Parties reached agreement on the principal terms of a class action settlement
23 that would fully resolve the Action.

24 7. The settlement discussions before and during the mediation were conducted at arm’s length
25 and the settlement is the result of an informed and detailed analysis of Defendant’s alleged potential
26 liability in relation to the costs and risks associated with continued litigation.

27 8. Based on the data and documents produced pursuant to informal discovery, as well as Class
28 Counsel’s own independent investigation and evaluation, and the Mediator’s efforts, Class Counsel

1 believe that the settlement with Defendant for the consideration and on the terms set forth in this
2 Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members in
3 light of all known facts and circumstances, including the risk of significant delay and uncertainty
4 associated with litigation, various defenses asserted by Defendant, the sharply contested legal and factual
5 issues involved, and numerous appellate issues.

6 9. This Settlement Agreement is made and entered into by and between Plaintiffs,
7 individually and on behalf of all others similarly situated and aggrieved, on the one hand, and Defendant,
8 on the other hand, and is subject to the terms and conditions hereof, and to the Court's approval. The
9 Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of
10 compromising significantly disputed claims and that nothing herein is an admission of any liability or
11 wrongdoing by Defendant. If, for any reason the Settlement Agreement is not approved, it will be of no
12 force or effect, and the Parties shall be returned to their original respective positions.

13 **DEFINITIONS**

14 The following definitions are applicable to this Settlement Agreement. Definitions contained
15 elsewhere in this Settlement Agreement will also be effective:

16 10. "Action" means *Derek Downey, Adam Sardoni, individually and on behalf of all similarly*
17 *situated individuals, on behalf of the general public, and all "aggrieved employees" pursuant to Labor*
18 *Code § 2698 et seq, v. National Technical Systems, Inc., a California corporation, and Does 1 through*
19 *10, inclusive*, Los Angeles County Superior Court Case No. 22STCV00946.

20 11. "Aggrieved Employees" mean all Class Members employed by Defendant during the
21 PAGA Period (from February 24, 2020 through June 13, 2022).

22 12. "Attorneys' Fees and Costs" means attorneys' fees agreed upon by the Parties and
23 approved by the Court for Class Counsel's litigation and resolution of this Action, and all costs incurred
24 and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated with
25 documenting the Settlement, securing the Court's approval of the Settlement, responding to any
26 objections to the settlement and appeals arising therefrom, administering the Settlement, obtaining entry
27 of a judgment terminating this Action, and expenses for any experts. Class Counsel will request
28 attorneys' fees not in excess of one-third (33 1/3%) of the Maximum Settlement Amount, estimated to

1 be up to Two Hundred Ninety-Five Thousand Dollars (\$295,000.50). The Attorneys' Fees and Costs
2 will also mean and include the additional reimbursement of Class Counsel's actual costs associated with
3 Class Counsel's litigation and settlement of the Action per Class Counsel's billing statements, up to
4 Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), subject to the Court's approval. Defendant
5 has agreed not to oppose Class Counsel's request for fees and reimbursement of costs as set forth above.

6 13. "Class Counsel" means Gaines & Gaines, APLC, which will seek to be appointed counsel
7 for the Settlement Class.

8 14. "Class List" means a complete list of all Class Members that Defendant will diligently
9 and in good faith compile from its records and provide to the Settlement Administrator within fifteen
10 (15) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a
11 readable Microsoft Office Excel spreadsheet and will include Class Members' names, last-known
12 addresses, last-known telephone numbers, social security numbers, and workweek data (i.e., the start
13 and end dates of employment for each class member for the Settlement Administrator to use in
14 calculating the workweeks) during the Class Period.

15 15. "Class Member(s)" or "Settlement Class" means all persons employed in California by
16 Defendant, NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc.,
17 or National Quality Assurance-USA, Inc. as current or former hourly-paid or non-exempt employees
18 at any time during the period between May 4, 2017, through June 13, 2022. The Settlement Class does
19 not include any person who previously settled or released any of the claims covered by this Settlement,
20 or any other person who previously was paid or received awards through civil or administrative actions
21 for the claims covered by this Settlement. Defendant represents that there are approximately 619
22 individuals who compose the Settlement Class.

23 16. "Class Period" means the period from May 4, 2017, through June 13, 2022.

24 17. "Class Representatives" mean Plaintiffs Derek Downey and Adam Sardoni, who will
25 seek to be appointed as the representatives for the Settlement Class.

26 18. "Class Representative Enhancement Payments" means the amounts to be paid to
27 Plaintiffs in recognition of Plaintiffs' effort and work in prosecuting the Action on behalf of Class
28 Members and negotiating the Settlement. Defendant agrees not to dispute that the Class Representatives

1 will be paid, subject to Court approval, up to Five Thousand Dollars and Zero Cents (\$5,000.00) each
2 for a total not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), from the Maximum
3 Settlement Amount for Plaintiffs' services on behalf of the class, subject to the occurrence of the
4 Effective Date. Should the Court reduce the Class Representative Enhancement Payments, any such
5 reduction shall revert to the Net Settlement Amount distributed to Participating Class Members.

6 19. "Court" means the Superior Court of California, County of Los Angeles or any other
7 court taking jurisdiction of the Action.

8 20. "Defendant" means National Technical Systems, Inc., NTS Technical Systems, NTS
9 Engineering Services, Inc., Unitek Technical Services, Inc., or National Quality Assurance-USA, Inc.

10 21. "Effective Date" means the date on which the settlement embodied in this Settlement
11 Agreement shall become effective after all of the following events have occurred: (i) this Settlement
12 Agreement has been executed by all parties and by counsel for the Settlement Class and Defendant; (ii)
13 the Court has given preliminary approval to the Settlement; (iii) notice has been given to the putative
14 members of the Settlement Class, providing them with an opportunity to object to the terms of the
15 Settlement or to opt-out of the Settlement; (iv) the Court has held a formal fairness hearing and entered
16 a final order and judgment certifying the Class, and approving this Settlement Agreement; and (v) only
17 in the event there are written objections filed prior to the formal fairness hearing which are not later
18 withdrawn or denied, the later of the following events: (a) five (5) business days after the period for
19 filing any appeal, writ or other appellate proceeding opposing the Court's final order approving the
20 Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or (b)
21 five (5) business days after any appeal, writ or other appellate proceeding opposing the Settlement has
22 been dismissed finally and conclusively with no right to pursue further remedies or relief.

23 22. "Individual Settlement Payment" means each Participating Class Member's share of the
24 Net Settlement Amount, to be distributed to the Class Members who do not submit a valid Request for
25 Exclusion.

26 23. "Labor and Workforce Development Agency Payment" means the amount that the Parties
27 have agreed to pay to the LWDA in connection with the Labor Code Private Attorneys General Act of
28 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The Parties have agreed that Twenty Thousand

Dollars and Zero Cents (\$20,000.00) of the Maximum Settlement Amount will be allocated to the resolution of any Class Members' claims arising under PAGA ("PAGA Settlement Amount"). Pursuant to PAGA, Seventy-Five Percent (75%), or Fifteen Thousand Dollars and Zero Cents (\$15,000.00), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency as the Labor and Workforce Development Agency Payment, and Twenty-Five Percent (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00) ("Net PAGA Settlement Amount"), of the PAGA Settlement Amount will be distributed proportionately among all Aggrieved Employees based on their Compensable Workweeks during the PAGA Period ("Individual PAGA Settlement Payment").

24. "Maximum Settlement Amount" means the maximum settlement amount of Eight Hundred Eighty-Five Thousand Dollars and Zero Cents (\$885,000.00) to be paid by Defendant, jointly and severally, in full satisfaction of all claims arising from the Action, which includes all Individual Settlement Payments to Participating Class Members, the Class Representative Enhancement Payments, Settlement Administration Costs to the Settlement Administrator, the PAGA Settlement Amount, and the Attorneys' Fees and Costs to Class Counsel. The Maximum Settlement Amount does not include Defendant's share of employer payroll taxes. This Maximum Settlement Amount has been agreed to by Plaintiffs and Defendant based on the aggregation of the agreed-upon settlement value of individual claims. In no event will Defendant be liable for more than the Maximum Settlement Amount except as otherwise explicitly set forth herein. The Maximum Settlement Amount is non-reversionary.

25. "Net Settlement Amount" means the portion of the Maximum Settlement Amount remaining after deduction of the approved Class Representative Enhancement Payments, Settlement Administration Costs, PAGA Settlement Amount, and Attorneys' Fees and Costs for the portion of the Net Settlement Amount allocated to wages. The Net Settlement Amount will be distributed to Participating Class Members.

26. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address, telephone number, and the last four digits of the objector's social security number, (b) the dates the objector was employed by Defendant in California, (c) a written statement of all grounds for the objection accompanied by any legal support for such objection, and (d) copies of any

papers, briefs, or other documents upon which the objection is based.

27. “Notice Packet” or “Notice” means the Notice of Class Action Settlement, substantially in the form attached as **Exhibit A**.

28. “PAGA Released Claims” mean the claims to be released by the Aggrieved Employees, upon the Effective Date and subject to Defendant’s full payment of the Maximum Settlement Amount, which arise out of the claims and allegations made in the Action under PAGA, or which could have been made under PAGA based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the PAGA Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; “off-the-clock” work during meal periods; wage statement violations; waiting time penalties; and civil penalties, including penalties under PAGA, based on the allegations set forth above; interest; fees; and costs.

29. “Parties” means Plaintiffs and Defendant collectively.

30. “Participating Class Members” means all Class Members who do not submit valid Requests for Exclusion.

31. “Plaintiffs” means Derek Downey and Adam Sardoni collectively.

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

33. The claims to be released by the Participating Class Members, upon the Effective Date and subject to Defendant’s full payment of the Maximum Settlement Amount, include all claims under state, federal or local law, whether statutory, common law or administrative law, which arise out of the claims and allegations made in the Action or which could have been made based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the Class Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; “off-the-clock” work during meal periods; wage statement violations; waiting time penalties; ~~civil penalties, including penalties under PAGA, based on the allegations set forth above;~~ violations of Business and Professions Code section 17200 based on the allegations set forth above; including, but not limited to, claims for injunctive relief;

punitive damages; liquidated damages, penalties of any nature; interest; fees; and costs (“Released Claims”).

34. The following language will be printed on the reverse of each Settlement Payment Check, or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Pendency of Proposed Class Action Settlement and Final Hearing and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.” Only those Participating Class Members who cash their settlement checks will be bound by the release of claims under the FLSA.

34.35. “Released Parties” as referenced herein and as released in this Settlement are Defendant and all of its present and former, direct and indirect, parent companies, subsidiaries, owners, divisions, concepts, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims (hereinafter “Released Parties”), and Defendant’s counsel of record in the Action.

35.36. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a request to be excluded from the settlement. The Request for Exclusion must: (a) be signed by the Class Member; (b) contain the name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; (c) clearly state that the Class Member received the Notice, does not wish to participate in the settlement, and wants to be excluded from the settlement; (d) be returned by first class mail or equivalent to the Settlement Administrator at the specified address; and, (e) be postmarked on or before the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Class Member who does not request exclusion from the settlement will be deemed a Participating Class Member and will be bound by all terms of the settlement if the settlement is granted final approval by the Court. The Parties agree that there is no right for any Class Member to opt out or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

36.37. “Response Deadline” means the deadline by which Class Members must postmark to the Settlement Administrator valid Requests for Exclusion~~or~~, objections to the settlement, or disputes

1 regarding the information provided in the Notice Packet. The Response Deadline will be forty-five (45)
2 calendar days from the initial mailing of the Notice Packet by the Settlement Administrator, unless the
3 45th day falls on a Sunday or federal holiday, in which case the Response Deadline will be extended to
4 the next day on which the U.S. Postal Service is open, and unless the Court requires a longer Response
5 Deadline, in which case the Court-imposed period shall apply. The Response Deadline ~~for Requests for~~
6 ~~Exclusion~~ will be extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice
7 Packet by the Settlement Administrator, unless the 15th day falls on a Sunday or federal holiday, in
8 which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is
9 open. The Response Deadline may also be extended by express agreement between Class Counsel and
10 Defendant. Under no circumstances, however, will the Settlement Administrator unilaterally have the
11 authority to extend the deadline for Class Members to submit a Request for Exclusion ~~or~~, objection to
12 the settlement, or a dispute regarding the information provided in the Notice Packet.

13 37.38. “Settlement Administrator” means Phoenix Class Action Settlement Administration
14 Solutions, or any other third-party class action settlement claims administrator agreed to by the Parties
15 and approved by the Court for purposes of administering this settlement. The Parties each represent
16 that they do not have any financial interest in the Settlement Administrator or otherwise have a
17 relationship with the Settlement Administrator that could create a conflict of interest.

