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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

MICHAEL HARRINGTON on behalf of
himself, and all others similarly situated, and
all aggrieved employees,

Plaintiff,

v.

CREATIVE SECURITY COMPANY, INC.;
and DOES 1 through 50, inclusive,

Defendants.

) Case No: RG21095377

) CLASS & REPRESENTATIVE ACTION

) **JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT
AND RELEASE OF CLAIMS**

IT IS HEREBY STIPULATED, by and between Plaintiff Michael Harrington (“Plaintiff”), individually and on behalf of the Settlement Class, and Defendant Creative Security Company, Inc. (“Defendant”), and subject to the approval by the Court, that the Action is hereby compromised and settled under the terms and conditions set forth in this Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (the “Stipulation”) and that the Court shall enter judgment subject to the definitions, recitals, and terms set forth in this Stipulation.

I. DEFINITIONS

- A. “Action” shall mean the civil action entitled *Michael Harrington v. Creative Security Company, Inc.*, filed on April 9, 2021, in the Alameda County Superior Court, Case No. RG21095377.
- B. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class Action and PAGA Settlement and Release of Claims.
- C. “Aggrieved Employees” means all current and former hourly security guard and mobile patrol employees who worked for Defendant in California at any time during the PAGA Period. An individual Aggrieved Employee may also be a Class Members if he or she falls within the “Class Member” definition.
- D. “Aggrieved Employee Data” means information regarding Aggrieved Employees that Defendant will compile from its available, existing, electronic records and will provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include all of the following information: (i) each Aggrieved Employee’s full name; (ii) each Aggrieved Employee’s last-known address; (iii) each Aggrieved Employee’s Social Security and Employee ID numbers; and (iv) the number of pay periods worked by each Aggrieved Employee during the PAGA Period.
- E. “Class Counsel” means the attorneys of record for the Class Representative and Class Members, *i.e.*, Eric A. Grover and Robert W. Spencer of Keller Grover LLP, 1965 Market Street, San Francisco, California 94103.

- 1 F. “Class Counsel Award” means an award of attorneys’ fees, expenses, and litigation
2 costs granted to Class Counsel and paid from the Maximum Settlement Amount in
3 recognition of their efforts and risks in prosecuting the Action.
- 4 G. “Class Data” means information regarding Class Members that Defendant will
5 compile from its available, existing electronic records and provide to the Settlement
6 Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall
7 include all of the following information: (i) each Class Member’s full name; (ii)
8 each Class Member’s last-known mailing address; (iii) each Class Member’s Social
9 Security and Employee ID numbers; (iv) the number of 5-day/40 hours weeks
10 worked by each Class Member during the Class Period; and (v) the number of 4-
11 day/40 hours weeks worked by each Class Member during the Class Period.
- 12 H. “Class Members” means all current and former hourly security guard and mobile
13 patrol employees who worked for Defendant in California during the Class Period.
- 14 I. “Class Period” shall mean the time period from and including April 9, 2017 through
15 January 6, 2022.
- 16 J. “Class Representative Incentive Award/General Release Payment” means the
17 amount that the Court authorizes to be paid to Plaintiff from the Maximum
18 Settlement Amount, in addition to his Individual Settlement Payment and his
19 Individual PAGA Payment, in recognition of his efforts and risks in assisting with
20 the prosecution of the Action.
- 21 K. “Class Representative” means the named Plaintiff, i.e., Michael Harrington.
- 22 L. “Complaint” means the operative First Amended Class Action Complaint filed by
23 Plaintiff on May 18, 2021.
- 24 M. “Court” means the Alameda County Superior Court.
- 25 N. “Defendant” means Creative Security Company, Inc.
- 26 O. “Defense Counsel” means Rona P. Layton, Layton Law Firm, 111 N. Market Street,
27 #300, San Jose, California 95113.
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- 1 P. “Effective Date” shall be the later of the following: (a) if no objections to the
2 settlement are submitted, or if any and all timely objections have been submitted
3 and then withdrawn, then the date the Court enters the Final Approval Order; or (b)
4 if one or more timely objections to the settlement have been submitted, 61 calendar
5 days after the Court enters the Final Approval Order; or (c) if any appeal, writ, or
6 other appellate proceeding opposing the Court’s Final Approval Order has been
7 filed, five court days after any appeal, writ, or other appellate proceedings opposing
8 the settlement have been finally and conclusively dismissed with no right to pursue
9 further remedies or relief.
- 10 Q. “Final Approval Order” means the Court’s order granting final approval of the
11 Settlement.
- 12 R. “Individual PAGA Payment” means the amount payable to each Aggrieved
13 Employee from the PAGA Payment. An individual who is entitled to both an
14 Individual Settlement Payment and an Individual PAGA Payment will receive one
15 check incorporating both amounts as part of each settlement distribution.
- 16 S. “Individual Settlement Payment” means the amount payable from the Net
17 Settlement Amount to each Settlement Class Member.
- 18 T. “LWDA” means the California Labor & Workforce Development Agency.
- 19 U. “LWDA Payment” means the 75% of the \$20,000 PAGA Payment (i.e., \$15,000)
20 that will be paid to the LWDA pursuant to PAGA.
- 21 V. “Maximum Settlement Amount” means \$510,000 plus the employer’s share of the
22 payroll taxes, which sum includes all payments contemplated by this Agreement,
23 including but not limited to the Individual Settlement Payments, the Individual
24 PAGA Payments, the LWDA Payment, the Class Representative Incentive
25 Award/General Release Payment, the Class Counsel Award, and the Settlement
26 Administration Costs. This is a non-reversionary settlement. Except as provided
27 for in Paragraph III.L.2.a).(3), in no event shall Defendant be liable for more than
28

the Maximum Settlement Amount of \$510,000 plus the employer's share of the payroll taxes under this Agreement.

W. "Net Settlement Amount" means the Maximum Settlement Amount minus the sum of the Class Representative Incentive Award/General Release Payment (\$7,500), the Class Counsel Award (estimated to be \$170,000), Class Counsel Costs and Expenses (estimated to be no more than \$12,000), the PAGA Payment (\$20,000), and the Settlement Administration Costs (estimated to be no more than \$12,000), resulting in a Net Settlement Amount of no less than \$300,500.

X. "Notice of Class and PAGA Action Settlement" means the notice substantially similar to the notice attached to this Stipulation as **Exhibit 1**, which will be mailed in an envelope containing language substantially similar to the exemplar envelope attached to this Stipulation as **Exhibit 2**.

Y. "PAGA" means the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*

Z. "PAGA Payment" means the \$20,000 portion of the Maximum Settlement Amount that is allocated to the settlement of claims for civil penalties under PAGA, 25% (\$5,000) of which will be paid to the Aggrieved Employees and 75% (\$15,000) of which will be paid to the LWDA.

AA. "PAGA Period" means the time period from and including March 12, 2020 through January 6, 2022.

BB. "PAGA Released Claims" means all allegations and claims for PAGA civil penalties based on any and all underlying Labor Code violations alleged in the operative First Amended Complaint.

CC. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either Plaintiff or Defendant, individually.

DD. "Payment Ratio – Aggrieved Employee" means the respective number of Qualified Pay Periods for each Aggrieved Employee divided by the total number of Qualified Pay Periods for all Aggrieved Employees.

- 1 EE. "Payment Ratio" means the respective number of Qualified Weeks for each
2 Settlement Class Member divided by the total number of Qualified Weeks for all
3 Settlement Class Members.
- 4 FF. "Plaintiff" shall mean the named Plaintiff, i.e., Michael Harrington.
- 5 GG. "Preliminary Approval Order" means an order granting preliminary approval of the
6 settlement.
- 7 HH. "Preliminary Approval Date" means the date on which the Court enters an order
8 granting preliminary approval of the settlement.
- 9 II. "Qualified Pay Periods" means and includes any and all pay periods (as reflected
10 in Defendant's records) during which one or more Aggrieved Employees
11 performed work for Defendant in California during the PAGA Period.
- 12 JJ. "Qualified Weeks" means and includes any and all weeks worked (as reflected in
13 Defendant's records of each Class Member's dates of employment and pay records)
14 during which one or more Class Members performed hourly work as a security
15 guard or mobile patrol employee for Defendant in California during the Class
16 Period. Depending on job assignments, Class Members worked either 5-day/40-
17 hour weeks or 4-day/40-hour weeks. For calculation purposes, one 5-day/40-hour
18 week shall be the equivalent of one "Qualified Week" and one 4-day/40-hour week
19 shall be the equivalent of 1.5 "Qualified Weeks." By way of example, 10 5-day/40-
20 hour weeks would be counted as 10 Qualified Weeks and 10 4-day/40-hour work
21 weeks would be counted as 15 Qualified Weeks.
- 22 KK. "Qualified Settlement Fund" or "QSF" means the qualified settlement fund that will
23 be set up by the Settlement Administrator and into which the Maximum Settlement
24 Amount shall be deposited and from which disbursements shall be made.
- 25 LL. "Released Claims" means and includes all claims against the Released Parties
26 arising between April 9, 2017 and January 6, 2022, inclusive, under state, federal,
27 or local law, whether statutory or common law, arising out of the claims expressly
28 pleaded in the operative First Amended Complaint on file in the Action (i.e., Labor

Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 511, 512, 1194, 1198, and 1199, and Business & Professions Code §§ 17200, *et seq.* claims based on alleged violations of these Labor Code provisions) and all other potential claims reasonably related to or arising out of the same set of facts plead in the First Amended Complaint, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law. The Release Period for the Released Claims shall be the same as the Class Period, i.e., from April 9, 2017 through January 6, 2022, inclusive.

