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Attorneys for Plaintiffs CHRISTOPHER ORNELAS, on behalf of himself and all others similarly situated, and CHRISTOPHER NIETO, on behalf of himself and all others aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHRISTOPHER ORNELAS, on behalf of
himself and all others similarly situated and
CHRISTOPHER NIETO, on behalf of
himself and all others aggrieved,

Plaintiffs,

vs.

TEKSYSTEMS, INC., a Maryland
Corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 19STCV39944

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Carolyn B. Kuhl
Department 12

CLASS AND REPRESENTATIVE ACTION

**DECLARATION OF MICHAEL D. SINGER
IN SUPPORT OF MOTION FOR ORDER
GRANTING PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION,
APPROVAL OF CLASS NOTICE, AND
SETTING FINAL FAIRNESS HEARING
DATE**

Date: March 27, 2024

Time: 10:00 a.m.

Dept: SS12

Judge: Carolyn B. Kuhl

Complaint filed: November 6, 2019

Trial date: Not set

1 I, Michael D. Singer, declare as follows:

2 1. I am the Managing Partner with the law firm of Cohelan Khoury & Singer
3 (“CKS”), counsel of record for Plaintiffs Christopher Ornelas and Christopher Nieto
4 (“Plaintiffs”). I am a member in good standing of the State Bar of California. I submit this
5 Declaration in support of Plaintiffs’ Motion for Order Granting Preliminary Approval of Class
6 and PAGA Action Settlement, Conditional Certification, Approval of Class Notice, and Setting
7 Final Fairness Hearing Date. This Declaration is based on my personal knowledge and if called
8 to testify I could and would competently testify to the matters contained in this Declaration.

9 2. I am a 1984 Hastings graduate, admitted to the California State Bar in 1984 and
10 the Colorado State Bar in 2001. I have been admitted to practice before the following courts:
11 U.S. Supreme Court; Second, Third, and Ninth Circuit Court of Appeals; Southern, Central,
12 Northern, and Eastern Districts of California; and all California State Courts.

13 3. In 1981, Timothy D. Cohelan and Isam C. Khoury formed Cohelan & Khoury, a
14 Partnership of Professional Law Corporations, and within a few years began to focus on class
15 actions. I joined Cohelan & Khoury in 2000 and was named partner in 2003. In 2009, Cohelan
16 & Khoury became Cohelan Khoury & Singer (“CKS”). Our firm represents plaintiffs in
17 complex, class and representative action litigation, including wage and hour, labor and
18 employment, antitrust, consumer protection, construction defect and other public interest type
19 class and representative actions.

20 4. I was admitted as a fellow to the College of Labor and Employment Attorneys in
21 2020, and was named to the Daily Journal 2012, 2013, and 2018 list of Top California Labor
22 and Employment Attorneys. I, along with Isam Khoury, a founding Partner of the firm, and
23 Partner Diana M. Khoury, have also been selected by our peers based on ethics, experience and
24 reputation as Super Lawyers in Civil Litigation by the Southern California Super Lawyers
25 Magazine for the years 2012 through the present.

26 5. CKS has been certified by the State Bar of California to provide the Mandatory
27 Continuing Legal Education activity entitled “Litigating California Class Actions” and has
28 conducted MCLE certified seminars on this topic. Senior Partner, Timothy D. Cohelan, is the

1 author of Cohelan on California Class Actions (1997-2023, updated annually), part of Thomson
2 Reuters Expert Series updated annually. I am a contributing author on the CEB publication
3 California Wage and Hour Law: Compliance and Litigation (2010-2023, updated annually), in
4 which I wrote the opening chapter overview on California Wage and Hour laws and the Private
5 Attorneys General Act (PAGA) Claim chapter. I am also a contributing author to the CEB
6 Practitioner (2020), including guidelines for oral argument and forms for PAGA litigation. I
7 have served as a columnist for the California State Bar, Litigation Section on wage and hour
8 litigation and have contributed articles on wage and hour and class action issues through the
9 years to numerous California publications.