18 38.39. “Settlement Administration Costs” means the costs payable from the Maximum
19 Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not
20 limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated
21 amounts per Class Member, tax reporting, distributing the appropriate settlement amounts, and
22 providing necessary reports and declarations, and other duties and responsibilities set forth herein to
23 process this Settlement, and as requested by the Parties. The Settlement Administration Costs will be
24 paid from the Maximum Settlement Amount, including, if necessary, any such costs in excess of the
25 amount represented by the Settlement Administrator as being the maximum costs necessary to
26 administer the settlement. The Settlement Administration Costs are currently estimated to be Twelve
27 Thousand Dollars and Zero Cents (\$12,000.00). To the extent actual Settlement Administration Costs
28 are greater than \$12,000.00, such excess amount will be deducted from the Maximum Settlement

Amount.

~~39:40.~~ The Claims Administrator will calculate the number of workweeks worked by the Class Members in an hourly-paid or non-exempt position in California during the Class Period and PAGA Period (“Compensable Workweeks”) based upon the records in Defendant’s possession, custody or control, the amount to be paid per workweek, and the individual settlement awards to eligible Class Members. The Compensable Workweeks will be calculated by the Claims Administrator for each Class Member. Defendant’s workweek data will be presumed to be correct, unless a particular Class Member proves otherwise to the Claims Administrator by credible evidence. All workweek disputes will be resolved and decided by the Claims Administrator and the Claims Administrator’s decision on all workweek disputes will be subject to the Court’s final review. As to Participating Class Members, the individual settlement awards will be determined by dividing the Net Settlement Fund by the total number of Compensable Workweeks for the entire Settlement Class during the Class Period, resulting in the Class Workweek Value; and then multiplying the Class Workweek Value by the number of Compensable Workweeks worked by each Class Member. As to the Aggrieved Employees, the individual settlement awards to Aggrieved Employees will be determined by dividing the Net PAGA Settlement Amount by the total number of Compensable Workweeks for all Aggrieved Employees during the PAGA Period, resulting in the PAGA Workweek Value; and then multiplying the PAGA Workweek Value by the number of Compensable Workweeks worked by each Aggrieved Employee.

CLASS CERTIFICATION

~~40:41.~~ Solely for purposes of settling the Action, and not for purposes of class certification should the matter not be settled or for any other reason, the Parties stipulate and agree that the requisites for establishing class certification with respect to the Settlement Class have been met and are met. More specifically, the Parties stipulate and agree for purposes of this settlement only that:

(a) The Settlement Class is ascertainable and so numerous as to make it impracticable to join all Class Members;

(b) There are common questions of law and fact including, but not limited to, the following:

- i. Whether Defendant failed to pay Plaintiffs and Class Members all minimum and overtime wages, in violation of Labor Code Labor Code §§ 510 and 1194;
- ii. Whether Defendant failed to properly provide rest periods or compensation in lieu thereof to Plaintiffs and Class Members, in violation of Labor Code § 226.7 and IWC Wage Order 4-2001;
- iii. Whether Defendant failed to properly provide meal periods or compensation in lieu thereof to Plaintiffs and Class Members, in violation of Labor Code §§ 226.7, 512 and 1197, and IWC Wage Order 4-2001;
- iv. Whether Defendant failed to maintain proper meal period records for Class Members;
- v. Whether Defendant failed to provide Plaintiffs and Class Members with accurately itemized wage statements, in accordance with Labor Code § 226(a) and (e);
- vi. Whether Defendants failed to timely pay Plaintiffs and Class Members all wages due and owing at the separation of their employment, in violation of Labor Code §§ 201-203, 221, 510 and 1194;
- vii. Whether Defendant's policies and/or practices for the timing and amount of payment of final wages to Class Members at the time of their separation of employment were lawful;
- viii. Whether Plaintiffs and Class Members are entitled to equitable relief pursuant to Business & Professions Code § 17200 *et seq.*;
- ix. Whether Defendant is liable for pre-judgment interest; and
- x. Whether Defendant is liable for attorneys' fees and costs.

Should this Settlement not be approved or be terminated, these stipulations shall be null and void and shall not be admissible, in this or any other action, for any purpose whatsoever.

41-42. The Class Representatives' claims are typical of the claims of the members of the Settlement Class; should this Settlement not be approved or be terminated, this stipulation shall be null and void and shall not be admissible, in this or any other action, for any purpose whatsoever.

42-43. The Class Representatives and Class Counsel will fairly and adequately protect the interests of the Settlement Class; should this Settlement not be approved or be terminated, this

1 stipulation shall be null and void and shall not be admissible, in this or any other action, for any purpose
2 whatsoever.

3 43.44. The prosecution of separate actions by individual members of the Settlement Class would
4 create the risk of inconsistent or varying adjudications, which would establish incompatible standards
5 of conduct; should this Settlement not be approved or be terminated, this stipulation shall be null and
6 void and shall not be admissible, in this or any other action, for any purpose whatsoever.

7 44.45. With respect to the Settlement Class, the Class Representatives believe that questions of
8 law and fact common to the members of the Settlement Class predominate over any questions affecting
9 any individual member in such Class, and a class action is superior to other available means for the fair
10 and efficient adjudication of the controversy; should this Settlement not be approved or be terminated,
11 this stipulation shall be null and void and shall not be admissible, in this or any other action, for any
12 purpose whatsoever.

13 **TERMS OF AGREEMENT**

14 NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set
15 forth herein, the Parties agree, subject to the Court's approval, as follows:

16 45.46. Funding of the Maximum Settlement Amount. Within seven (7) business days after entry
17 of Final Approval, the Settlement Administrator will provide the Parties with an accounting of the
18 amounts to be paid by Defendant pursuant to the terms of the Settlement. Within fourteen (14) calendar
19 days after the Effective Date, Defendant will make a one-time deposit of the Maximum Settlement
20 Amount, plus all employer payroll taxes associated with wage payments to be made from the Net
21 Settlement Amount, into a Qualified Settlement Account to be established by the Settlement
22 Administrator. Within ten (10) business days of the funding of the Settlement, the Settlement
23 Administrator will issue payments to (a) Participating Class Members; (b) the Labor and Workforce
24 Development Agency; (c) Plaintiffs; and (d) Class Counsel. The Settlement Administrator will also
25 issue a payment to itself for Court-approved services performed in connection with the settlement.

26 46.47. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
27 motion by Class Counsel for Attorneys' Fees and Costs of up to one-third of the Maximum Settlement
28 Amount (projected to be Two Hundred Ninety-Five Thousand Dollars (\$295,000.00)) in Attorneys'

1 Fees, plus the reimbursement of actual costs and expenses associated with Class Counsel's litigation
2 and settlement of the Action up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), both of
3 which will be paid from the Maximum Settlement Amount.

4 47:48. Class Representative Enhancement Payments and General Release. In exchange for a
5 general release, and in recognition of their effort and work in prosecuting the Action on behalf of Class
6 Members and negotiating the Settlement, Defendant agrees not to oppose or impede any application or
7 motion for Class Representative Enhancement Payments of up to a total of Ten Thousand Dollars and
8 Zero Cents (\$10,000) to the Class Representatives, with up to Five Thousand Dollars and Zero Cents
9 (\$5,000.00) to Plaintiff Derek Downey and up to Five Thousand Dollars and Zero Cents (\$5,000.00) to
10 Plaintiff Adam Sardoni, subject to the Court's approval. The Class Representative Enhancement
11 Payments, which will be paid from the Maximum Settlement Amount, will be in addition to Plaintiffs'
12 Individual Settlement Payments paid pursuant to the Settlement. In light of their requested Class
13 Representative Enhancement Payments, which Defendant agrees not to oppose, Plaintiffs Downey and
14 Sardoni agree to execute a separate general release of all claims, including a waiver of California Civil
15 Code § 1542, in addition to the Released Claims described above, against Defendant for this payment.
16 The Settlement Administrator will issue an IRS Form 1099 for the enhancement payments to the Class
17 Representatives, and the Class Representatives shall be solely and legally responsible for correctly
18 characterizing this compensation for tax purposes and for paying any taxes on the amount received. The
19 Class Representatives agree to indemnify and hold Defendant harmless from any claim or liability for
20 taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payments.
21 Should the Court reduce the Class Representative Enhancement Payments, any such reduction shall
22 revert to the Net Settlement Amount distributed to Participating Class Members.

23 48:49. Settlement Administration Costs. The Settlement Administrator will be paid for the
24 reasonable costs of administration of the Settlement and distribution of payments from the Maximum
25 Settlement Amount, which is currently estimated to be Twelve Thousand Dollars and Zero Cents
26 (\$12,000.00). These costs, which will be paid from the Maximum Settlement Amount, will include, *inter*
27 *alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 IRS Forms,
28 distributing the Notice Packet, calculating and distributing the Maximum Settlement Amount and

Attorneys' Fees and Costs, and providing necessary reports and declarations.

49-50. Labor and Workforce Development Agency Payment. Subject to Court approval, the Parties agree that the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Maximum Settlement Amount will be designated for satisfaction of Plaintiffs' and Class Members' PAGA claims. Pursuant to PAGA, 75%, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00) of the PAGA Settlement Amount will be paid to the LWDA, and 25%, or Five Thousand Dollars and Zero Cents (\$5,000.00) ("Net PAGA Settlement Amount"), will be paid to all Aggrieved Employees based on the formula in paragraph 52(d) below as their Individual PAGA Settlement Payment.

50-51. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual Settlement Payments to Participating Class Members from the Settlement Class in accordance with the terms of this Agreement.

51-52. Acknowledgement of Potential Administration Cost Increases. The Parties hereby acknowledge that Settlement Administration Costs may increase above the current estimate of \$12,000.00 and that any such additional Settlement Administration Costs will be taken out of the Maximum Settlement Amount. Any portion of the estimated or designated Class Administration Costs which are not in fact required to fulfill the total Settlement Administration Costs will become part of the Net Settlement Amount.

52-53. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the Compensable Workweeks a Participating Class Member worked during the Class Period. Specific calculations of Individual Settlement Payments will be made as follows:

a. The Settlement Administrator will calculate the number of Compensable Workweeks per Participating Class Member during the Class Period based on records in Defendant's possession, custody or control. Defendant's workweek data will be presumed to be correct unless a particular Class Member proves otherwise to the Settlement Administrator by credible written evidence. All workweek disputes will be resolved and decided by the Settlement Administrator in consultation with Class Counsel and counsel for Defendant. The Court may resolve any disputes where the Settlement Administrator's outcome is challenged.

b. The Settlement Administrator will calculate the total number of Compensable Workweeks for each individual Class Member ("Individual Workweeks"). The Settlement Administrator will calculate the total number of Compensable Workweeks for all Participating Class Members ("Participating Class Workweeks").

c. To determine each Class Member's "Individual Settlement Payment" the Settlement Administrator will use the following formula: Individual Settlement Payment = (Net Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each individual Participating Class Member.

d. The Net PAGA Settlement Amount will be distributed among all Aggrieved Employees. The individual settlement awards to Aggrieved Employees will be determined by dividing the Net PAGA Settlement Amount by the total number of Compensable Workweeks for all Aggrieved Employees (those Class Members employed during the PAGA Period) during the PAGA Period, resulting in the PAGA Workweek Value; and then multiplying the PAGA Workweek Value by the number of Compensable Workweeks worked by each Aggrieved Employee.

53-54. Settlement Awards Do Not Trigger Additional Benefits. All settlement awards to Class Members shall be deemed to be paid to such Class Members solely in the year in which such payments actually are received by the Class Members. It is expressly understood and agreed that the receipt of such individual settlement awards will not entitle any Class Member to additional compensation or benefits under any company bonus, commission or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Class Member to any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement that the individual settlement awards provided for in this Settlement are the sole payments to be made by Defendant to the Class Members, and that the Class Members are not entitled to any new or additional compensation or benefits as a result of having received the individual settlement awards (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

54-55. Settlement Administration Process. The Parties agree to cooperate in the administration of the settlement and to make all reasonable efforts to control and minimize the costs and expenses

1 incurred in administration of the Settlement.

2 ~~55-56.~~ Delivery of the Class List. Within fifteen (15) calendar days after Preliminary Approval,
3 Defendant will provide the Class List to the Settlement Administrator.