MM. “Released Parties” shall mean Defendant Creative Security Company, Inc. and all of Defendant’s parent companies, subsidiaries, divisions, concepts, related or affiliated companies, and its or their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Claims.

NN. “Response Deadline” means the date 45 calendar days after the Settlement Administrator first mails the Notice of Class and PAGA Action Settlement to Class Members and is the last date on which Class Members may submit Requests for Exclusion or a Notice of Objection to the settlement. Only Class Members may submit Requests for Exclusion or Notices of Objection to the Settlement.

OO. “Settlement” means the disposition of the Action pursuant to this Agreement.

PP. “Settlement Administrator” means Phoenix Settlement Administrators.

QQ. “Settlement Class Members” means all Class Members who do not submit a valid Request for Exclusion. All Settlement Class Members will automatically receive an Individual Settlement Payment without the need to submit a claim form. Settlement Class Members will release all of the Released Claims and be bound by all terms of the settlement and any final judgment entered in this Action.

II. RECITALS

A. Class Certification. The Parties stipulate and agree to certification for purposes of this Settlement only. This Agreement is subject to approval by the Court and is

made for the sole purpose of consummating settlement of the Action. Should the Settlement not become final and effective as provided herein, class certification shall immediately be set aside and the Settlement Class immediately decertified, subject to further proceedings on the motion of any party to certify or deny certification thereafter. The Parties' willingness to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in or considered in connection with, the issue of whether a class should be certified in a non-settlement context in this Action and shall have no bearing on, and shall not be admissible or considered in connection with, the issue of whether a class should be certified in any other lawsuit.

B. Settlement Negotiations. The Parties participated in a mediation with respected mediator Michael Loeb, Esq. on January 6, 2022. As part of the mediation process, the Parties exchanged the information necessary to engage in productive settlement negotiations. The mediated negotiations resulted in the settlement described in this Stipulation to resolve this Action in its entirety.

C. Benefits of Settlement. Plaintiff and Class Counsel recognize the expense and length of continued proceedings that would be necessary to litigate this dispute through trial and through any possible appeals. Plaintiff also has taken into account the uncertainty and risks regarding the outcome of further litigation and the difficulties and delays inherent in any such litigation. Plaintiff and Class Counsel also are aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, both generally and in response to Defendant's defenses thereto, and the difficulties in establishing damages and civil penalties for the Class Members and Aggrieved Employees. Based on those factors, Plaintiff and Class Counsel have determined that the terms set forth in this Agreement represent a fair, adequate, and reasonable settlement and are in the best interests of the Class Members, the LWDA, and the Aggrieved Employees.

1 D. Defendant's Reasons for Settlement. Defendant has concluded that any further
2 defense of this litigation would be protracted and expensive for all Parties.
3 Substantial amounts of Defendant's time and resources have been and, unless this
4 Settlement is made, will continue to be devoted to the defense of the claims asserted
5 by Plaintiffs, Class Members, and the Aggrieved Employees. In reaching its
6 decision to enter into this Settlement, Defendant also has taken into account the
7 risks of further litigation. Defendant denies each of the allegations and claims
8 asserted against it in the Action. Despite continuing to contend that it is not liable
9 for any of the claims that Plaintiff has asserted, Defendant nonetheless has agreed
10 to settle in the manner and upon the terms set forth in this Agreement to put to rest
11 the claims asserted in the Action.

12 E. Class Members' Claims. The Class Representative contends that his allegations
13 have merit and give rise to liability on Defendant's part. This Agreement is a
14 compromise of disputed claims. The monies being paid as part of the settlement
15 are genuinely disputed and the Parties agree that the provisions of California Labor
16 Code § 206.5 are not applicable to this settlement. Because there is a good faith
17 dispute as to whether any wages are due, the release of claims does not violate
18 California Labor Code § 206.5. Nothing contained in this Agreement, no
19 documents referred to in this Agreement, and no action taken to carry out this
20 Agreement may be construed or used as an admission by or against the Class
21 Members or Class Counsel regarding the merits or lack of merit of the claims
22 asserted.

23 F. Aggrieved Employees' Claims. Plaintiff contends that the PAGA allegations have
24 merit and give rise to liability on the part of Defendant. This Agreement is a
25 compromise of disputed claims. The monies being paid as part of the settlement
26 are genuinely disputed and the Parties agree that the provisions of Labor Code §
27 206.5 are not applicable to this settlement. Nothing contained in this Agreement,
28 no documents referred to in this Agreement, and no action taken to carry out this

Agreement may be construed or used as an admission by or against the Aggrieved Employees or Class Counsel as to the merits or lack of merit of the claims asserted.

G. Defendant's Defenses. Defendant claims that the Released Claims and the PAGA Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. The monies being paid as part of the Settlement are genuinely disputed and the Parties agree that the provisions of California Labor Code § 206.5 are not applicable to this settlement. Because there is a good faith dispute as to whether any wages are due, the release of claims does not violate California Labor Code § 206.5. Nothing contained in this Agreement, no documents referred to in this Agreement, and no action taken to carry out this Agreement may be construed or used as an admission by or against Defendant as to the merits or lack of merit of the claims asserted.

III. TERMS OF AGREEMENT

A. Settlement Consideration to be paid by Defendant. Defendant shall pay the monetary sum specified in this Agreement, i.e., the Maximum Settlement Amount. Except as provided for in Paragraph III.L.2.a.(3), in no event shall Defendant be required to pay more than the Maximum Settlement Amount (including the employer's share of the payroll taxes).

B. Limited Release By All Settlement Class Members. As of the Effective Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members will release the Released Parties from the Released Claims for the Class Period. Plaintiff and the Settlement Class Members may hereafter discover facts or legal arguments in addition to or different from those they now know or currently believe to be true with respect to the claims, causes of action and legal theories of recovery in this Action which are the subject matter of the Released Claims. Nonetheless, the discovery of new facts or legal arguments shall in no way limit the scope or definition of the Released Claims, and by virtue of this Agreement, Plaintiff and Settlement Class Members shall be deemed to have, and,

by operation of the final judgment approved by the Court shall have, fully, finally, and forever settled and released all of the Released Claims as defined in this Agreement.

C. General Release by Plaintiff Only. In addition to the release in Section III.B, in exchange for the consideration set forth in this agreement, Plaintiff makes the additional following general release of all claims, known or unknown: Plaintiff releases Defendant and the Released Parties, from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule, regulation, or ordinance arising out of, relating to, or in connection with Plaintiff's employment with Defendant through the end of the Release Period as well as any and all acts or omissions by or on the part of Defendant through the end of the Release Period. (The release set forth in this Paragraph shall be referred to hereinafter as the "Plaintiff's General Release.") With respect to the Plaintiff's General Release, the Plaintiff stipulates and agrees that, upon the Effective Date, Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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.

Cal. Civ. Code § 1542. Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other than or different from the facts now believed to be true, the release of claims contained in the Plaintiff's General Release shall be effective as to all unknown claims.

1 D. PAGA Release: As of the Effective Date, Plaintiff, individually and as
2 representative acting as a proxy or agent of the LWDA, a State of California
3 Executive Branch Agency, in this Action, agrees to release the Released Parties of
4 and from any and all claims for civil penalties, attorneys' fees, and litigation costs
5 under the California Labor Code Private Attorneys General Act of 2004, Labor
6 Code §§ 2698, *et seq.*, as alleged in the operative First Amended Complaint for the
7 PAGA Period, i.e., the "PAGA Released Claims." To avoid and prevent doubt, the
8 Parties agree that this Agreement and the Final Approval Order to be entered by the
9 Court following approval of this settlement forever bars Plaintiff and the LWDA,
10 directly or through any other proxy or agent, from any future prosecution of any of
11 the PAGA Released Claims against any of the Released Parties.