4 ~~56-57.~~ Notice by First-Class U.S. Mail. Within twenty-eight (28) calendar days of Preliminary
5 Approval, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-
6 Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

7 ~~57-58.~~ Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement
8 Administrator will perform a search based on the National Change of Address Database for information
9 to update and correct for any known or identifiable address changes. Any Notice Packets returned to
10 the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent
11 promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
12 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address
13 is provided, the Settlement Administrator will promptly attempt to determine the correct address using
14 a skip-trace, or other search using the name, address and/or Social Security number of the Class Member
15 involved and will then perform a single re-mailing. Those Class Members who receive a re-mailed
16 Notice Packet, whether by skip-trace or by request, will have between the later of (a) an additional
17 fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or file and
18 serve an objection to the Settlement.

19 ~~58-59.~~ Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet
20 will be substantially in the form attached hereto as **Exhibit A.**

21 ~~60. 58.~~ Disputed Information on Notice Packets. Class Members will have an
22 opportunity to dispute the information provided in their Notice Packets. Any dispute to the information
23 in a Notice Packet must be submitted to the Settlement Administrator by the Response Deadline. To the
24 extent Class Members dispute the number of weeks he/she worked during the Class Period, or the
25 amount of their Individual Settlement Payment, Class Members may produce evidence to the Settlement
26 Administrator showing that such information is inaccurate. ~~—~~Absent evidence rebutting Defendant's
27 records, Defendant's records will be presumed determinative. However, if a Class Member produces
28 evidence to the contrary, the Settlement Administrator will evaluate the evidence submitted by the Class

1 Member in consultation with Class Counsel and counsel for Defendant and will make the final decision
2 as to the Individual Settlement Payment to which the Class Member may be entitled, subject to judicial
3 review.

4 59-61. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
5 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement
6 Administrator no later than the Response Deadline. The date of the postmark on the return mailing
7 envelope will be the exclusive means to determine whether a Request for Exclusion has been timely
8 submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who will
9 certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely
10 submitted. Any Class Member who submits a Request for Exclusion shall be prohibited from objecting
11 to the Settlement Agreement. The Parties agree that there is no right for any Class Member to opt out
12 or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

13 60-62. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
14 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
15 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released
16 Claims, as well as the Judgment that will be entered by the Court when it grants final approval to the
17 Settlement.

18 61-63. Objection Procedures. To object to the Settlement Agreement, a Class Member shall
19 either submit a valid Notice of Objection to the Settlement Administrator on or before the Response
20 Deadline or appear at the final approval motion and orally object. The Court will hear from any Class
21 Member who attends the final approval motion and asks to speak regarding his or her objection. The
22 Settlement Administrator shall serve all objections as received on Class Counsel and Defendant's
23 Counsel, who shall file all such objections with the Court with the final approval motion. The Notice
24 of Objection shall be signed by the Class Member and contain all information required by this Settlement
25 Agreement. The postmark date of submission to the Settlement Administrator will be deemed the
26 exclusive means for determining that the Notice of Objection is timely. At no time will any of the
27 Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement
28 Agreement or appeal from the Order and Judgment. Class Counsel will not represent any Class

Members with respect to any such objections to this Settlement. The Parties agree that there is no right for any Class Member or Aggrieved Employee to object to the Settlement of the PAGA claims in the Action.

62-64. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; and (b) whether any Class Member has submitted a challenge to any information contained in their Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

63-65. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to Participating Class Members will expire 180 calendar days from the date the check was issued. Upon the expiration of 180 calendar days, uncashed settlement award checks will not be re-issued, except for good cause and as mutually agreed upon by the Parties in writing. All uncashed checks will not be reissued and will be sent to the State of California Unclaimed Property Fund.

64-66. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

65-67. Administration Costs if Settlement Fails. If the Settlement is voided or rejected by the Court, and the Settlement Administrator seeks to recover its fees, any costs incurred by the Settlement Administrator will be paid equally by the Parties (half by Defendant and half by Class Counsel), unless otherwise specified in this Agreement.

66-68. Treatment of Individual Settlement Payments. All Individual Settlement Payments will be allocated as follows: of each Individual Settlement Payment 10% will be allocated as alleged unpaid wages, 45% will be allocated as alleged unpaid interest, and the remaining 45% will be allocated as alleged unpaid penalties. The 10% of each Individual Settlement Payment allocated as wages will be reported on an IRS Form W-2 by the Settlement Administrator. The remaining 90% of each Individual Settlement Payment allocated as interest and penalties will be reported on an IRS Form 1099 by the Settlement Administrator. All Individual PAGA Settlement Payments shall be allocated as alleged

unpaid civil penalties and reported on an IRS Form 1099 by the Settlement Administrator.

67.69. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiffs, Participating Class Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement. Within seven (7) business days after entry of the Court's order granting final approval of the Settlement, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendant pursuant to the terms of the Settlement, including the amount of the employer contribution for payroll taxes to be paid from the Net Settlement Amount. The Settlement Administrator will also be responsible for timely forwarding all payroll taxes and penalties to the appropriate government authorities.

68.70. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiffs, Participating Class Members, and Class Counsel are not relying on any statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard. Plaintiffs, Participating Class Members, and Class Counsel understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein and will defend, indemnify, and hold Defendant free and harmless from and against any claims resulting from any failure to pay all taxes and/or penalties due.

69.71. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN

1 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT
2 BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR
3 ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
4 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER
5 PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
6 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY
7 HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH
8 ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
9 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING
10 PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION,
11 INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

12 70.72. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
13 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
14 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause
15 of action or right herein released and discharged.

16 71.73. Release of Claims by Class Members. Upon the Effective Date, and subject to
17 Defendant's full payment of the Maximum Settlement Amount, Plaintiffs and all Participating Class
18 Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished,
19 and discharged with respect to all the Released Parties, ~~subject to Defendant's full payment of the~~
20 ~~Maximum Settlement Amount~~, any and all Released Claims. The Settlement Class and each member
21 of the Class who has not submitted a valid Request for Exclusion, fully releases and discharges the
22 Released Parties for the Released Claims for any period during the Class Period.

23 72.74. Release of Claims by Aggrieved Employees. Upon the Effective Date, and subject to
24 Defendant's full payment of the Maximum Settlement Amount, Plaintiffs and all Aggrieved Employees,
25 whether or not they are Participating Class Members, will be deemed to have fully, finally, and forever
26 released, settled, compromised, relinquished, and discharged with respect to all the Released Parties,
27 ~~subject to Defendant's full payment of the Maximum Settlement Amount~~, any and all PAGA Released
28 Claims. The Aggrieved Employees each fully releases and discharges the Released Parties for the

PAGA Released Claims for any period during the PAGA Period. The Parties agree that there is no right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

73.75. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this Settlement Agreement to the Court in support of Plaintiffs' Motion for Preliminary Approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Settlement Agreement, the Parties shall apply to the Court for the entry of an order:

a. Scheduling a fairness hearing on the question of whether the proposed settlement, including but not limited to, payment of attorneys' fees and costs, and the Class Representatives' Enhancement Payments, should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class;

b. Certifying the Settlement Class;

c. Approving, as to form and content, the proposed Notice;

d. Approving the manner and method for Class Members to request exclusion from the Settlement as contained herein and within the Notice;

e. Approving the manner and method for Class Members to object to the Settlement as contained herein and within the Notice;

f. Directing the mailing of the Notice, by first class mail to the Class Members;

g. Preliminarily approving the Settlement subject only to the objections of Participating Class Members and final review by the Court; and

h. Enjoining Plaintiffs ~~and all Class Members~~ from filing or prosecuting any claims, suits or administrative proceedings (including filing claims with the California Division of Labor Standards Enforcement and the Labor and Workforce Development Agency) encompassed within the Released Claims unless and until such Class Members have filed valid Requests for Exclusion with the Settlement Administrator.

74.76. Duties of the Parties Following Final Court Approval. Following final approval by the Court of the Settlement provided for in this Settlement Agreement, Class Counsel will submit a proposed final order of approval and judgment:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and costs;

(c) Approving the Class Representative Enhancement Payments to the Class Representatives;

(d) Approving the Settlement Administration Costs of the Settlement Administrator; and

(e) Entering judgment in this Action barring and enjoining all members of the Settlement Class from prosecuting against any of the Released Parties, any individual or class, collective or representative claims released herein, upon satisfaction of all payments and obligations hereunder.

75.77. Rescission of Settlement Agreement (by Defendant). If more than ten percent (10%) of the Class Members opt-out of the Settlement by submitting timely and valid Request for Exclusion forms, Defendant may, at its option, rescind and void the Settlement and all actions taken in furtherance of it will thereby be null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel within fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the total number of Requests for Exclusion received by the Response Deadline. If the option to rescind is exercised, Defendant shall be solely responsible for all costs of the Settlement Administrator accrued through that time.

76.78. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally approve the Settlement as provided herein; or (b) the Settlement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning.

77.79. Preliminary Approval Hearing. Plaintiffs will obtain a hearing before the Court to request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Notice

1 Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval
2 hearing, Plaintiffs will submit this Settlement Agreement, which sets forth the terms of this Settlement,
3 and the proposed Notice Packet, i.e., the proposed Notice of Class Action Settlement document, attached
4 as **Exhibit A**. Class Counsel will be responsible for drafting all documents necessary to obtain
5 preliminary approval. Defendant agrees not to oppose the Motion for Preliminary Approval.

6 **78-80. Final Settlement Approval Hearing and Entry of Judgment.** Upon expiration of the
7 deadlines to requests exclusion or submit objections to the Settlement Agreement, and with the Court's
8 permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final
9 Approval of the Settlement Agreement along with the amounts properly payable for (a) Individual
10 Settlement Payments and Individual PAGA Settlement Payments; (b) the Labor and Workforce
11 Development Agency Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative
12 Enhancement Payments; (e) all Settlement Administration Costs; and (f) the employer's share of payroll
13 taxes for wages paid in connection with the Individual Settlement Payments. The Final
14 Approval/Settlement Fairness Hearing will not be held until approximately thirty (30) calendar days
15 after the Response Deadline. Class Counsel will be responsible for drafting all documents necessary to
16 obtain final approval, including responding to any objections and appeals arising therefrom. Class
17 Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the
18 final approval hearing.

19 **79-81. Termination of Settlement.** Subject to the obligation(s) of cooperation set forth herein,
20 either Party may terminate this Settlement if the Court declines to enter the Preliminary Approval Order,
21 the Final Approval Order or final judgment in substantially the form submitted by the Parties, or the
22 Settlement Agreement as agreed does not become final because of appellate court action. The
23 Terminating Party shall give to the other Party (through its counsel) written notice of its decision to
24 terminate no later than ten (10) business days after receiving notice that one of the enumerated events
25 has occurred. Termination shall have the following effects:

26 a. The Settlement Agreement shall be terminated and shall have no force or effect,
27 and no Party shall be bound by any of its terms;

28 b. In the event the Settlement is terminated, Defendant shall have no obligation to

1 make any payments to any Party, Class Member or Class Counsel, except that the Terminating Party shall
2 pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is
3 notified that the settlement has been terminated;

4 c. The Preliminary Approval Order, Final Approval Order and Judgment, including
5 any order of class certification, shall be vacated;

6 d. The Settlement Agreement and all negotiations, statements and proceedings
7 relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored
8 to their respective positions in the Action prior to the settlement;

9 e. Neither this Stipulated Settlement, nor any ancillary documents, actions, statements
10 or filings in furtherance of settlement (including all matters associated with the mediation) shall be
11 admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

12 80-82. Judgment; Notice Thereof; and Continued Jurisdiction. Upon final approval of the
13 Settlement by the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present
14 the Judgment pursuant to California Rules of Court, Rule 3.769. After entry of the Judgment, the Court
15 will have continuing jurisdiction solely for purposes of addressing: (a) the interpretation and
16 enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-
17 Judgment matters as may be appropriate under court rules or as set forth in this Agreement. The
18 Settlement Administrator shall post a copy of the Judgment on its website for no fewer than 365 days
19 after Judgment is entered, as required by California Rules of Court, Rule 3.771(b).

20 81-83. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set
21 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
22 Any Exhibits to this Agreement are an integral part of the Settlement.