12 E. Conditions Precedent: This settlement will become final and effective only upon
13 the occurrence of all of the following events:

- 14 1. The Court enters a Preliminary Approval Order of the settlement;
- 15 2. The Court enters a Final Approval Order;
- 16 3. The Effective Date occurs; and
- 17 4. Defendant does not invoke its right to revoke the settlement as described
18 in Paragraph III.Q herein.

19 F. Nullification of Settlement Agreement. In the event that the Court denies
20 preliminary or final approval of this Agreement with prejudice, it fails to become
21 effective, or it is reversed, withdrawn or modified by the Court, or in any way
22 prevents or prohibits Defendant from obtaining a complete resolution of the claims
23 as described herein:

- 24 1. This Agreement shall be void *ab initio* and of no force or effect, and shall
25 not be admissible in any judicial, administrative or arbitral proceeding for
26 any purpose or with respect to any issue, substantive or procedural; and
- 27 2. None of the Parties to this settlement will be deemed to have waived any
28 claims, objections, defenses or arguments in the Action.

1 G. Tax Liability. The Parties make no representations as to the tax treatment or legal
2 effect of the payments called for by this Agreement, and Plaintiff, Settlement Class
3 Members, Aggrieved Employees, and Defendant are not relying on any statement
4 or representation by the Parties in this regard. Plaintiff, Settlement Class Members
5 understand and agree that they will be responsible for the payment of their
6 respective portions of any taxes and penalties assessed on the Class Representative
7 Incentive Award/General Release Payment, Individual Settlement Payments, and
8 Individual PAGA Payments described in this Stipulation and will be solely
9 responsible for any penalties or other obligations resulting from their personal tax
10 reporting of all such payments.

11 H. Circular 230 Disclaimer. Each Party to this Agreement acknowledges and agrees
12 that: (1) no provision of this Agreement, and no written communication or
13 disclosure between or among the Parties or their attorneys and other advisers, is or
14 was intended to be, nor shall any such communication or disclosure constitute or
15 be construed or be relied upon as, tax advice within the meaning of United States
16 Treasury Department circular 230 (31 CFR part 10, as amended); (2) the
17 acknowledging party (a) has relied exclusively upon his, her or its own,
18 independent legal and tax counsel for advice (including tax advice) in connection
19 with this Agreement, (b) has not entered into this Agreement based upon the
20 recommendation of any other Party or any attorney or advisor to any other Party,
21 and (c) is not entitled to rely upon any communication or disclosure by any
22 attorney or adviser to any other party to avoid any tax penalty that may be imposed
23 on the acknowledging party, and (3) no attorney or adviser to any other Party has
24 imposed any limitation that protects the confidentiality of any such attorney's or
25 adviser's tax strategies (regardless of whether such limitation is legally binding)
26 upon disclosure by the acknowledging party of the tax treatment or tax structure
27 of any transaction, including any transaction contemplated by this Agreement.
28

- 1 I. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file
2 with the Court a Motion for Preliminary Approval and supporting papers, which
3 shall include this Agreement. Plaintiff shall provide a courtesy draft of these papers
4 to Defense Counsel at least five court days before filing the documents.
- 5 J. Settlement Administrator. By accepting the role as Settlement Administrator, the
6 Settlement Administrator is bound to all of the terms, conditions, and obligations
7 described in this Settlement Agreement. Among these obligations, the Settlement
8 Administrator shall have sole and exclusive responsibility for calculating
9 Individual Settlement Payments and Individual PAGA Payments; processing and
10 transmitting payments to the Class Representative, Class Counsel, the LWDA,
11 Settlement Class Members, and Aggrieved Employees; printing the Notice of Class
12 and PAGA Action Settlement and mailing it to the Class Members and Aggrieved
13 Employees as directed by the Court; receiving, processing, and reporting Requests
14 for Exclusion and Notices of Objection; sending a postcard reminder to Settlement
15 Class Members and Aggrieved Employees 30 days before the check void date;
16 distributing tax forms; providing declaration(s) as necessary in support of
17 preliminary and/or final approval of this Agreement; and such other tasks as the
18 Parties mutually agree or the Court orders the Settlement Administrator to perform.
19 The Settlement Administrator shall keep the Parties timely apprised of the
20 performance of all of the Settlement Administrator's responsibilities. Defendant
21 and Defense Counsel shall have no responsibility for validating or ensuring the
22 accuracy of the Settlement Administrator's work. Plaintiff, Class Counsel,
23 Defendant, and Defense Counsel shall not bear any responsibility for errors or
24 omissions in the calculation or distribution of Individual Settlement Payments,
25 Individual PAGA Payments or any other distribution of monies contemplated by
26 this Agreement.
- 27 K. Notice Procedure.
- 28

1. Class Data and Aggrieved Employee Data. No later than 21 calendar days after the Preliminary Approval Date and only after Defendant receives sufficient and reasonable assurance that the Settlement Administrator will maintain the confidentiality of the Class Data and Aggrieved Employee Data, Defendant shall provide the Settlement Administrator with the Class Data and Aggrieved Employee Data for purposes of preparing and mailing the Notice of Class and PAGA Action Settlement to Class Members and Aggrieved Employees, as well as undertaking its other obligations. The Settlement Administrator shall be obligated to keep the Class Data and Aggrieved Employee Data confidential and shall take reasonable and necessary precautions to maintain the confidentiality of the data. The Settlement Administrator shall not distribute or use the Class Data, Aggrieved Employee Data or any information contained therein for any purpose other than to administer this settlement.
2. Notice of Class and PAGA Action Settlement.
 - a) The Notice of Class and PAGA Action Settlement shall be in a form substantially similar to the form attached to this Stipulation as **Exhibit 1**. The Notice of Class and PAGA Action Settlement shall instruct Class Members and Aggrieved Employees to keep the Settlement Administrator apprised of their current mailing addresses, to which the Settlement Payments will be mailed following the Effective Date. The Notice of Class and PAGA Action Settlement shall set forth the release to be given by Settlement Class Members in exchange for an Individual Settlement Payment.
 - b) The Notice of Class and PAGA Action Settlement shall be individualized by inclusion of each Class Member's number of Qualified Weeks and Qualified Pay Periods and the Settlement

Administrator's calculation of each Class Member's estimated gross Individual Settlement Payment if that Class Member does not request exclusion from the Settlement and each Aggrieved Employee's estimated Individual PAGA Payment.

3. Notice By First Class U.S. Mail. Upon receipt of the Class Data and Aggrieved Employee Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than 14 calendar days after receiving the Class and Aggrieved Employee Data from Defendant as provided in this Stipulation, the Settlement Administrator shall mail copies of the Notice of Class and PAGA Action Settlement to all Class Members and Aggrieved Employees via regular First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member and Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member and Aggrieved Employee.

4. Undeliverable Notices. Any mailed Notice of Class and PAGA Action Settlement that is returned to the Settlement Administrator as not having been delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed to it. If no forwarding address is provided, the Settlement Administrator promptly shall attempt to determine a correct address by lawful use of skip-tracing and by other searches using the name, address, and Social Security number of the Class Member or Aggrieved Employee involved and, if another mailing address is identified by the Settlement Administrator, then shall perform a re-mailing to that Class Member or Aggrieved Employee. In addition, if any Notices of Class and PAGA Action Settlement that are addressed to Class Members or

Aggrieved Employees who are employed by Defendant at the time of mailing are returned to the Settlement Administrator as non-delivered and no forwarding address is provided, the Settlement Administrator shall so notify Defendant. Defendant then will request that the currently-employed Class Member or Aggrieved Employee provide a corrected address and will transmit to the Administrator any corrected address provided by the Class Member or Aggrieved Employee.

5. Disputes Regarding Qualified Weeks. A Class Member who disagrees with the number of Qualified Weeks stated on that Class Member's Notice of Class and PAGA Action Settlement will have the opportunity to provide documentation and/or an explanation to show a different number of weeks having been worked during the Class Period. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and the amount of any Individual Settlement Payment shall be binding upon the Settlement Class Member and the Parties.

6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the settlement will be resolved by the Court under the laws of the State of California. Before any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

7. Requests for Exclusion.

a) The Notice of Class and PAGA Action Settlement shall state that Class Members who wish to exclude themselves from the class

1 action settlement must submit a written Request for Exclusion by
2 the Response Deadline. The written Request for Exclusion must
3 state that the Class Member wishes to exclude himself or herself
4 from the class action settlement and (1) must contain the name,
5 address, and the last four digits of the Social Security number or
6 Employee ID number of the person requesting exclusion; (2) must
7 be signed by the Class Member; (3) must be postmarked by the
8 Response Deadline and returned to the Settlement Administrator at
9 the specified mailing address; and (4) must contain a typewritten or
10 handwritten notice stating in substance: "I wish to opt out of the
11 settlement of the class action lawsuit entitled *Harrington v. Creative*
12 *Security Company, Inc.*"

- 13 b) The Request for Exclusion will not be valid if it is not timely
14 submitted and if it does not comply with the requirements set forth
15 above in Paragraph III.I.7(a). The date of the postmark on the return
16 mailing envelope for the Request for Exclusion shall be the
17 exclusive means used to determine whether the Request for
18 Exclusion was timely submitted. If the Settlement is approved by
19 the Court, Class Members who fail to submit a valid and timely
20 written Request for Exclusion on or before the Response Deadline
21 shall be Settlement Class Members who are bound by all terms of
22 the settlement and any Final Approval Order entered in this Action.
- 23 c) Any Class Member who requests to be excluded from the class
24 action settlement will not be entitled to an Individual Settlement
25 Payment and will not be bound by the terms of the class action
26 settlement or have any right to object, appeal or comment thereon.
27 Nothing in this settlement or Settlement Agreement will constitute
28 or be construed as a waiver of any defense that Defendant or the

Released Parties have or could assert against anyone who timely serves a Request for Exclusion.

- d) Aggrieved Employees cannot request to be excluded from the settlement of the PAGA Released Claims. Class Members who are Aggrieved Employees cannot request to be excluded from the settlement of the PAGA Released Claims.
- e) No later than five calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted written Requests for Exclusion.
- f) At no time shall any of the Parties or their counsel solicit or otherwise encourage Class Members to submit Requests for Exclusion from the settlement.

8. Objections.

- a) The Notice of Class and PAGA Action Settlement shall state that Class Members who wish to object to the settlement must mail to Settlement Administrator, at the addresses provided in the Notice of Class and PAGA Action Settlement, a typed or written statement of objection (“Notice of Objection”) by the Response Deadline. The postmark date of mailing shall be deemed to be the exclusive means for determining whether a Notice of Objection was timely submitted.
- b) Class Members who submit a timely Notice of Objection will have a right to appear at the final approval hearing in order to have their objections heard by the Court. The Notice of Objection must be signed by the Class Member and state (1) the case name and number; (2) the name of the Class Member; (3) the address of the Class Member; (4) the last four digits of the Class Member’s Social

1 Security number or Employee ID number; (4) the basis for the
2 objection and any supporting documents; and (5) whether or not the
3 Class Member intends to appear at the final approval hearing. Class
4 Members who fail to make objections in the manner specified above
5 may be deemed to have waived any objections and to be foreclosed
6 from making any objections to the settlement, whether by appeal or
7 otherwise. The failure to submit a written objection does not waive
8 a Settlement Class Member's right to appear and orally object at the
9 final approval hearing.

10 c) At no time shall any of the Parties or their counsel seek to solicit or
11 otherwise encourage Class Members to file or serve written
12 objections to the settlement or to appeal from the Final Approval
13 Order.

14 d) Class Members who submit a written Request for Exclusion are not
15 entitled to object to the settlement. In the event that a Class Member
16 submits both a Request for Exclusion and a Notice of Objection, the
17 Request for Exclusion will be valid and the Notice of Objection will
18 be invalid.

19 e) The Settlement Administrator shall send all objections to Class
20 Counsel and Defense Counsel promptly. Class Counsel will be
21 responsible for filing the Notices of Objection with the Court before
22 the final approval hearing. Plaintiff and/or Defendant may file
23 oppositions to any properly-submitted Notices of Objection no later
24 than 10 calendar days prior to the date of the final approval hearing.

25 f) Aggrieved Employees cannot object to the settlement of the PAGA
26 Released Claims. Class Members who are Aggrieved Employees
27 cannot object to the settlement of the PAGA Released Claims. Any
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such objections by Aggrieved Employees or by Class Members who are Aggrieved Employees shall be deemed invalid.

- g) Defendant shall not be responsible for the fees, costs, or expenses incurred by Plaintiff, Class Counsel, Class Members or Aggrieved Employees arising from or related to any objection to the Settlement Agreement or related to any appeals thereof.

L. Funding and Allocation of the Maximum Settlement Amount. This is a non-reversionary settlement in which Defendant is required to pay the entirety of the Maximum Settlement Amount (plus the employer's share of the payroll taxes). No amount of the Maximum Settlement Amount will revert to Defendant. Upon satisfaction of the preconditions described in this Settlement and pursuant to the timeline and instructions below, Defendant will deposit the Maximum Settlement Amount into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator.

1. Funding Due Date. Defendant will pay the \$510,00 Maximum Settlement Amount (plus the employer's share of all payroll taxes) in two payments. The first payment of \$340,000 (plus the employer's share of payroll taxes related to that payment) is due to the Settlement Administrator within 14 days of the Effective Date. The second payment of \$170,000 (plus the employer's share of payroll taxes related to that payment) is due to the Settlement Administrator within 365 days of the Effective Date.

2. Payments to Settlement Class Members and Aggrieved Employees.

- a) Calculation of Individual Settlement Payments. Every Settlement Class Member is entitled to an Individual Settlement Payment without the need to submit a claim form. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid under the formula set forth in this Stipulation.

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- (1) Using the Class Data, the Settlement Administrator will calculate the total number of Qualified Weeks for all Settlement Class Members. The number of Qualified Weeks for each Settlement Class Member then will be divided by the total number of Qualified Weeks for all Settlement Class Members. The result of that division will be the “Payment Ratio” for each Settlement Class Member. Each Settlement Class Member’s Payment Ratio then will be multiplied by the Net Settlement Amount to calculate that Settlement Class Member’s share of the Net Settlement Amount, except that no gross Individual Settlement Payment will be less than \$25. A share of the Net Settlement Amount will be provided only to those individuals who satisfy the definition of Settlement Class Members, *i.e.*, Class Members who do not submit a timely and valid Request for Exclusion.
- (2) The Parties recognize and agree that the formula provided in this Stipulation for allocating the Net Settlement Amount to be paid to the Settlement Class Members is reasonable and designed to provide a fair settlement to the Settlement Class Members.
- (3) Defendant represents that there are no more than 815 Settlement Class members who worked no more than 40,000 total weeks during the Class Period. If it is determined that more than 40,000 total weeks were worked by Settlement Class Members during the Class Period, Defendant agrees that it will increase its total payment above the Maximum Settlement Amount by increasing the Net Settlement

Amount only at the rate of \$10 per additional week worked beyond 44,000.

- b) Calculation of Individual PAGA Payments: Using the Aggrieved Employee Data, the Settlement Administrator will calculate the total number of Qualified Pay Periods for all Aggrieved Employees. The number of Qualified Pay Periods for each Aggrieved Employee then will be divided by the total number of Qualified Pay Periods for all Aggrieved Employees. The result of that division will be the Payment Ratio for each Aggrieved Employee. Each Aggrieved Employee's Payment Ratio then will be multiplied by the \$5,000 portion of the PAGA Payment that is allocated for distribution to the Aggrieved Employees to calculate each Aggrieved Employee's Individual PAGA Payment.
- c) Tax Allocation. For tax purposes, Individual Settlement Payments shall be allocated and treated as one-third wages and two-thirds statutory penalties and interest. For tax purposes, Individual PAGA Payments shall be allocated and treated as 100% statutory penalties. The Settlement Administrator will be responsible for issuing and mailing all required IRS Form W-2s and 1099s.
- d) Mailing. Individual Settlement Payments and Individual PAGA Payments will be paid two payments. The first payment, representing two-thirds of the amount of each Individual Settlement Payment and Individual PAGA Payment, shall be mailed by regular First Class U.S. Mail to Settlement Class Members' and Aggrieved Employees' last known mailing addresses no later than 28 calendar days after the Effective Date. The second payment, representing one-third of the amount of each Individual Settlement Payment and Individual PAGA Payment, shall be mailed by regular First Class

U.S. Mail to Settlement Class Members' and Aggrieved Employees' last known mailing addresses no later than 28 calendar days after the date of the second settlement payment by Defendant.