23 82-84. Confidentiality. The Parties and their counsel agree that they will not issue any media or
24 press releases, initiate any contact with the media or press, respond to any media or press inquiry, or
25 have any communication with the media or press about the fact, amount, or terms of the Settlement. In
26 addition, the Parties and their counsel agree that they will not engage in any advertising or distribute
27 any marketing materials relating to the Settlement of this case. The Class Representatives and Class
28 Counsel will not make any public disclosure of the Settlement prior to the filing of a motion for

1 preliminary approval with the court. Class Counsel will take all steps necessary to ensure the Class
2 Representatives are aware of, and will instruct the Class Representatives to adhere to, the restrictions
3 set forth in this paragraph. Any communication about the Settlement to Class Members prior to the
4 Court-approved mailing will be limited to a statement that a settlement has been reached and the details
5 will be communicated in a forthcoming Court-approved notice. Nothing set forth herein, however, shall
6 prohibit the parties from providing this Agreement to the Court or the LWDA in connection with the
7 Parties' efforts to seek the Court's approval of this Settlement, or from communicating with Class
8 Members, Aggrieved Employees, the LWDA or the Court about the Settlement. Neither Plaintiffs nor
9 Class Counsel shall hold a press conference or otherwise seek to affirmatively contact the media about
10 the Settlement. Plaintiffs and Class Counsel agree not to disparage or otherwise take any action which
11 could reasonably be expected to adversely affect the personal or professional reputation of Defendant
12 or the Settlement. Defendant shall provide Plaintiffs with a neutral employment reference stating only
13 their dates of employment and last position held.

14 83-85. Other Lawsuits. To the fullest extent permissible under applicable law, and solely for
15 the purposes of this Settlement Agreement and not for any other purpose, counsel for Plaintiffs represent
16 and warrant on behalf of themselves and all others acting on their behalf, that they: (i) have not been
17 retained by any other individuals with claims against Defendant (other than those of which Defendant
18 and/or its counsel have been advised); and (ii) are not aware of, and have not been informed of, any
19 other plaintiff, class member, or attorney who intends to bring a claim against Defendant including, but
20 not limited to, any claim based on the subject matter of the Action. To the fullest extent permissible
21 under applicable law, and solely for the purposes of this Settlement Agreement and not for any other
22 purpose, Defendant and counsel for Defendant represent and warrant on behalf of themselves and all
23 others acting on their behalf, that they are not aware of, and have not been informed of, any other
24 plaintiff, class member, or attorney who intends to bring a claim against Defendant related to any claim
25 based on the subject matter of the Action.

26 84-86. Entire Agreement. This Settlement Agreement and the two attached Exhibits constitute
27 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
28 agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil

Code section 1625 and California Code of Civil Procedure section 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Agreement.

85-87. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument signed by the named Parties and counsel for all Parties or their successors-in-interest.

86-88. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

87-89. Signatories. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement Agreement. The Notice, attached hereto as **Exhibit A**, will advise all Class Members of the binding nature of the release, and the release shall have the same force and effect as if this Settlement Agreement were executed by each member of the Class.

88-90. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

89-91. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

90-92. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be

1 deemed to be one and the same instrument provided that counsel for the Parties will exchange among
2 themselves original signed counterparts.

3 91.93. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
4 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at
5 this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into
6 account all relevant factors, present and potential. The Parties further acknowledge that they are each
7 represented by competent counsel and that they have had an opportunity to consult with their counsel
8 regarding the fairness and reasonableness of this Agreement.

9 92.94. Invalidity of Any Provision. Before declaring any provision of this Settlement
10 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
11 possible consistent with applicable precedents so as to define all provisions of this Settlement
12 Agreement valid and enforceable.

13 93.95. Plaintiffs' Waiver of Right to Be Excluded and Object. Plaintiffs agree to sign this
14 Settlement Agreement and, by signing this Settlement Agreement, are hereby bound by the terms herein.
15 For good and valuable consideration, Plaintiffs further agree that they will not request to be excluded
16 from the Settlement Agreement, nor object to any terms herein. Any such request for exclusion or
17 objection by Plaintiffs will be void and of no force or effect. Any efforts by Plaintiffs to circumvent the
18 terms of this paragraph will be void and of no force or effect.

19 94.96. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
20 certification for purposes of this Settlement only; except, however, that Plaintiffs or Class Counsel may
21 appeal any reduction in the Attorneys' Fees and Costs and Enhancement Payments below the amounts
22 requested from the Court, and either Party may terminate this Settlement or appeal any Court order
23 which is not in substantially the form submitted by the Parties.

24 95.97. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute
25 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
26 entering into this Agreement, Defendant does not admit, and specifically denies, it has violated any
27 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute
28 or any other applicable laws, regulations or legal requirements; breached any contract; violated or

breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

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

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

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

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

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

Agreement.

~~101.103.~~ All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

~~102.104.~~ Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiffs and the Settlement Class:

Daniel F. Gaines
Alex P. Katofsky
4550 East Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

To Defendant:

Nicky Jatana
Michael D. Thomas
Paul J. Cohen
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017

~~103.105.~~ Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

~~104.106.~~ Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

~~105.107.~~ Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding

to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

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IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this First Amended Joint Stipulation of Settlement and Release Between Plaintiffs and Defendant as of the date(s) set forth below:

SIGNATURES

READ CAREFULLY BEFORE SIGNING

PLAINTIFFS: Derek Downey and Adam Sardoni

Dated: December __, 2022, 2023 —
Derek Downey

Dated: December __, 2022, 2023 —
Adam Sardoni

DEFENDANT: National Technical Systems, Inc.

Dated: December __, 2022, 2023 —

Please Print Name of Authorized Signatory

GAINES & GAINES, APLC

Dated: December __, 2022, 2023 —
Daniel F. Gaines
Alex P. Katofsky
Evan S. Gaines
Attorneys for Plaintiffs Derek Downey and Adam Sardoni

JACKSON LEWIS P.C.

1 Dated: ~~December __, 2022~~, 2023

2 Nicky Jatana
3 Michael D. Thomas
4 Paul J. Cohen
5 Attorneys for Defendant National Technical Systems, Inc.

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EXHIBIT D

SETTLEMENT AGREEMENT **AND GENERAL RELEASE OF ALL CLAIMS**

This Settlement Agreement and General Release of All Claims (“Settlement Agreement”) is entered into by and between Derek Downey (“Plaintiff”) and National Technical Systems, Inc. (“Defendant”). The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from January 2, 2019 to August 23, 2019;

(b) On February 24, 2021, Plaintiff and Adam Sardoni filed a letter with the California Labor and Workforce Development Agency, pursuant to the California Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”), asserting alleged Labor Code violations by Defendant (“PAGA Notice.”). On March 9, 2021, the PAGA Notice was supplemented to allege an additional claim against Defendant. On April 15, 2022, the PAGA Notice was supplemented again to allege the same claims against NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc. and/or National Quality Assurance-USA, Inc;

(c) On May 4, 2021, Plaintiff and Adam Sardoni brought a class and representative action against Defendant in the Superior Court of California, County of Santa Clara, entitled *Derek Downey and Adam Sardoni, et al. v. National Technical Systems, Inc., et al.*, Case Number 21CV381341 (the “Action”). On January 10, 2022, Plaintiff and Adam Sardoni filed a notice of transfer of venue to the Superior Court of California, County of Los Angeles, where the Action is currently pending as Case No. 22STCV00946. On September 6, 2022, Plaintiff and Adam Sardoni filed the operative First Amended Class and Representative Action Complaint;

(d) In the Action, Plaintiff and Adam Sardoni allege the following claims on behalf of themselves and all persons employed in California by Defendant, NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc., or National Quality Assurance-USA, Inc. as current or former hourly-paid or non-exempt employees at any time during the period between May 4, 2017, through June 13, 2022: (1) failure to provide rest periods or compensation in lieu thereof (Labor Code § 226.7; IWC Wage Order 4-2001); (2) failure to provide meal periods or compensation in lieu thereof (Labor Code §§ 226.7, 510, 512 and 1194; IWC Wage Order 4-2001); (3) knowing and intentional failure to comply with itemized employee wage statement provisions (Labor Code § 226(a), (e)); (4) failure to pay wages due at separation of employment (Labor Code §§ 201-203); (5) violation of Business and Professions Code § 17200; and (6) penalties pursuant to labor code § 2699(f) for violations of labor code §§ 201-203, 226(a), 226.7, 510, 512, and 1194 and pursuant to Labor Code § 2699(a) for violations of Labor Code §§ 226.3 and 558. Plaintiff and Adam Sardoni also allege unpaid wages pursuant to Labor Code §§ 510 and 1194. Plaintiff and Adam Sardoni pray for compensatory damages, penalties, attorneys’ fees, interest and costs;

**SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF ALL CLAIMS**

Page 2

(e) On April 13, 2022, the Parties participated in a mediation before David A. Rotman, Esq. ("Mediator"). On the same day, with the assistance of the Mediator, the Parties reached an agreement on the principal terms of a class action settlement that would fully resolve the Action;

(f) Concurrently with this Settlement Agreement, the Parties have agreed to and will seek court approval of a First Amended Stipulation of Class Action Settlement and Release Between Plaintiffs, on Behalf of Themselves and All Others Similarly Situated and Aggrieved, and Defendant ("Class Action Settlement"). It is understood and acknowledged by the Parties that this Agreement shall be filed with the Court in the Action in connection with the approval of the Class Action Settlement. This Agreement shall be void and of no force and effect unless and until the Court grants final approval of the Class Action Settlement, its effective date occurs, and Defendant pays all sums required thereunder.

(g) There has been no determination on the merits of the PAGA Notice or the Action (hereinafter collectively referred to as the "Action.") but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or may have against Defendant, NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc. and National Quality Assurance-USA, Inc. including their parent corporations, affiliates, subsidiaries, divisions, predecessors, insurers, reinsurers, successors, and assigns, and their current and former employees, attorneys, officers, directors, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities (collectively, "the Released Parties") upon the Effective Date (as defined in the Class Action Settlement) and subject to Defendant's full payment of the Maximum Settlement Amount.

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration/Indemnification for Tax Consequences.**

(a) In consideration for Plaintiff signing this Settlement Agreement and Plaintiff's compliance with the promises made herein, Defendant agrees not to oppose or impede Plaintiff's application or motion for a Class Representative Enhancement Payment of up to FIVE THOUSAND DOLLARS AND ZERO CENTS (\$5,000.00) as set forth in the Class Action Settlement.

(b) The Parties acknowledge that there is a good faith dispute regarding Plaintiff's allegations of unpaid wages and that the consideration set forth in Section 3(a) above includes a good faith, reasonable compromise, and settlement regarding such claims.

(c) Plaintiff agrees to indemnify and hold the Released Parties harmless for the amount of any taxes, penalties, or interest that may be assessed by any governmental tax authority against any of the Released Parties in connection with such governmental authority's determination that Defendant or any of the other Released Parties was required to, but failed to, withhold or report the correct amount of income or employment taxes from the payments made to Plaintiff or Plaintiff's Counsel pursuant to Section 3(a) of this Settlement Agreement. Plaintiff agrees that Plaintiff shall indemnify the Released Parties for the full amount of such liability within thirty (30) days after receipt of notice from Defendant or any of the other Released Parties of the assessment of such taxes, penalties, or interest.

4. **No Consideration Absent Execution of this Agreement and Execution and Final Approval of the Class Action Settlement.** Plaintiff understands and agrees that Plaintiff would not receive the consideration specified in Section 3(a) above, except for (i) Plaintiff's execution of this Settlement Agreement and the fulfillment of the promises contained herein, and (ii) Plaintiff's execution of the Class Action Settlement and the fulfillment of the promises contained therein.

5. **General Release, Claims Not Released and Related Provisions.**

(a) **General Release of Claims.** Effective upon the court granting final approval of the Class Action Settlement and awarding Plaintiff a Class Representative Enhancement Payment, and subject to Defendant's full payment of the Maximum Settlement Amount, Plaintiff, individually and on behalf of Plaintiff's heirs, executors, administrators, representatives, attorneys, successors, and assigns knowingly and voluntarily releases and forever discharges the Released Parties, to the full extent permitted by law, of and from any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this Settlement Agreement including, but not limited to, any alleged violation of:

- Title VII of the Civil Rights Act of 1964;
- The Civil Rights Act of 1991;
- Sections 1981 through 1988 of Title 42 of the United States Code, as amended;
- The Employee Retirement Income Security Act of 1974 ("ERISA") (as modified below);
- The Immigration Reform and Control Act;
- The Americans with Disabilities Act of 1990;
- The Age Discrimination in Employment Act of 1967 ("ADEA");
- The Workers Adjustment and Retraining Notification Act;

**SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF ALL CLAIMS**

Page 4

- The Occupational Safety and Health Act;
- The Sarbanes-Oxley Act of 2002;
- The Fair Credit Reporting Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- The Genetic Information Nondiscrimination Act of 2008;
- Executive Order 11246;
- The Rehabilitation Act;
- The Vietnam Era Veterans' Readjustment Assistance Act ("ERAA");
- California Family Rights Act – Cal. Gov't Code § 12945.2;
- California Fair Employment and Housing Act – Cal. Gov't Code § 12900 et seq.;
- California Unruh Civil Rights Act – Cal. Civ. Code § 51 et seq.;
- Statutory Provisions Regarding the Confidentiality of AIDS Information – Cal. Health & Safety Code § 120775 et seq.;
- California Confidentiality of Medical Information Act – Cal. Civ. Code § 56 et seq.;
- California Parental Leave Law – Cal. Lab. Code § 230.7 et seq.;
- California Military Personnel Bias Law – Cal. Mil. & Vet. Code § 394;
- The California Occupational Safety and Health Act, as amended, and any applicable regulations thereunder;
- The California Consumer Credit Reporting Agencies Act – Cal. Civ. Code § 1785 et seq.
- California Investigative Consumer Reporting Agencies Act – Cal. Civ. Code § 1786 et seq.;
- Those provisions of the California Labor Code that lawfully may be released;
- Any other federal, state or local civil or human rights law or any other federal, state or local law, regulation or ordinance;

**SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF ALL CLAIMS**

Page 5

- Any public policy, contract, tort or common law; or
- Any basis for recovering costs, fees or other expenses including attorneys' fees incurred in these matters.