- e) Uncashed Checks. Any checks issued to Settlement Class Members shall remain valid and negotiable for 90 calendar days from the date of their issuance. Unless a Settlement Class Member contacts the Settlement Administrator for a re-issued check at least 10 days before Defendant makes the second deposit of settlement funds, the funds represented by any uncashed checks shall be included in the next check distribution such that any such Settlement Class Members' second settlement check will represent 100% of the Settlement Class Members' Individual Settlement Payment and Individual PAGA Payment. In the event any second Individual Settlement Payment and Individual PAGA Payment settlement checks have not been cashed by the check cashing deadline, upon Court approval, the Settlement Administrator shall tender to the Katherine and George Alexander Community Law Center at Santa Clara University (<https://law.scu.edu/kgac/c/>) the funds represented by any such uncashed checks.

3. Class Representative Incentive Award/General Release Payment.

- a) Plaintiff will apply for a Class Representative Incentive Award/General Release Payment of up to \$7,500 for his time, effort, and risk in bringing and prosecuting this Action. The Class Representative Incentive Award/General Release Payment shall be in addition to Plaintiff's Individual Settlement Payment and Individual PAGA Payment.
- b) The Settlement Administrator shall pay two-thirds of the Class Representative Incentive Award/General Release Payment to

Plaintiff from the Maximum Settlement Amount no later than 28 calendar days after the Effective Date. The Settlement Administrator shall pay one-third of the Class Representative Incentive Award/General Release Payment to Plaintiff from the Maximum Settlement Amount no later than 28 calendar days after Defendant makes the second settlement payment. Any portion of the requested Class Representative Incentive Award/General Release Payment that is not awarded to the Class Representative shall become part of the Net Settlement Amount.

c) The Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for each of his Class Representative Incentive Award/General Release Payments. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on the Class Representative Incentive Award/General Release Payments and shall hold Defendant and the Released Parties harmless from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Incentive Award/General Release Payment.

d) If the Court reduces or does not approve the requested Class Representative Incentive Award/General Release Payment, Plaintiff shall not have the right to revoke this Settlement Agreement, and it will remain binding, nor will Plaintiff seek, request, or demand an increase in the Maximum Settlement Amount on that basis.

4. Class Counsel Award.

a) In consideration for settling the Action and in exchange for the release of the Released Parties for all Released Claims, Class Counsel intends to apply for an award of attorneys' fees not to exceed one-third of the Maximum Settlement Amount (i.e.,

\$170,000 of the \$510,000), plus actual costs and litigation expenses estimated not to exceed \$12,000.

- b) Class Counsel, Plaintiff, Settlement Class Members, and the Aggrieved Employees will not apply to the Court for any payment of attorneys' fees and costs that are in addition to the foregoing. The Parties agree that, over and above the Court-approved Class Counsel Award, each of the Parties, including each Settlement Class Member and Aggrieved Employee, shall bear his, her or its own fees and costs, including, but not limited to, those related to the investigation, filing, prosecution, or settlement of the Action; the negotiation, execution, or implementation of this Agreement; and/or the process of obtaining, administering, or challenging a Preliminary Approval Order and/or Final Approval Order.
- c) Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement.
- d) The Settlement Administrator shall pay two-thirds of the Class Counsel Award to Class Counsel from the Maximum Settlement Amount no later than 28 calendar days after the Effective Date. The Settlement Administrator shall pay one-third of the Class Counsel Award to Class Counsel from the Maximum Settlement Amount no later than 28 calendar days after Defendant makes the second settlement payment.
- e) Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this Paragraph III.L.4. The Settlement Administrator shall issue an IRS Form

1099-MISC to Class Counsel for each payment made pursuant to this Paragraph.

f) In the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right to modify or revoke the Settlement, and the Settlement will remain binding, nor will Plaintiff or Class Counsel seek, request, or demand an increase in the Maximum Settlement Amount on that basis.

5. PAGA Payment. \$20,000 shall be allocated from the Maximum Settlement Amount for settlement and release of claims for civil penalties under PAGA, i.e., the “PAGA Payment.” The Settlement Administrator shall, in two separate payments, pay 75% of that \$20,000 payment, i.e., \$15,000, to the LWDA (the “LWDA Payment”) and the remaining 25% of that \$20,000 payment, i.e., \$5,000, to the Aggrieved Employees according to the formula described in Paragraph III.L.2.(b). The first payment, representing two-thirds of each amount, shall be made no later than 28 calendar days after the Effective Date. The second payment, representing one-third of each amount, shall be made no later than 28 calendar days after Defendant makes the second settlement payment. Class Counsel will take all action required by California Labor Code § 2699(l).

6. Settlement Administration Costs. The Settlement Administrator shall be paid from the Maximum Settlement Amount for the costs of administration of the Settlement. The Settlement Administrator has agreed to a fee not to exceed \$12,000. The Settlement Administrator shall be paid \$8,000 for the settlement administration costs no later than 28 calendar days after Defendant provides funds to the Settlement Administrator for disbursement under this Agreement. The Settlement Administrator shall be paid the

remaining \$4,000 for the settlement administration costs no later than 28 calendar days after Defendant makes the second settlement payment.

M. Mutual Full Cooperation. The Parties agree to cooperate fully with each other to accomplish the terms of this Settlement Agreement, including but not limited to executing the necessary documents and taking such other action as reasonably may be necessary to implement the terms of this Settlement Agreement. As soon as practicable after executing this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and Defense Counsel, take all necessary steps to secure the Court's Preliminary and Final Approval of this Settlement Agreement. The Parties also agree to cooperate in the settlement administration process. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. Class Counsel also will notify Defense Counsel if subpoenaed or upon receipt of any other request for documents or information regarding any other action filed or potential action against the Released Parties that covers or includes any Settlement Class Members and the Released Claims or any Aggrieved Employees and the PAGA Released Claims.

N. Preliminary Approval Hearing. Plaintiff will request preliminary approval of the settlement, entry of a Preliminary Approval Order for preliminary approval of the proposed Agreement, and the setting of a date for a final-approval hearing. The Preliminary Approval Order shall provide for the Notice of Class and PAGA Action Settlement to be sent to all Class Members as specified in this Stipulation. In conjunction with the preliminary approval hearing, Plaintiff shall submit this Agreement, which sets forth the terms of this settlement, and will include the proposed Notice of Class Action Settlement.

O. Motion for Approval of the Class Representative Incentive Award/General Release Payment, the Class Counsel Award, and the Settlement Administration Costs. No

later than 16 court days before the final approval hearing, Plaintiff shall file with the Court a motion for approval of the Class Representative Incentive Award/General Release Payment, the Class Counsel Award, and the Settlement Administration Costs. Plaintiff shall provide a courtesy draft of those motion papers to Defense Counsel at least five court days before filing the documents.

P. Final Approval Motion. No later than 16 court days before the final approval hearing, Plaintiff shall file with the Court a Motion for Final Approval, which motion shall request final approval of the settlement. Plaintiff shall provide a courtesy draft of those motion papers to Defense Counsel at least five court days before filing the documents.

1. Declaration by Settlement Administrator. The Settlement Administrator shall submit a declaration in support of Plaintiff's Motion for Final Approval of this Settlement. That declaration shall detail the number of Notices of Class and PAGA Action Settlement mailed and re-mailed to Class Members, the number of undeliverable Notices of Class Action Settlement, the number of timely Requests for Exclusion, the number of Notices of Objection received, the amount of the average Individual Settlement Payment, the average Individual PAGA Payment, the settlement administration costs, and any other information that the Parties mutually agree to include or that the Court orders the Settlement Administrator to provide.

2. Final Approval Order. The Parties shall present a proposed Final Approval Order to the Court, consistent with the terms and conditions of this Agreement, for the Court's approval and judgment thereon.

Q. Option to Revoke Settlement. Defendant has the unilateral right to revoke this Agreement if, after the Response Deadline, the number of Class Members who have submitted timely and valid written Requests for Exclusion equals at least 5% of all Class Members. If Defendant exercises the option to terminate this Agreement, (a)

Defendant shall provide written notice to Class Counsel within 15 calendar days after the Response Deadline, at which time this Agreement shall be void *ab initio*, (b) Defendant shall pay all settlement administration costs incurred up through that date and/or as a result of the termination, and (3) the Parties shall proceed in all respects as if this Agreement had not been executed.

R. Interim Stay of Proceedings. Pending the final approval hearing to be conducted by the Court, the Parties agree to stay all proceedings in the Action except such proceedings as are necessary or desirable to implement and complete the Settlement.

S. Nullification of Settlement Agreement. In the event that (i) the Court denies preliminary approval with prejudice, (ii) the Court denies final approval with prejudice, (iii) the Court does not enter a final judgment as provided in this Stipulation, or (iv) the settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this settlement shall be treated as void from the beginning. In such a case, the Parties shall be returned to their respective statuses as of the date and time immediately before the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed, except that any costs already incurred by the Settlement Administrator shall be paid by equal apportionment among the Parties, except as otherwise specified in Paragraph III.Q. If an appeal is filed from the Court's final judgment, or any other appellate review is sought, administration of the settlement shall be stayed pending final resolution of the appeal or other appellate review. In that event, within 30 calendar days of that notification, the Parties shall pay any costs by equal apportionment that were incurred by the Settlement Administrator before it was notified of the filing of an appeal from the Court's final judgment or of any other appellate review.

T. No Effect on Employee Benefits. Amounts paid to Plaintiff, Settlement Class Members, and Aggrieved Employees under this Agreement shall be deemed not to

be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the Plaintiff, the Settlement Class Members, and Aggrieved Employees.

U. Headings. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

V. Amendment or Modification. This Agreement may be amended or modified only by a written instrument that (1) is signed by counsel for all Parties or their successors-in-interest, (2) is signed by the Parties or their successors-in-interest, and (3) if the Court's approval is required, is as approved by the Court.

W. Entire Agreement. This Agreement and any attached Exhibits constitute the entire Agreement among these Parties. Apart from the representations, warranties and covenants contained and memorialized in this Agreement and its Exhibits, no oral or written representations, warranties or inducements have been made to any Party concerning this Agreement or its Exhibits.

X. 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 Agreement and to take all appropriate actions required or permitted to be taken by those Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The person signing this Agreement on behalf of Defendant represents and warrants that he or she is authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not assigned or transferred to any third-party or encumbered any claim, or part of a claim, demand, cause of action or any rights herein released and discharged or covered by this Agreement.

- 1 Y. Binding on Successors and Assigns. The provisions of this Settlement Agreement
2 shall run in perpetuity. This Agreement shall be binding upon and inure to the
3 benefit of the successors or assigns of the Parties to this Agreement, including the
4 Settlement Class Members and the LWDA.
- 5 Z. California Law Governs. All terms of this Agreement and its Exhibits and any
6 disputes arising under this Agreement shall be governed by and interpreted in
7 accordance with the laws of the State of California.
- 8 AA. Counterparts. This Agreement may be executed in one or more counterparts. All
9 executed counterparts and each of them shall be deemed to be one and the same
10 instrument, provided that counsel for the Parties to this Agreement shall exchange
11 among themselves copies or originals of the signed counterparts.
- 12 BB. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
13 Settlement to be a fair, adequate and reasonable settlement of this Action and have
14 arrived at this Agreement after extensive arm's-length negotiations, taking into
15 account all relevant factors, present and potential. The Parties further agree that
16 this Settlement Agreement shall not be construed in favor of or against any Party
17 by reason of the extent to which any Party or his, her or its counsel participated in
18 the drafting of this Settlement Agreement.
- 19 CC. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
20 with respect to the interpretation, implementation and enforcement of the terms of
21 this Agreement and all orders and judgments entered in connection therewith. The
22 Parties to this Agreement and their counsel submit to the jurisdiction of the Court
23 for purposes of interpreting, implementing and enforcing the settlement embodied
24 in this Agreement and all orders and judgments entered in connection with this
25 Agreement.
- 26 DD. Invalidity of Any Provision. Before declaring any provision of this Agreement to
27 be invalid, the Court first shall attempt to construe those provisions as valid to the
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fullest extent possible consistent with applicable precedents so as to hold all provisions of this Agreement valid and enforceable.

EE. Waiver of Certain Appeals. Provided that the Court does not materially modify the terms of this Agreement, the Parties (1) agree to waive all appeals from any orders of the Court before final approval of the settlement and (2) further agree to waive all appeals from the Court's final approval of the settlement.

FF. Confidentiality of Documents. After the expiration of any appeals period, Plaintiff, the Settlement Administrator, and Class Counsel shall maintain the confidentiality of all settlement-related documents and other information obtained from the other Party in the Action, unless necessary for appeal or such documents are ordered to be disclosed by the Court or by a subpoena.

GG. No Admissions by the Parties. Plaintiff has asserted and continues to assert that the Released Claims have merit and give rise to liability on Defendant's part. Defendant asserts that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement, no documents referred to in this Agreement and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendant or Plaintiff or Class Counsel as to the merits or lack of merit of the claims asserted.

By signing below, the Parties indicate their approval of the form of this Settlement Agreement and its exhibits.

IN WITNESS WHEREOF, this Joint Stipulation of Class and PAGA Action Settlement is executed by the Parties and their duly authorized attorneys as of the day and year set forth below.

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KELLER GROVER LLP
1965 Market Street, San Francisco, CA 94103
Tel. 415.543.1305 | Fax. 415.543.7861

1
2 **IT IS SO AGREED:**

3
4 DATED: 2/15/2022

CREATIVE SECURITY COMPANY, INC.

5
6
7 By: Charles H. Wall
CHUCK WALL

8
9
10 DATED: _____

MICHAEL HARRINGTON

11
12 By: _____

13
14 **APPROVED AS TO FORM:**

15
16 DATED: 2-15-2022

KELLER GROVER LLP

17
18
19 By: EAGOR
ERIC A. GROVER
ROBERT W. SPENCER

20
21 Attorneys for Plaintiff
MICHAEL HARRINGTON

22
23 DATED: 2-15-22

LAYTON LAW FIRM

24
25
26 By: Rona P. Layton
RONA P. LAYTON

27
28 Attorneys for Defendant
CREATIVE SECURITY COMPANY, INC.

IT IS SO AGREED:

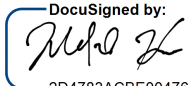
DATED: _____

CREATIVE SECURITY COMPANY, INC.

By: _____
CHUCK WALL

DATED: 2/10/2022

MICHAEL HARRINGTON

By:  _____
2D4783ACBE00476

APPROVED AS TO FORM:

DATED: _____

KELLER GROVER LLP

By: _____
ERIC A. GROVER
ROBERT W. SPENCER

Attorneys for Plaintiff
MICHAEL HARRINGTON

DATED: _____

LAYTON LAW FIRM

By: _____
RONA P. LAYTON

Attorneys for Defendant
CREATIVE SECURITY COMPANY, INC.

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA
Harrington v. Creative Security Company, Inc.
Case No. RG21095377

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don't act.*

This class action settlement will affect your rights if you worked as an hourly security guard or mobile patrol employee for Creative Security Company, Inc. in California at any time during the period from and including April 9, 2017 through January 6, 2022.
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- Former employee Michael Harrington ("Class Representative" or "Plaintiff") sued Creative Security Company, Inc. ("CSC" or "Defendant") on behalf of himself and certain current and former CSC security guards and mobile patrol employees in California and has alleged that Defendant violated the California Labor Code and the California Unfair Competition Law.
- The complaint also alleges that Plaintiff is entitled to recover civil penalties for himself and other aggrieved employees under the California Private Attorneys General Act of 2004 ("PAGA").
- Plaintiff and Defendant have entered a settlement agreement ("Settlement") that settles the claims of the Class Representative, the Class claims, and the PAGA claims. The Court has preliminarily approved the Settlement.
- If you worked for CSC as an hourly security guard or mobile patrol employee at any time during the period from and including April 9, 2017 through January 6, 2022, you may be considered a putative class member ("Class Member"). Because you qualify as a Class Member, you could receive money from the Settlement.
- If you worked for CSC as an hourly security guard or mobile patrol employee at any time during the period from and including March 12, 2020 through January 6, 2022, you may be considered an "Aggrieved Employee" under PAGA. If you qualify as an Aggrieved Employee, you will receive money from the Settlement of the PAGA claim. (In this Settlement, all Aggrieved Employees are also Class Members.)
- Your legal rights are affected whether you act or don't act. Read this Notice carefully.

WHAT ARE YOUR OPTIONS?

DO NOTHING	If you do nothing, you will receive a Settlement payment. In exchange for this payment, you will give up any rights to sue for the same class claims that were part of this Settlement.
EXCLUDE YOURSELF	Give up all benefits, including money, from the Class Settlement. Retain all rights you may have against CSC, as explained below.
OBJECT	Write to the Court about why you don't agree with the Class Settlement. The Court may or may not agree with your objection. If the Court approves the Class Settlement, you will receive a Class Settlement payment.