(b) **Claims Not Released.** Plaintiff is not waiving any rights Plaintiff may have to: (i) Plaintiff's own vested accrued employee benefits under Defendant's health, welfare, or retirement benefits plans as of the date of execution of this Settlement Agreement; (ii) benefits or rights to seek benefits under applicable workers' compensation (except as to claims under Labor Code sections 132a and 4553) or unemployment insurance or indemnification statutes; (iii) pursue claims which by law cannot be waived by signing this Settlement Agreement; (iv) enforce this Settlement Agreement; or (v) challenge the validity of this Settlement Agreement. Plaintiff is also not waiving any entitlement to participate in the Class Action Settlement.

(c) **Government Agencies.** Nothing in this Settlement Agreement prohibits, prevents, or otherwise limits Plaintiff from filing a charge or complaint with or participating, testifying, or assisting in any investigation, hearing, action, or other proceeding before any federal, state, or local government agency (*e.g.*, EEOC, NLRB, SEC, CRD, DLSE, *etc.*) or in any legislative or judicial proceeding, nor does anything in this Settlement Agreement preclude, prohibit, or otherwise limit, in any way, Plaintiff's rights and abilities to contact, communicate with, or report unlawful conduct to federal, state, or local officials for investigation, or otherwise participate in any whistleblower program administered by any such agencies. However, to the maximum extent permitted by law and expressly excluding Plaintiff's participation in any federal whistleblower programs, Plaintiff agrees that if such an administrative claim is made, Plaintiff shall not be entitled to recover any individual monetary relief or other individual remedies.

(d) **Collective/Class Action Waiver.** If any claim is not subject to release, including pursuant to the Class Action Settlement, to the extent permitted by law, Plaintiff waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective, or multi-party action or proceeding based on such a claim in which Defendant, or any of the other Released Parties is a party.

6. **Waiver of California Civil Code section 1542.** To effect a full and complete general release as described above, Plaintiff expressly waives and relinquishes all rights and benefits of section 1542 of the Civil Code of the State of California, and does so understanding and acknowledging the significance and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the State of California states as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by

**him or her, would have materially affected his or her
settlement with the debtor or released party.**

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff warrants Plaintiff has read this Settlement Agreement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Settlement Agreement and specifically about the waiver of section 1542, and that Plaintiff understands this Settlement Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement Agreement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

7. Acknowledgements and Affirmations.

(a) Plaintiff affirms that Plaintiff has not filed or caused to be filed any claim, complaint, or action against any of the Released Parties in any forum or form, other than the Action, and that Plaintiff presently is not a party to any claim, complaint, or action against any of the Released Parties in any forum or form, other than the Action. Nothing in this Settlement Agreement or the acknowledgements and affirmations in this Section 7 is intended to impair Plaintiff's rights under whistleblower laws or cause Plaintiff to disclose Plaintiff's participation in any governmental whistleblower program or any whistleblowing statute(s) or regulation(s) allowing for anonymity.

(b) Plaintiff further affirms that Plaintiff has reported all hours worked as of the date of execution of this Settlement Agreement and timely has been paid or has received all compensation, wages, bonuses, commissions, and benefits which are due and payable as of the date of execution of this Settlement Agreement, except as alleged in the Action and which claims are expressly released in Section 5(a) above and/or the Class Action Settlement. Plaintiff also affirms that Plaintiff has submitted all expense reports in compliance with Defendant's policies and procedures and been reimbursed for all expenses necessarily incurred by Plaintiff in following Defendant's directions or incurred in performing Plaintiff's duties during Plaintiff's employment with Defendant.

(c) Plaintiff further affirms that Plaintiff has no known workplace injuries or occupational diseases, and that Plaintiff has been granted or has not been denied any

leave to which Plaintiff was entitled under the Family and Medical Leave Act, the California Family Rights Act, or disability accommodation laws.

(d) Plaintiff also affirms that Plaintiff has not reported internally to Defendant any allegations of wrongdoing by Defendant or its officers, including, any allegations of corporate fraud, and Plaintiff has not been retaliated against for reporting any such allegations internally to Defendant.

8. **Medicare Secondary Payer Rules.** As a term of this Settlement Agreement, the Parties have fully considered Medicare's interests pursuant to the Medicare Secondary Payer rules. In doing so, Plaintiff affirms that as of the date Plaintiff executes this Settlement Agreement, Plaintiff is not Medicare eligible (*i.e.*, is not 65 years of age or older; is not suffering from end-stage renal failure; has not received Social Security Disability Insurance benefits for 24 months or longer, *etc.*). Nonetheless, if the Centers for Medicare & Medicaid Services (the "CMS") (this term includes any related agency representing Medicare's interests) determines that Medicare has an interest in the payment to Plaintiff under this Settlement Agreement, Plaintiff agrees to (i) indemnify, defend, and hold the Released Parties harmless from any action by the CMS relating to medical expenses of Plaintiff, (ii) reasonably cooperate with the Released Parties upon request with respect to any information needed to satisfy the reporting requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, if applicable, and any claim that the CMS may make and for which Plaintiff is required to indemnify the Released Parties under this paragraph, and (iii) waive any and all future actions against the Released Parties for any private cause of action for damages pursuant to 42 U.S.C. § 1395y(b)(3)(A).

9. **Return of Company Property/Information; Pre-Existing Agreements.**

(a) Within seven (7) calendar days of Plaintiff's execution of this Settlement Agreement, Plaintiff will return all of Defendant's documents and property currently in Plaintiff's possession including, but without limitation, any and all services work, notes, reports, files, memoranda, records, cardkey passes, door and file keys, safe combinations, laptop computer, computer access codes, disks and instructional or personnel manuals, and other physical or personal property that Plaintiff received or prepared or helped to prepare in connection with Plaintiff's employment with Defendant ("Company Property"). Any Company Property, including that produced in discovery in the Action, shall be made available for pick-up by Defendant's Counsel at the offices of Plaintiff's Counsel.

(b) Plaintiff acknowledges and agrees that in the course of Plaintiff's employment with Defendant, Plaintiff has acquired: (i) confidential information including without limitation information received by Defendant from third-parties, under confidential conditions; (ii) other technical, product, business, financial, or development information from Defendant, the use or disclosure of which reasonably might be construed to be contrary to the interest of Defendant; or (iii) any other proprietary information or data, including but not limited to customer lists, which Plaintiff may have acquired during Plaintiff's employment (hereafter

**SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF ALL CLAIMS**

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collectively referred to as "Company Information"). Plaintiff understands and agrees that such Company Information was disclosed to Plaintiff in confidence and for use only by Defendant.

(c) Plaintiff affirms that Plaintiff has not divulged any proprietary or confidential information of Defendant as of Plaintiff's execution of this Settlement Agreement. Plaintiff also understands and agrees that Plaintiff: (i) will continue to keep such Company Information confidential at all times, (ii) will not disclose or communicate Company Information to any third-party, and (iii) will not make use of Company Information on Plaintiff's own behalf, or on behalf of any third-party.

(d) In view of the nature of Plaintiff's employment and the nature of Company Information Plaintiff received during the course of Plaintiff's employment, Plaintiff agrees that any unauthorized disclosure to third-parties of Company Information or other violation, or threatened violation, of this Settlement Agreement would cause irreparable damage to the confidential or trade secret status of Company Information and to Defendant, and that, therefore, Defendant, and each person constituting Defendant hereunder, shall be entitled to an injunction prohibiting Plaintiff from any such disclosure, attempted disclosure, violation, or threatened violation. Under the federal Defend Trade Secrets Act of 2016, Plaintiff shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made to Plaintiff's attorney in relation to a lawsuit against Defendant for retaliation against Plaintiff for reporting a suspected violation of law; or (c) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(e) The Parties acknowledge and agree that the terms and conditions set forth in the Class Action Settlement shall in no way be altered, modified, enhanced, diminished, or amended by this Settlement Agreement.

(f) The undertakings set forth in this Section 9 shall survive the termination of this Settlement Agreement or other arrangements contained in this Settlement Agreement.

10. **Job References.** Plaintiff shall direct all individuals inquiring about Plaintiff's employment with Defendant to Defendant's Human Resources Department, which will follow Defendant's policy by responding with only Plaintiff's last position and dates of employment, except that this provision shall not apply to any request from a prospective employer who provides a release signed by Plaintiff pursuant to the Fair Credit Reporting Act or any state counterpart.

11. **No Transfer/Assignment of Claims.** Plaintiff warrants and represents that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim released under this Settlement Agreement. Plaintiff and Plaintiff's Counsel agree that they solely are responsible for the satisfaction of any

assignment or lien to any lien holder and will indemnify and hold the Released Parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes, or attorneys' fees that may be imposed against or incurred by any of the Released Parties as a result of the actions of any lien holder or any lien claimant or any taxing authority or any court in relation to any interest which any third-party may have in any claim which Plaintiff is releasing under this Settlement Agreement or any interest in any of the proceeds paid to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

12. Liens and Attorneys' Fees/Indemnification.

(a) Plaintiff acknowledges Plaintiff solely is responsible for any liens made in connection with any services performed on Plaintiff's behalf by any attorney, consultants, expert witnesses, or healthcare providers. Each Party is solely responsible for any fees and costs he, she, or it has incurred including, but not limited to, fees for attorneys, consultants, and expert witnesses. Plaintiff acknowledges that none of the Released Parties are responsible for the payment of any fees incurred on behalf of Plaintiff in connection with the prosecution of the Action including, but not limited to, fees charged or to be charged by the Mediator for services rendered as the mediator of this dispute. This Agreement does not affect the attorneys' fees or costs to be paid to Plaintiff's Counsel in connection with the Class Action Settlement.

(b) Plaintiff acknowledges and agrees that Plaintiff will indemnify the Released Parties for any and all costs any of them incur as a result of any claims made by any attorneys, consultants, expert witnesses, healthcare providers, or other third-parties to recover monies from the amounts payable to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

13. Governing Law and Interpretation.

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California provided, however, that parol evidence shall not be admissible to alter, vary, or supplement the terms of this Settlement Agreement. Should any provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, excluding the general release language, such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party may institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing party in that action shall be entitled to recover reasonable attorney's fees.

(c) It is the intent of the Parties, pursuant to Evidence Code sections 1122(a)(1) and 1123, that all of the terms of this Settlement Agreement shall be admissible and

may be disclosed under seal to a court of law and shall be enforceable and binding upon them in a court of law.

14. **Amendment.** This Settlement Agreement may not be modified, altered, or changed, except in writing and signed by both Parties wherein specific reference is made to this Settlement Agreement.

15. **Miscellaneous.**

(a) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically mailed copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(b) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof.

(c) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel. In the event of vagueness, ambiguity, or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it, but shall be construed as if both Parties prepared it jointly.

(d) If Plaintiff or Defendant fails to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

16. **Entire Agreement.** This Settlement Agreement sets forth the entire agreement between the Parties, and fully supersedes any prior agreements or understandings between the Parties, except those specifically identified in Section 9(e), which are incorporated herein by reference. Plaintiff acknowledges that Plaintiff has not relied on any representations, promises, or agreements of any kind made to Plaintiff in connection with Plaintiff's decision to accept this Settlement Agreement, except for those set forth in this Settlement Agreement.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES AND TO RECEIVE THE CONSIDERATION SET FORTH IN SECTION 3(a) ABOVE, PLAINTIFF FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS SETTLEMENT AGREEMENT INTENDING TO WAIVE, SETTLE, AND RELEASE ALL CLAIMS PLAINTIFF HAS OR MIGHT HAVE AGAINST THE RELEASED PARTIES AS OF THE DATE OF EXECUTION OF THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Executed on 05 / 16 / 2023, 2023

Derek Downey

DEREK DOWNEY

NATIONAL TECHNICAL SYSTEMS,
INC.