HOW MUCH CAN I GET FROM THE CLASS ACTION SETTLEMENT?	Based on CSC's records, your Individual Settlement Payment is estimated to be \$ _____. This is based on your total Qualified Weeks during the Class Period: _____.
HOW MUCH CAN I GET FROM THE PAGA SETTLEMENT?	Based on CSC's records, your Individual PAGA Payment is estimated to be \$ _____. This is based on your total Qualified Pay Periods during the PAGA Period: _____.

- Your rights and options – and the deadlines to exercise them – are explained in this Notice.
- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. If the Court approves the Settlement and after any appeals are resolved, payments will be made to (a) Settlement Class Members who do not opt out of the Class Settlement; and (b) all Aggrieved Employees.

WHY AM I RECEIVING THIS NOTICE?

CSC's records show that you worked for CSC as an hourly security guard or mobile patrol employee in California during the period from and including April 9, 2017 through January 6, 2022. You received this Notice because you have a right to know about a proposed settlement of a class action lawsuit and about your options before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the payments that the Settlement allows.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

WHAT IS THIS LAWSUIT ABOUT?

Plaintiff Michael Harrington filed a putative class action lawsuit on April 9, 2021, on behalf of himself and other hourly security guards and mobile patrol employees who worked for Defendant in California during the Class Period, April 9, 2017 through January 6, 2022, inclusive. The operative First Amended Complaint alleges causes of action against Defendant on a class basis for: (1) unfair business practices; (2) failure to provide meal periods; (3) failure to provide rest breaks; (3) failure to pay all wages due; (4) failure to provide accurate wage statements; and (6) waiting time penalties. The complaint also alleges claims under the California Private Attorneys General Act of 2004 ("PAGA").

DO I HAVE AN ATTORNEY?

You do not need to hire your own attorney. You are already represented by Class Counsel (see below for their contact information). However, you may hire your own attorney at your own expense if you choose.

WHAT IS THE CASE STATUS?

CSC denies all of Plaintiff's allegations, or that it violated any law, and contends that at all times it complied with federal, state, and local laws. The settlement is not an admission by CSC of any wrongdoing or an indication that any law was violated.

Questions? Call <<CLAIM ADMIN PH NO>>

The Court did not decide in favor of Plaintiff or Defendant. Nor has it decided whether this case could proceed as a class action.

Instead of going through class certification or to trial, after a thorough investigation into the facts of this lawsuit, both sides agreed to a settlement. The class claims were settled because Class Counsel and the Class Representative believe that the terms of the Settlement, which include monetary benefits, are fair and reasonable in light of the strength and weaknesses of the claims and other factors.

WHO IS IN THE CLASS?

You are part of the Settlement if you are a member of the Class, which includes all individuals who worked for CSC as hourly security guards or mobile patrol employees in California during the period from and including April 9, 2017 through January 6, 2022.

WHAT ARE THE TERMS OF THE SETTLEMENT?

In exchange for the release of claims against it and final judgment on the lawsuit, Defendant will pay \$510,000 plus the employer's share of payroll taxes ("Maximum Settlement Amount"), which includes all payments contemplated by the Settlement, including all payments to Class Members, a service award to Plaintiff, Class Counsel's attorneys' fees and costs, employee-side taxes, a payment to the California Labor and Workforce Development Agency ("LWDA") as part of the settlement of the PAGA claim, all payments to Aggrieved Employees, and settlement administration costs. The "Net Settlement Amount" is the amount remaining after deduction of Class Counsel's attorneys' fees and costs, the service awards to Plaintiffs, the PAGA Payment, and the settlement administration costs, all of which will be distributed to Class Members who do not opt out.

Subject to Court approval, the Maximum Settlement Amount will be allocated at follows:

- **Individual Settlement Payments:** Class Members who do not opt out are eligible to receive money from the Net Settlement Amount as an Individual Settlement Payment, which is calculated as described below. The Net Settlement Amount is estimated to be approximately \$300,500. Your estimated gross Individual Settlement Payment from the Net Settlement Amount is listed on the first page of this Notice.
- **Class Representative Service Award:** Plaintiff will request from the Court an award of \$7,500 in recognition of his efforts and risks in assisting with the prosecution of the Action and in return for executing a General Release of claims against Defendant. This amount will be paid from the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.
- **Class Counsel Award:** Class Counsel will request that the Court approve up to 33-1/3% of the Maximum Settlement Amount (\$170,000 of the \$510,000 settlement) as attorneys' fees for litigation and resolution of this Action and actual costs and expenses (estimated not to exceed \$12,000), as supported by declaration. This amount will be paid from the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.

- Settlement Administration: The cost of settlement administration shall not exceed \$12,000, which pays for tasks such as mailing and tracking this Notice, tracking Requests for Exclusion and Notices of Objection, mailing checks and tax forms, and reporting to the parties and the Court.
- All checks issued to Class Members shall remain valid and negotiable for 90 calendar days after the date of their issuance. Any undeliverable or uncashed checks will then be voided and sent to the Katherine and George Alexander Community Law Center.
- The \$20,000 PAGA Payment is required by law to be split 75% to the LWDA and 25% to the Aggrieved Employees. Therefore, \$15,000 will be distributed to the LWDA and \$5,000 will be distributed to Aggrieved Employees. If you qualify as an Aggrieved Employee, your estimated Individual PAGA Payment is listed on the first page of this Notice.

WHAT CAN I RECEIVE FROM THE SETTLEMENT?

If you do not opt out of the Settlement, you will automatically receive your share of the Net Settlement Fund after the Court approves the Settlement. Your estimated share, that is your estimated gross Individual Settlement Payment, and your total Qualified Weeks from CSC's records used to calculate it, are listed on the first page of this Notice. One-third of the Individual Settlement Payment will be designated as wages for which an IRS Form W-2 will issue, and two-thirds will be designated as penalties and interest, for which an IRS Form 1099 may issue.

HOW IS MY PORTION OF THE CLASS SETTLEMENT CALCULATED?

Your Individual Settlement Payment is your pro rata share of the Net Settlement Amount based on your total Qualified Weeks, which is the total number of weeks that you worked as an hourly security guard or mobile patrol employee in California (based on CSC's records) during the Class Period (April 9, 2017 through January 6, 2022, inclusive). Your Qualified Weeks will be divided by the total number of Qualified Weeks for all Settlement Class Members, resulting in your Payment Ratio. The Payment Ratio then will be multiplied by the Net Settlement Amount to determine your gross Individual Settlement Payment, except that no gross Individual Settlement Payment will be less than \$25.

Depending on job assignments, Class Members worked either 5-day/40-hour weeks or 4-day/40-hour weeks. For calculation purposes, one 5-day/40-hour week shall be the equivalent of one "Qualified Week" and one 4-day/40-hour week shall be the equivalent of 1.5 "Qualified Weeks." By way of example, 10 5-day/40-hour weeks would be counted as 10 Qualified Weeks and 10 4-day/40-hour work weeks would be counted as 15 Qualified Weeks.

Your Individual Settlement Payment may vary from the estimated payment listed on this form if any Class Members opt out of the Settlement and depending upon the amounts that the Court approves for awards to Class Counsel, the Class Representative, and the Settlement Administrator.

ONLY if you disagree with the Qualified Weeks stated on page one of this Notice, mail a letter to the Settlement Administrator explaining why you disagree. Be as specific as possible and include copies of any supporting documents, such as paystubs. The decision of the Settlement Administrator will be final. Disputes must be mailed to the address below and must be postmarked no later than **[insert same date as objection and opt-out deadline]**:

Questions? Call **<<CLAIM ADMIN PH NO>>**

Settlement Administrator

<<Address>>

Phone: (*) ***-******

WHAT WILL I RECEIVE FROM THE PAGA SETTLEMENT?

Class Members who qualify as Aggrieved Employees also will receive an Individual PAGA Payment. Your Individual PAGA Payment will be based on your pro rata share of the 25% of the PAGA Payment (\$5,000) based on your number of Qualified Pay Periods during the PAGA Period, which is March 12, 2020 through January 6, 2022, inclusive. Your total Qualified Pay Periods will be divided by the total Qualified Pay Periods for all Aggrieved Employees, resulting in your Payment Ratio. The Payment Ratio will then be multiplied by \$5,000 to determine your Individual PAGA Payment.

WHAT HAPPENS IF I DO NOTHING?

If you do nothing and the Court approves the Settlement at the Final Approval Hearing, you will be issued your Individual Settlement Payment and your Individual PAGA Payment (if you qualify as an Aggrieved Employee,) without any further action needed from you.