Executed on _____, 2023

By: _____
Name:
Title:

Approved as to form and content.

GAINES & GAINES, APLC

Executed on May 17, 2023

By:  _____
DANIEL F. GAINES
ALEX P. KATOFISKY
EVAN S. GAINES
Attorneys for Plaintiff
DEREK DOWNEY

JACKSON LEWIS P.C.

Executed on _____, 2023

By: _____
NICKY JATANA
MICHAEL D. THOMAS
PAUL J. COHEN
Attorneys for Defendant
NATIONAL TECHNICAL SYSTEMS,
INC.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

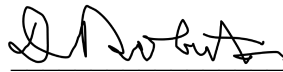
Executed on _____, 2023

DEREK DOWNEY

NATIONAL TECHNICAL SYSTEMS,
INC.

Executed on May 18, 2023

By:



Name: Dave Robertson

Title: Chief HR Officer, NTS

Approved as to form and content.

GAINES & GAINES, APLC

Executed on _____, 2023

By:

DANIEL F. GAINES
ALEX P. KATOFISKY
EVAN S. GAINES

Attorneys for Plaintiff
DEREK DOWNEY

JACKSON LEWIS P.C.

Executed on May 18, 2023

By:



NICKY JATANA
MICHAEL D. THOMAS
PAUL J. COHEN

Attorneys for Defendant
NATIONAL TECHNICAL SYSTEMS,
INC.

SETTLEMENT AGREEMENT **AND GENERAL RELEASE OF ALL CLAIMS**

This Settlement Agreement and General Release of All Claims (“Settlement Agreement”) is entered into by and between Adam Sardoni (“Plaintiff”) and National Technical Systems, Inc. (“Defendant”). The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from March 23, 2020 to October 16, 2020;

(b) On February 24, 2021, Plaintiff and Derek Downey filed a letter with the California Labor and Workforce Development Agency, pursuant to the California Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”), asserting alleged Labor Code violations by Defendant (“PAGA Notice.”). On March 9, 2021, the PAGA Notice was supplemented to allege an additional claim against Defendant. On April 15, 2022, the PAGA Notice was supplemented again to allege the same claims against NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc. and/or National Quality Assurance-USA, Inc;

(c) On May 4, 2021, Plaintiff and Derek Downey brought a class and representative action against Defendant in the Superior Court of California, County of Santa Clara, entitled *Derek Downey and Adam Sardoni, et al. v. National Technical Systems, Inc., et al.*, Case Number 21CV381341 (the “Action”). On January 10, 2022, Plaintiff and Derek Downey filed a notice of transfer of venue to the Superior Court of California, County of Los Angeles, where the Action is currently pending as Case No. 22STCV00946. On September 6, 2022, Plaintiff and Derek Downey filed the operative First Amended Class and Representative Action Complaint;

(d) In the Action, Plaintiff and Derek Downey allege the following claims on behalf of themselves and all persons employed in California by Defendant, NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc., or National Quality Assurance-USA, Inc. as current or former hourly-paid or non-exempt employees at any time during the period between May 4, 2017, through June 13, 2022: (1) failure to provide rest periods or compensation in lieu thereof (Labor Code § 226.7; IWC Wage Order 4-2001); (2) failure to provide meal periods or compensation in lieu thereof (Labor Code §§ 226.7, 510, 512 and 1194; IWC Wage Order 4-2001); (3) knowing and intentional failure to comply with itemized employee wage statement provisions (Labor Code § 226(a), (e)); (4) failure to pay wages due at separation of employment (Labor Code §§ 201-203); (5) violation of Business and Professions Code § 17200; and (6) penalties pursuant to labor code § 2699(f) for violations of labor code §§ 201-203, 226(a), 226.7, 510, 512, and 1194 and pursuant to Labor Code § 2699(a) for violations of Labor Code §§ 226.3 and 558. Plaintiff and Derek Downey also allege unpaid wages pursuant to Labor Code §§ 510 and 1194. Plaintiff and Derek Downey pray for compensatory damages, penalties, attorneys’ fees, interest and costs;

**SETTLEMENT AGREEMENT
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(e) On April 13, 2022, the Parties participated in a mediation before David A. Rotman, Esq. (“Mediator”). On the same day, with the assistance of the Mediator, the Parties reached an agreement on the principal terms of a class action settlement that would fully resolve the Action;

(f) Concurrently with this Settlement Agreement, the Parties have agreed to and will seek court approval of a First Amended Stipulation of Class Action Settlement and Release Between Plaintiffs, on Behalf of Themselves and All Others Similarly Situated and Aggrieved, and Defendant (“Class Action Settlement”). It is understood and acknowledged by the Parties that this Agreement shall be filed with the Court in the Action in connection with the approval of the Class Action Settlement. This Agreement shall be void and of no force and effect unless and until the Court grants final approval of the Class Action Settlement, its effective date occurs, and Defendant pays all sums required thereunder.

(g) There has been no determination on the merits of the PAGA Notice or the Action (hereinafter collectively referred to as the “Action.”) but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or may have against Defendant, NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc. and National Quality Assurance-USA, Inc. including their parent corporations, affiliates, subsidiaries, divisions, predecessors, insurers, reinsurers, successors, and assigns, and their current and former employees, attorneys, officers, directors, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities (collectively, “the Released Parties”) upon the Effective Date (as defined in the Class Action Settlement) and subject to Defendant’s full payment of the Maximum Settlement Amount.

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration/Indemnification for Tax Consequences.**

(a) In consideration for Plaintiff signing this Settlement Agreement and Plaintiff’s compliance with the promises made herein, Defendant agrees not to oppose or impede Plaintiff’s application or motion for a Class Representative Enhancement Payment of up to FIVE THOUSAND DOLLARS AND ZERO CENTS (\$5,000.00) as set forth in the Class Action Settlement.

(b) The Parties acknowledge that there is a good faith dispute regarding Plaintiff’s allegations of unpaid wages and that the consideration set forth in Section 3(a) above includes a good faith, reasonable compromise, and settlement regarding such claims.

(c) Plaintiff agrees to indemnify and hold the Released Parties harmless for the amount of any taxes, penalties, or interest that may be assessed by any governmental tax authority against any of the Released Parties in connection with such governmental authority's determination that Defendant or any of the other Released Parties was required to, but failed to, withhold or report the correct amount of income or employment taxes from the payments made to Plaintiff or Plaintiff's Counsel pursuant to Section 3(a) of this Settlement Agreement. Plaintiff agrees that Plaintiff shall indemnify the Released Parties for the full amount of such liability within thirty (30) days after receipt of notice from Defendant or any of the other Released Parties of the assessment of such taxes, penalties, or interest.

4. **No Consideration Absent Execution of this Agreement and Execution and Final Approval of the Class Action Settlement.** Plaintiff understands and agrees that Plaintiff would not receive the consideration specified in Section 3(a) above, except for (i) Plaintiff's execution of this Settlement Agreement and the fulfillment of the promises contained herein, and (ii) Plaintiff's execution of the Class Action Settlement and the fulfillment of the promises contained therein.

5. **General Release, Claims Not Released and Related Provisions.**

(a) **General Release of Claims.** Effective upon the court granting final approval of the Class Action Settlement and awarding Plaintiff a Class Representative Enhancement Payment, and subject to Defendant's full payment of the Maximum Settlement Amount, Plaintiff, individually and on behalf of Plaintiff's heirs, executors, administrators, representatives, attorneys, successors, and assigns knowingly and voluntarily releases and forever discharges the Released Parties, to the full extent permitted by law, of and from any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this Settlement Agreement including, but not limited to, any alleged violation of:

- Title VII of the Civil Rights Act of 1964;
- The Civil Rights Act of 1991;
- Sections 1981 through 1988 of Title 42 of the United States Code, as amended;
- The Employee Retirement Income Security Act of 1974 ("ERISA") (as modified below);
- The Immigration Reform and Control Act;
- The Americans with Disabilities Act of 1990;
- The Age Discrimination in Employment Act of 1967 ("ADEA");
- The Workers Adjustment and Retraining Notification Act;

**SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF ALL CLAIMS**

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- The Occupational Safety and Health Act;
- The Sarbanes-Oxley Act of 2002;
- The Fair Credit Reporting Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- The Genetic Information Nondiscrimination Act of 2008;
- Executive Order 11246;
- The Rehabilitation Act;
- The Vietnam Era Veterans' Readjustment Assistance Act ("ERAA");
- California Family Rights Act – Cal. Gov't Code § 12945.2;
- California Fair Employment and Housing Act – Cal. Gov't Code § 12900 et seq.;
- California Unruh Civil Rights Act – Cal. Civ. Code § 51 et seq.;
- Statutory Provisions Regarding the Confidentiality of AIDS Information – Cal. Health & Safety Code § 120775 et seq.;
- California Confidentiality of Medical Information Act – Cal. Civ. Code § 56 et seq.;
- California Parental Leave Law – Cal. Lab. Code § 230.7 et seq.;
- California Military Personnel Bias Law – Cal. Mil. & Vet. Code § 394;
- The California Occupational Safety and Health Act, as amended, and any applicable regulations thereunder;
- The California Consumer Credit Reporting Agencies Act – Cal. Civ. Code § 1785 et seq.
- California Investigative Consumer Reporting Agencies Act – Cal. Civ. Code § 1786 et seq.;
- Those provisions of the California Labor Code that lawfully may be released;
- Any other federal, state or local civil or human rights law or any other federal, state or local law, regulation or ordinance;

**SETTLEMENT AGREEMENT
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- Any public policy, contract, tort or common law; or
- Any basis for recovering costs, fees or other expenses including attorneys' fees incurred in these matters.

(b) **Claims Not Released.** Plaintiff is not waiving any rights Plaintiff may have to: (i) Plaintiff's own vested accrued employee benefits under Defendant's health, welfare, or retirement benefits plans as of the date of execution of this Settlement Agreement; (ii) benefits or rights to seek benefits under applicable workers' compensation (except as to claims under Labor Code sections 132a and 4553) or unemployment insurance or indemnification statutes; (iii) pursue claims which by law cannot be waived by signing this Settlement Agreement; (iv) enforce this Settlement Agreement; or (v) challenge the validity of this Settlement Agreement. Plaintiff is also not waiving any entitlement to participate in the Class Action Settlement.

(c) **Government Agencies.** Nothing in this Settlement Agreement prohibits, prevents, or otherwise limits Plaintiff from filing a charge or complaint with or participating, testifying, or assisting in any investigation, hearing, action, or other proceeding before any federal, state, or local government agency (*e.g.*, EEOC, NLRB, SEC, CRD, DLSE, *etc.*) or in any legislative or judicial proceeding, nor does anything in this Settlement Agreement preclude, prohibit, or otherwise limit, in any way, Plaintiff's rights and abilities to contact, communicate with, or report unlawful conduct to federal, state, or local officials for investigation, or otherwise participate in any whistleblower program administered by any such agencies. However, to the maximum extent permitted by law and expressly excluding Plaintiff's participation in any federal whistleblower programs, Plaintiff agrees that if such an administrative claim is made, Plaintiff shall not be entitled to recover any individual monetary relief or other individual remedies.

(d) **Collective/Class Action Waiver.** If any claim is not subject to release, including pursuant to the Class Action Settlement, to the extent permitted by law, Plaintiff waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective, or multi-party action or proceeding based on such a claim in which Defendant, or any of the other Released Parties is a party.

6. **Waiver of California Civil Code section 1542.** To effect a full and complete general release as described above, Plaintiff expressly waives and relinquishes all rights and benefits of section 1542 of the Civil Code of the State of California, and does so understanding and acknowledging the significance and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the State of California states as follows:

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

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff warrants Plaintiff has read this Settlement Agreement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Settlement Agreement and specifically about the waiver of section 1542, and that Plaintiff understands this Settlement Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement Agreement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

7. Acknowledgements and Affirmations.

(a) Plaintiff affirms that Plaintiff has not filed or caused to be filed any claim, complaint, or action against any of the Released Parties in any forum or form, other than the Action, and that Plaintiff presently is not a party to any claim, complaint, or action against any of the Released Parties in any forum or form, other than the Action. Nothing in this Settlement Agreement or the acknowledgements and affirmations in this Section 7 is intended to impair Plaintiff's rights under whistleblower laws or cause Plaintiff to disclose Plaintiff's participation in any governmental whistleblower program or any whistleblowing statute(s) or regulation(s) allowing for anonymity.