Please Note: The Individual Settlement Payments and Individual PAGA Payments will be paid two payments. The first payment, representing two-thirds of the amount of each Individual Settlement Payment and Individual PAGA Payment, will be mailed no later than 28 calendar days after the settlement Effective Date. The second payment, representing the remaining one-third of the amount of each Individual Settlement Payment and Individual PAGA Payment, will be mailed no later than 28 calendar days after the date of the second settlement payment by Defendant, which will happen approximately one year from the settlement Effective Date.

To ensure receipt of your settlement payments, you must notify the Settlement Administrator of any change in your name, mailing address and/or telephone number. **It is your responsibility to keep the Settlement Administrator informed of your updated information, and your settlement payments will be mailed to the last known address that the Settlement Administrator has on file for you.**

WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will hold the Final Approval Hearing on <<date>> in Department 23 of the California Superior Court for the County of Alameda, 1221 Oak Street, Oakland, California 94612, to decide whether to approve the Settlement. If the Court approves the Settlement, your first settlement payment will be mailed to you within approximately 28 days from the Effective Date of the Settlement.

Please be advised that the date of the final approval hearing may change without further notice to the class and/or the hearing may be conducted virtually. Class Members are therefore advised to check the Court's website (see instructions at end of this Notice) or contact Class Counsel or the Settlement Administrator to confirm that the date and location has not been changed.

WHAT CLAIMS AM I GIVING UP IF I REMAIN PART OF THE SETTLEMENT?

Questions? Call <<CLAIM ADMIN PH NO>>

Unless you exclude yourself, you will remain a Settlement Class Member, and you will be bound by the terms of the Settlement, including the Release of the Released Claims as described below. That means you will be unable to sue, or to continue to sue, or be part of any other lawsuit about the Released Claims. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released Claims

The "Released Claims" means and includes all claims against the Released Parties arising between April 9, 2017 and January 6, 2022, inclusive, under state, federal, or local law, whether statutory or common law, arising out of the claims expressly pleaded in the operative First Amended Complaint on file in the action (i.e., Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 511, 512, 1194, 1198, and 1199, and Business & Professions Code §§ 17200, *et seq.* claims based on alleged violations of these Labor Code provisions) and all other potential claims reasonably related to or arising out of the same set of facts plead in the First Amended Complaint, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law. The Release Period for the Released Claims is the same as the Class Period, i.e., from April 9, 2017 through January 6, 2022, inclusive.

The Release will extend to Defendant Creative Security Company, Inc. and all of Defendant's parent companies, subsidiaries, divisions, concepts, related or affiliated companies, and its or their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Claims (i.e., the Released Parties").

WHAT CLAIMS ARE RELEASED BY THE SETTLEMENT OF PAGA CLAIMS?

If this Settlement is approved, then Plaintiff Harrington, individually and as representative acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency, agrees to release the Released Parties of and from any and all allegations and claims for PAGA civil penalties based on any and all underlying Labor Code violations alleged in the operative First Amended Complaint or in Plaintiff's letter to the LWDA dated March 12, 2021.

WHAT SHOULD I DO IF I DO NOT WANT TO BE PART OF THE SETTLEMENT?

If you do not wish to participate in the Class Settlement, you may exclude yourself (generally called "opting out") by submitting a written Request for Exclusion to the Settlement Administrator. Your request to opt-out must (a) be in writing; (b) state your name, address, and the last four digits of your social security number or Employee ID number; and (c) include a typed or handwritten statement requesting exclusion from the Settlement Class and stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *Harrington v. Creative Security Company, Inc.*"

You must personally sign the Request for Exclusion and may not have someone sign for you, nor may you submit a Request for Exclusion on behalf of a group or anyone else. Your Request for Exclusion must be signed and mailed via United States first class mail postmarked no later than <<Date>> [45 calendar days after initial mailing] to:

Settlement Administrator

<<Address>>

Phone: (*) ***-******

Questions? Call <<CLAIM ADMIN PH NO>>

If you submit a timely Request for Exclusion, then upon its receipt you shall not be a member of the Settlement Class, you shall be barred from participating in any portion of the Settlement, you may not object to the Settlement.

If you submit a timely Request for Exclusion, you may then pursue, at your own expense, any claims you may have against CSC. If you do not submit a complete and timely written Request for Exclusion, you will be included in the Settlement Class, and be bound by the terms of the Settlement (including the Released Claims described above), whether or not you objected to the Settlement.

NOTE: Aggrieved Employees in a PAGA action may not opt-out of a PAGA settlement. Thus, in a settlement involving both class and PAGA claims, employees may only opt-out from participating in the class portion of the settlement. If you submit a timely Request for Exclusion and are an Aggrieved Employee, you will still receive an Individual PAGA Payment representing your portion of the PAGA Payment.

WHAT SHOULD I DO IF I WANT TO OBJECT TO THE SETTLEMENT?

Any Settlement Class Member who has not asked to be excluded from this Settlement may object to the Settlement. Keep in mind that objecting is not the same as requesting to be excluded. Submitting an objection will **not** exclude you from the Settlement Class. **If your objection is overruled, you will still be bound by the Settlement.**

If you wish to object to the Settlement, you may submit your written Notice of Objection to the Settlement Administrator stating the basis or reason(s) for your objection to the Settlement. You may object to any of the terms in the Settlement Agreement, including but not limited to the proposed Class Counsel Award, the Class Representative Service Award, or the Settlement Administrator's payment. A written Notice of Objection must be signed by you and include: (1) the name and case number of this Action, (2) your full name and most current address, (3) the last four digits of the Settlement Class Member's Social Security number or Employee ID; (4) the basis for the objection; and (5) a statement of whether you intend to appear at the Final Approval Hearing. The failure to submit a written objection does not waive a Settlement Class Member's right to appear and orally object at the final approval hearing.

The written Notice of Objection must be mailed via United States first class mail postmarked no later than **<<Date>>** [45 calendar days after initial mailing] to:

Settlement Administrator

<<Address>>

Phone: (*) ***-******

If you have submitted a written objection, you may also appear at the Final Approval Hearing set for _____, 2022 in Department 23 of the California Superior Court for the County of Alameda, 1221 Oak Street, Oakland, California 94612, and discuss your objections with the Court and the Parties. The Final Approval Hearing may be held virtually or continued to another date without further notice.

You have the right to retain your own attorney, at your own expense, to submit a Notice of Objection or appear on your behalf at the Final Approval Hearing.

Questions? Call **<<CLAIM ADMIN PH NO>>**

If the Court approves the Settlement despite any objections, and you have not opted out of the Settlement, you will receive your Individual Settlement Payment and will be bound by the terms of the Settlement (including the Released Claims described above).

You cannot both object and opt-out. If you submit both a Request for Exclusion and a Notice of Objection, the Notice of Objection will be invalid, while the Request for Exclusion will be valid.

HOW DO I GET ADDITIONAL INFORMATION?

This Notice only summarizes the proposed Settlement and its terms. For more information, contact Class Counsel at the below address or phone number, by accessing the Court docket by visiting the office of the Clerk of the California Superior Court for the County of Alameda, 1221 Oak Street, Oakland, California 94612. You may also review documents online by accessing the Alameda County Superior Court's eCourt Public Portal website, at <https://eportal.alameda.courts.ca.gov/> and click on the "Searches" hyperlink. Then select "Case Number Search" and enter the case number "RG21095377." (Note: You will need to create a free user account.) Your browser will be directed to information regarding this case. You may view the Court's docket from here, including but not limited to documents filed with the Court (*see the "Register of Actions" tab*), ruling and orders, and other information.

If you have further questions regarding this case or Settlement, you may contact Class Counsel, whose contact information is provided below:

Eric A. Grover
egrover@kellergrover.com
Robert W. Spencer
rspencer@kellergrover.com
KELLER GROVER LLP
1965 Market Street
San Francisco, California 94103
Telephone: (415) 543-1305
Facsimile: (415) 543-7861

In addition to contacting Class Counsel, you may contact the Settlement Administrator at (800) ____.

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

Questions? Call <<CLAIM ADMIN PH NO>>

EXHIBIT 2

Harrington v. Creative Security Company, Inc.
Settlement Administrator

[insert address]

[Insert Recipient's Address]

**THIS IS A LEGAL NOTICE REGARDING DEADLINES AFFECTING YOUR RIGHTS TO
MONEY FROM A CLASS ACTION SETTLEMENT. IT IS NOT AN ADVERTISEMENT OR A SOLICITATION.**

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