(b) Plaintiff further affirms that Plaintiff has reported all hours worked as of the date of execution of this Settlement Agreement and timely has been paid or has received all compensation, wages, bonuses, commissions, and benefits which are due and payable as of the date of execution of this Settlement Agreement, except as alleged in the Action and which claims are expressly released in Section 5(a) above and/or the Class Action Settlement. Plaintiff also affirms that Plaintiff has submitted all expense reports in compliance with Defendant's policies and procedures and been reimbursed for all expenses necessarily incurred by Plaintiff in following Defendant's directions or incurred in performing Plaintiff's duties during Plaintiff's employment with Defendant.

(c) Plaintiff further affirms that Plaintiff has no known workplace injuries or occupational diseases, and that Plaintiff has been granted or has not been denied any leave to which Plaintiff was entitled under the Family and Medical Leave Act, the California Family Rights Act, or disability accommodation laws.

(d) Plaintiff also affirms that Plaintiff has not reported internally to Defendant any allegations of wrongdoing by Defendant or its officers, including, any allegations of corporate fraud, and Plaintiff has not been retaliated against for reporting any such allegations internally to Defendant.

8. **Medicare Secondary Payer Rules.** As a term of this Settlement Agreement, the Parties have fully considered Medicare's interests pursuant to the Medicare Secondary Payer rules. In doing so, Plaintiff affirms that as of the date Plaintiff executes this Settlement Agreement, Plaintiff is not Medicare eligible (*i.e.*, is not 65 years of age or older; is not suffering from end-stage renal failure; has not received Social Security Disability Insurance benefits for 24 months or longer, *etc.*). Nonetheless, if the Centers for Medicare & Medicaid Services (the "CMS") (this term includes any related agency representing Medicare's interests) determines that Medicare has an interest in the payment to Plaintiff under this Settlement Agreement, Plaintiff agrees to (i) indemnify, defend, and hold the Released Parties harmless from any action by the CMS relating to medical expenses of Plaintiff, (ii) reasonably cooperate with the Released Parties upon request with respect to any information needed to satisfy the reporting requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, if applicable, and any claim that the CMS may make and for which Plaintiff is required to indemnify the Released Parties under this paragraph, and (iii) waive any and all future actions against the Released Parties for any private cause of action for damages pursuant to 42 U.S.C. § 1395y(b)(3)(A).

9. **Return of Company Property/Information; Pre-Existing Agreements.**

(a) Within seven (7) calendar days of Plaintiff's execution of this Settlement Agreement, Plaintiff will return all of Defendant's documents and property currently in Plaintiff's possession including, but without limitation, any and all services work, notes, reports, files, memoranda, records, cardkey passes, door and file keys, safe combinations, laptop computer, computer access codes, disks and instructional or personnel manuals, and other physical or personal property that Plaintiff received or prepared or helped to prepare in connection with Plaintiff's employment with Defendant ("Company Property"). Any Company Property, including that produced in discovery in the Action, shall be made available for pick-up by Defendant's Counsel at the offices of Plaintiff's Counsel.

(b) Plaintiff acknowledges and agrees that in the course of Plaintiff's employment with Defendant, Plaintiff has acquired: (i) confidential information including without limitation information received by Defendant from third-parties, under confidential conditions; (ii) other technical, product, business, financial, or development information from Defendant, the use or disclosure of which reasonably might be construed to be contrary to the interest of Defendant; or (iii) any other proprietary information or data, including but not limited to customer lists, which Plaintiff may have acquired during Plaintiff's employment (hereafter collectively referred to as "Company Information"). Plaintiff understands and agrees that such Company Information was disclosed to Plaintiff in confidence and for use only by Defendant.

**SETTLEMENT AGREEMENT
AND GENERAL RELEASE OF ALL CLAIMS**

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(c) Plaintiff affirms that Plaintiff has not divulged any proprietary or confidential information of Defendant as of Plaintiff's execution of this Settlement Agreement. Plaintiff also understands and agrees that Plaintiff: (i) will continue to keep such Company Information confidential at all times, (ii) will not disclose or communicate Company Information to any third-party, and (iii) will not make use of Company Information on Plaintiff's own behalf, or on behalf of any third-party.

(d) In view of the nature of Plaintiff's employment and the nature of Company Information Plaintiff received during the course of Plaintiff's employment, Plaintiff agrees that any unauthorized disclosure to third-parties of Company Information or other violation, or threatened violation, of this Settlement Agreement would cause irreparable damage to the confidential or trade secret status of Company Information and to Defendant, and that, therefore, Defendant, and each person constituting Defendant hereunder, shall be entitled to an injunction prohibiting Plaintiff from any such disclosure, attempted disclosure, violation, or threatened violation. Under the federal Defend Trade Secrets Act of 2016, Plaintiff shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made to Plaintiff's attorney in relation to a lawsuit against Defendant for retaliation against Plaintiff for reporting a suspected violation of law; or (c) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(e) The Parties acknowledge and agree that the terms and conditions set forth in the Class Action Settlement shall in no way be altered, modified, enhanced, diminished, or amended by this Settlement Agreement.

(f) The undertakings set forth in this Section 9 shall survive the termination of this Settlement Agreement or other arrangements contained in this Settlement Agreement.

10. **Job References.** Plaintiff shall direct all individuals inquiring about Plaintiff's employment with Defendant to Defendant's Human Resources Department, which will follow Defendant's policy by responding with only Plaintiff's last position and dates of employment, except that this provision shall not apply to any request from a prospective employer who provides a release signed by Plaintiff pursuant to the Fair Credit Reporting Act or any state counterpart.

11. **No Transfer/Assignment of Claims.** Plaintiff warrants and represents that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim released under this Settlement Agreement. Plaintiff and Plaintiff's Counsel agree that they solely are responsible for the satisfaction of any assignment or lien to any lien holder and will indemnify and hold the Released Parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes, or attorneys' fees that may be imposed against or incurred by any of the Released Parties as a result of the actions of any lien holder or

any lien claimant or any taxing authority or any court in relation to any interest which any third-party may have in any claim which Plaintiff is releasing under this Settlement Agreement or any interest in any of the proceeds paid to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

12. Liens and Attorneys' Fees/Indemnification.

(a) Plaintiff acknowledges Plaintiff solely is responsible for any liens made in connection with any services performed on Plaintiff's behalf by any attorney, consultants, expert witnesses, or healthcare providers. Each Party is solely responsible for any fees and costs he, she, or it has incurred including, but not limited to, fees for attorneys, consultants, and expert witnesses. Plaintiff acknowledges that none of the Released Parties are responsible for the payment of any fees incurred on behalf of Plaintiff in connection with the prosecution of the Action including, but not limited to, fees charged or to be charged by the Mediator for services rendered as the mediator of this dispute. This Agreement does not affect the attorneys' fees or costs to be paid to Plaintiff's Counsel in connection with the Class Action Settlement.

(b) Plaintiff acknowledges and agrees that Plaintiff will indemnify the Released Parties for any and all costs any of them incur as a result of any claims made by any attorneys, consultants, expert witnesses, healthcare providers, or other third-parties to recover monies from the amounts payable to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

13. Governing Law and Interpretation.

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California provided, however, that parol evidence shall not be admissible to alter, vary, or supplement the terms of this Settlement Agreement. Should any provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, excluding the general release language, such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party may institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing party in that action shall be entitled to recover reasonable attorney's fees.

(c) It is the intent of the Parties, pursuant to Evidence Code sections 1122(a)(1) and 1123, that all of the terms of this Settlement Agreement shall be admissible and may be disclosed under seal to a court of law and shall be enforceable and binding upon them in a court of law.

14. **Amendment.** This Settlement Agreement may not be modified, altered, or changed, except in writing and signed by both Parties wherein specific reference is made to this Settlement Agreement.

15. **Miscellaneous.**

(a) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically mailed copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(b) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof.

(c) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel. In the event of vagueness, ambiguity, or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it, but shall be construed as if both Parties prepared it jointly.

(d) If Plaintiff or Defendant fails to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

16. **Entire Agreement.** This Settlement Agreement sets forth the entire agreement between the Parties, and fully supersedes any prior agreements or understandings between the Parties, except those specifically identified in Section 9(e), which are incorporated herein by reference. Plaintiff acknowledges that Plaintiff has not relied on any representations, promises, or agreements of any kind made to Plaintiff in connection with Plaintiff's decision to accept this Settlement Agreement, except for those set forth in this Settlement Agreement.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES AND TO RECEIVE THE CONSIDERATION SET FORTH IN SECTION 3(a) ABOVE, PLAINTIFF FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS SETTLEMENT AGREEMENT INTENDING TO WAIVE, SETTLE, AND RELEASE ALL CLAIMS PLAINTIFF HAS OR MIGHT HAVE AGAINST THE RELEASED PARTIES AS OF THE DATE OF EXECUTION OF THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Executed on 05 / 16 / 2023, 2023

Adam Sardoni
ADAM SARDONI

NATIONAL TECHNICAL SYSTEMS,
INC.

Executed on _____, 2023

By: _____
Name:
Title:

Approved as to form and content.

GAINES & GAINES, APLC

Executed on May 17, 2023

By: 
DANIEL F. GAINES
ALEX P. KATOFISKY
EVAN S. GAINES
Attorneys for Plaintiff
ADAM SARDONI

JACKSON LEWIS P.C.

Executed on _____, 2023

By: _____
NICKY JATANA
MICHAEL D. THOMAS
PAUL J. COHEN
Attorneys for Defendant
NATIONAL TECHNICAL SYSTEMS,
INC.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

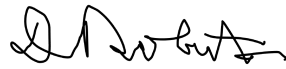
Executed on _____, 2023

ADAM SARDONI

NATIONAL TECHNICAL SYSTEMS,
INC.

Executed on May 18, 2023

By:



Name: Dave Robertson

Title: Chief HR Officer, NTS

Approved as to form and content.

GAINES & GAINES, APLC

Executed on _____, 2023

By:

DANIEL F. GAINES

ALEX P. KATOFSKY

EVAN S. GAINES

Attorneys for Plaintiff

ADAM SARDONI

JACKSON LEWIS P.C.

Executed on May 18, 2023

By:



NICKY JATANA

MICHAEL D. THOMAS

PAUL J. COHEN

Attorneys for Defendant

NATIONAL TECHNICAL SYSTEMS,
INC.

EXHIBIT E

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

Derek Downey and Adam Sardoni, individually and on behalf of all similarly situated individuals, on behalf of the general public, and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq*,

Plaintiffs,

v.

NATIONAL TECHNICAL SYSTEMS, INC., a California corporation, and DOES 1 through 10, inclusive,

Defendants.

CASE NO: 22STCV00946

Assigned to the Hon. Stuart M. Rice, Dept. 1

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

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**

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

- A settlement will provide \$885,000 to pay claims to all individuals who worked for Defendant National Technical Systems, Inc. or any of its present and former subsidiaries and affiliated companies (“Defendant”) as an hourly-paid or non-exempt employee in California at any time between May 4, 2017 and June 13, 2022.
- The settlement resolves a lawsuit alleging that Defendant failed to pay all minimum and overtime wages due; provide compliant meal and rest periods or premium compensation in lieu thereof; timely issue final wages upon separation of employment; and issue accurate and complete itemized wage statements. The Settlement avoids costs and risks of continuing the lawsuit; pays money to employees; and releases Defendant from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$295,000 as attorneys’ fees and \$25,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- Defendant denies liability and the Parties disagree on how much money could have been awarded if employees won at trial.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If your address has changed, you must notify the Settlement Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendant, as detailed below.
Exclude Yourself from the Class Settlement but not the PAGA Settlement	To exclude yourself from the class settlement, you must send a written Request for Exclusion to the Settlement Administrator by the applicable deadline, as detailed below. If you request exclusion, you may receive no money from the Settlement . This is the only option that allows you to ever be part of any other lawsuit against Defendant about the legal claims that were brought in this case except that Aggrieved Employees may not exclude themselves from the PAGA resolution herein.
Object	Write to the Settlement Administrator about why you don't like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

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

WHAT IS THIS LAWSUIT ABOUT?

On May 4, 2021, Plaintiffs Derek Downey and Adam Sardoni ("Plaintiffs"), former employees of Defendant, filed this class action lawsuit ("Action"). The Action alleges violations of the California Labor Code and California Business and Professions Code. The Action seeks to certify a class of all current and former hourly-paid or non-exempt employees of Defendant employed from May 4, 2017 through June 13, 2022 ("Class Period") in California. Specifically, the Action alleges that members of the Class were not paid all minimum and overtime wages due; were not provided all compliant meal and rest periods or premium compensation in lieu thereof; were not timely issued final wages upon separation of employment; and were not issued accurate and complete itemized wage statements. The Settlement seeks recovery of wages, damages, interest, statutory and civil penalties, restitution, attorneys' fees, and costs. Defendant denies all of the material allegations in the Action, denies that it owes Class Members any remedies, and contends it complied with all applicable laws. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiffs' Attorneys

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Gaines & Gaines, APLC
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Phone: (866) 550-0855

Defendant's Attorneys

Nicky Jatana, Esq.
Michael D. Thomas, Esq.
Paul J. Cohen, Esq.
Jackson Lewis P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, CA 90017

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Plaintiffs believe they would have prevailed on their claims at a trial. Defendant does not believe that Plaintiffs would have won anything from a trial. There has been no trial. Instead, both sides agreed to a settlement, which is memorialized in the Joint Stipulation of Class Action Settlement and Release Between Plaintiffs, on Behalf of Themselves and all Others Similarly Situated and Aggrieved, and Defendant ("Settlement Agreement" or "Stipulation of Settlement"), in order to avoid the further costs, risks, and uncertainty of a trial. 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 Settlement Class?

The Settlement encompasses a class composed of all persons employed in California by National Technical Systems, Inc., NTS Technical Systems, NTS Engineering Services, Inc., Unitek Technical Services, Inc., or National Quality Assurance-USA, Inc. ("NTS Employers") as hourly-paid or non-exempt employees at any time during the period between May 4, 2017, through June 13, 2022 ("Class Members"). Class Members who worked for NTS Employers from February 24, 2020 through June 13, 2022 ("PAGA Period") are also defined herein as "Aggrieved Employees."

C. What does the Settlement provide?

1. Maximum Settlement Amount.

The Settlement provides that Defendant will pay \$885,000 (the "Maximum Settlement Amount") to settle the Action.

2. Net Settlement Amount.

The "Net Settlement Amount" is the portion of the Maximum 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 ("Participating Class Members"). The Net Settlement Amount is the Maximum Settlement Amount less the following amounts that will be requested at the Final

Approval Hearing and are subject to comment or objection by Participating Class Members. The Court will fix these amounts at the Final Approval Hearing.

- (a) **Class Counsel's Attorneys' Fees** in an amount set by the Court, not to exceed \$295,000;
- (b) **Class Counsel's Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed \$25,000;
- (c) **Enhancement Payments to the Class Representatives** in an amount set by the Court, not to exceed \$5,000 each, for their service in the Action;
- (d) **Settlement Administration Costs** which are currently estimated to not exceed \$12,000, for administering the settlement; and the
- (e) **PAGA Settlement Amount** in the total amount of \$20,000 for the settlement of claims arising under the California Private Attorneys General Act ("PAGA") (the "PAGA Settlement Amount"). Seventy-Five percent (75%), or \$15,000, shall be paid to the California Labor and Workforce Development Agency ("LWDA"). The remaining Twenty-Five percent (25%), or \$5,000 (the "Net PAGA Settlement Amount"), will be distributed proportionately among all Aggrieved Employees based on their Compensable Workweeks during the PAGA Period.

3. Individual Settlement Payments.

Your share of the Net Settlement Amount and Net PAGA Settlement Amount will be determined by the formula detailed in section E below.

D. What Are You Giving Up To Get A Payment Or Stay In The Class?

Upon Judgment being entered by the Court and becoming final, and subject to Defendant's full payment of the Maximum Settlement Amount, Plaintiffs and all Participating Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged with respect to the Defendant and all of its present and former, direct and indirect, parent companies, subsidiaries, owners, divisions, concepts, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims ("Released Parties"), and Defendant's counsel of record in the Action, from any and all claims under state, federal or local law, whether statutory, common law or administrative law, which arise out of the claims and allegations made in the Action or which could have been made based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the Class Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; "off-the-clock" work during meal periods; wage statement violations; waiting time penalties; ~~civil penalties, including penalties under PAGA, based on the allegations set forth above;~~ violations of Business and Professions Code section 17200 based on the allegations set forth above; including, but not limited to, claims for injunctive relief; punitive damages; liquidated damages, penalties of any nature; interest; fees; and costs ("Released Class Claims"). Each Class Member who has not submitted a valid Request for Exclusion, fully releases and discharges the Released Parties for the Released Claims for any period during the Class Period.

The following language will be printed on the reverse of each Settlement Payment Check, or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I read, understood,

and agree to the terms set forth in the Notice of Pendency of Proposed Class Action Settlement and Final Hearing and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.” Only those Participating Class Members who cash their settlement checks will be bound by the release of claims under the FLSA.

Upon the Judgment being entered by the Court and becoming final, and subject to Defendant’s full payment of the Maximum Settlement Amount, Plaintiffs and all Aggrieved Employees, whether or not they are Participating Class Members, will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged with respect to all the Released Parties, any and all claims and allegations made in the Action under PAGA, or which could have been made under PAGA based on the facts alleged in the Action, during periods of employment as an hourly-paid or non-exempt employee in California during the PAGA Period, including allegations of alleged: meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; “off-the-clock” work during meal periods; wage statement violations; waiting time penalties; and civil penalties, including penalties under PAGA, based on the allegations set forth above; interest; fees; and costs (“PAGA Released Claims”). Each Aggrieved Employee fully releases and discharges the Released Parties for the PAGA Released Claims for any period during the PAGA Period. The Parties agree that there is no right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

E. How Is My Share Of The Settlement Calculated?

Each Participating Class Member (those who do not opt out of the Settlement) shall receive an “Individual Settlement Payment,” which is distributable to each Class Member who participates in the Settlement (i.e., who does not submit a valid request for exclusion form). Each Aggrieved Employee will also receive an “Individual PAGA Settlement Payment,” which is distributable to each Aggrieved Employee, regardless of if they request exclusion from the class settlement or not.

Individual Settlement Payments and Individual PAGA Settlement Payments will be calculated based on the number of eligible workweeks worked by the Class Members during the Class Period and PAGA Period, respectively (“Compensable Workweeks”). Specific calculations of the Individual Settlement Payments and Individual PAGA Payments will be made as follows:

A. The Net Settlement Amount will be distributed proportionately among all Participating Class Members. The Settlement Administrator will calculate the total number of Compensable Workweeks during the Class Period for each individual Class Member (“Individual Workweeks”). The Settlement Administrator will calculate the total number of Compensable Workweeks for all Participating Class Members (“Participating Class Workweeks”). To determine each Class Member’s “Individual Settlement Payment” the Settlement Administrator will use the following formula: Individual Settlement Payment = (Net Settlement Amount ÷ Participating Class Workweeks) x Individual Workweeks for each individual Participating Class Member.

B. The Net PAGA Settlement Amount will be distributed proportionately among all Aggrieved Employees. The Individual PAGA Settlement Payments will be determined by dividing the Net PAGA Settlement Amount by the total number of Compensable Workweeks for all Aggrieved Employees during the PAGA Period, resulting in the PAGA Workweek Value; and then multiplying the PAGA Workweek Value by the number of Compensable Workweeks worked by each Aggrieved Employee during the PAGA Period.

For tax purposes, all Individual Settlement Payments will be allocated as follows: of each Individual Settlement Payment 10% will be allocated as alleged unpaid wages, 45% will be allocated as alleged unpaid interest, and the remaining 45% will be allocated as alleged unpaid penalties. The 10% of each Individual Settlement Payment allocated as wages will be reported on an IRS Form W-2 by the Settlement Administrator. The remaining 90% of each Individual Settlement Payment allocated as interest and penalties will be reported on an IRS Form 1099 by the Settlement Administrator. All Individual PAGA Settlement Payments shall be allocated as alleged unpaid civil penalties and reported on an IRS Form 1099 by the Settlement Administrator.

According to the records of Defendant, you worked [REDACTED] Compensable Workweeks in California from May 4, 2017 through June 13, 2022. Based on these Compensable Workweeks worked, you are entitled to an Individual Settlement Payment of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

According to the records of Defendant, you worked [REDACTED] Compensable Workweeks in California from February 24, 2020 to June 13, 2022. Based on these Compensable Workweeks worked, you are entitled to an Individual PAGA Settlement Payment of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than [REDACTED], 2022/2023. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the “Final Settlement Hearing”) on [REDACTED], at [REDACTED] a.m., in the Courtroom of Judge Stuart M. Rice of the Los Angeles County Superior Court, Department 1, located at 312 North Spring Street, Los Angeles, CA 90012. 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 Participating Class Members; (ii) whether the Participating Class Members should be bound by the terms of the settlement; (iii) the amount of the attorneys’ fees and costs to be awarded to Plaintiffs’ Attorneys; and (iv) the amount that should be awarded to Plaintiffs as Enhancement Payments. At the Final Settlement Hearing, the Court will hear all properly filed 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.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than [REDACTED]. The Settlement Administrator’s address is [Settlement Administrator address].

- **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Participating 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 Settlement 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. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than [redacted]. The Court will hear from any Class Member who attends the final approval motion and asks to speak regarding his or her objection, regardless of if he or she submitted a valid Notice of Objection or Notice of Intent to Appear.

For the written Notice of Objection to be valid, it must include:

- (a) the objector's full name, signature, address, telephone number, and the last four digits of the objector's social security number;
- (b) the dates the objector was employed by NTS Employers in California;
- (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; and
- (d) copies of any papers, briefs, or other documents upon which the objection is based.

- **OPTION 3 – 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 can opt out of the Class by mailing a written Request for Exclusion statement to the Settlement Administrator at the above-stated address, such that it is postmarked no later than [redacted].

To be effective, the written Request for Exclusion statement must:

- (a) be signed by the Class Member;
- (b) contain the name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion;
- (c) clearly state that the Class Member received the Notice, does not wish to participate in the settlement, and wants to be excluded from the settlement;
- (d) be returned by first class mail or equivalent to the Settlement Administrator at the specified address; and
- (e) be postmarked on or before the response deadline.

There is no right for any Class Member to opt out or otherwise exclude himself or herself from the Settlement of the PAGA claims in the Action.

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 should review the detailed "Joint Stipulation of Class Action Settlement and Release Between Plaintiffs, on Behalf of Themselves and all Others Similarly Situated and Aggrieved, and Defendant" which is on file with the Clerk of the Court. The pleadings and other records in the Action may be examined at any time during regular business hours at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number] or Gaines & Gaines, APLC, Counsel for the Class, at (866) 550-0855.

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT F

From: [Alex Katofsky](#)
To: [Office](#)
Subject: FW: Thank you for your Proposed Settlement Submission
Date: Friday, December 16, 2022 10:48:21 AM

Downey MPA

Thank you,
Alex P. Katofsky, Esq.

Of Counsel
GAINES & GAINES, APLC
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Office (818) 703-8985
Facsimile (818) 703-8984
Email alex@gaineslawfirm.com

-----Original Message-----

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Friday, December 16, 2022 10:48 AM
To: Alex Katofsky <alex@gaineslawfirm.com>
Subject: Thank you for your Proposed Settlement Submission

12/16/2022 10:47:32 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Ventura State of California. I am over the age of 18 and not a party to the
3 action; my business address is 4550 East Thousand Oaks Boulevard, Suite 100 Westlake Village, CA 91362.

4 _____ (For messenger) my business address is:

5 On May 19, 2023, I served the foregoing documents described as **(1) JOINT SUPPLEMENTAL BRIEFING**
6 **FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, (2) SUPPLEMENTAL**
7 **DECLARATION OF DANIEL F. GAINES IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY**
8 **APPROVAL OF CLASS ACTION SETTLEMENT, and (3) DECLARATION OF BENNETT BERGER IN**
9 **SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION**
10 **SETTLEMENT** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes
11 addressed as follows:

12 **Paul J. Cohen, Esq.**
13 **Nicky Jatana, Esq.**
14 **Michael D. Thomas, Esq.**
15 **JACKSON LEWIS P.C.**
16 **725 South Figueroa Street, Suite 2500**
17 **Los Angeles, CA 90017-5408**

18 On the above date:

19 _____ (BY ☐ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
20 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing
21 correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of
22 business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage
23 meter date is more than one day after date of deposit for mailing in affidavit.

24 _____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or
25 other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized
26 carrier or driver authorized by the express carrier to receive documents.

27 X (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic
28 transmission of Case Anywhere on the counsel of record listed above pursuant to the Court Order Authorizing
29 Electronic Service on March 29, 2022.

30 X (ONLINE TO THE LWDA): I caused the above-described documents to be delivered to the Labor Workforce
31 Development Agency via online process at the PAGA Filing website in accordance with the procedure imposed by the
32 LWDA.

33 I certify that the above document was printed on recycled paper.

34 I declare under penalty of perjury that the foregoing is true and correct.

35 Executed on May 19, 2023, at Westlake Village, California.

36 Amelia Booth
37 AMELIA BOOTH