10 6. Prior to COVID, I typically lectured several times per year for continuing
11 education courses on wage and hour and class action issues at events in San Diego, Orange
12 County, Los Angeles, and San Francisco. For over twelve years, I served as wage and hour
13 amicus co-chair and liaison for the California Employment Lawyers Association, drafting,
14 reviewing, and coordinating amicus filings on wage and hour issues in the California Supreme
15 Court and Courts of Appeal.

16 7. I have been engaged in the practice of labor and employment law since 2000,
17 handling well over 300 wage and hour class and PAGA actions and several individual labor
18 cases. I have litigated several types of employment actions, including complex ERISA
19 employee welfare benefit plan cases, as well as wage and hour class actions before Federal and
20 State Courts in California. In 2014, I tried a wage and hour class action involving claims for
21 illegally deducted wages and unreimbursed expenses in the matter of *Dilts v Penske Logistics*
22 *LLC, Inc.* and successfully appealed the trial court ruling in *Dilts* finding state laws preempted
23 by the FAAAA for truck drivers.

24 8. I have participated in over 50 appellate cases and argued writs and appeals
25 before several California District Courts of Appeal, successfully arguing the landmark *Vaquero*
26 appeal for plaintiffs in the Second District Court of Appeal, *Vaquero v. Stoneledge Furniture,*
27 *LLC* (2017) 9 Cal.App.5th 98 (requiring employers separately pay commission sales employees
28 for rest periods). As co-lead counsel in *Brinker Restaurant Corp. v. Superior Court* [formerly

1 reported at (2008) 165 Cal.App.4th 25], I argued before the Fourth District Court of Appeal in
2 May 2008 on transfer from the California Supreme Court, and co-authored the briefing in the
3 successful Supreme Court appeal. I've also argued federal appeals in the Second, Third, and
4 Ninth Circuit Courts of Appeals. In addition, I have drafted numerous appellate briefs as the
5 appellant, respondent, or amicus curiae in various employment class and individual actions. My
6 firm has successfully tried multiple class cases, obtained appellate reversals of class
7 certification denials (*Hicks v. Kaufman and Broad* (2001) 89 Cal.App.4th 908), and certified
8 multiple consumer and wage and hour class actions.

9 9. As a part of our overall firm philosophy lawyers perform community service and
10 pro bono work. Firm volunteer work includes service through the Legal Aid at Work, San
11 Diego Volunteer Lawyer Program, the San Diego County Bar Foundation, and Consumer
12 Attorneys of San Diego. I have served on the Legal Aid at Work Board of Directors since 2010.
13 Mr. Cohelan served as the Chair of the San Diego Volunteer Lawyers Program from 2015-
14 2018, and currently sits on the Board as past Chair. He completed 24 years of volunteer judicial
15 service as a Judge Pro Tem of the San Diego Superior Court. Partner Diana M. Khoury has
16 been a member of the San Diego County Bar Association, Consumer Attorneys of San Diego,
17 and Consumer Attorneys of California, serving and chairing various committees through the
18 years for these organizations. From 2010 through 2015, Ms. Khoury served on the Board of
19 Directors for Consumer Attorneys of San Diego. Since 2014, Ms. Khoury has actively served
20 on the Board of Directors for the San Diego County Bar Foundation, the 501(c)(3) charitable
21 arm of the San Diego County Bar Association providing access to justice to the underserved
22 and impoverished in the San Diego County region. Partner Jeff Geraci is a past recipient of the
23 Wiley W. Manuel Award for Pro Bon Service. Our firm's pro bono victories include a
24 settlement which prohibits the City of San Diego from targeting homeless people for illegal
25 lodging tickets under Penal Code Section 467(j). (*Spencer v. City of San Diego*, USDC Case
26 No 04CV-2314 BEN (WMC).) The *Spencer* settlement had the effect of increasing the number
27 of available shelter beds in San Diego.

28 10. CKS has been certified Class Counsel in the following contested proceedings:

1 *Aguilar v. Atlantic Richfield, et al.*, San Diego County Superior Court Case No. 00700810;
2 *Andino v. Kaiser Foundation Hospitals*, Alameda County Superior Court Case No.
3 RG11580548; *Arellano, et al. v. Container Connection of Southern California, Inc.*, Los
4 Angeles County Superior Court Case No. BC500675; *BANK OF AMERICA WAGE AND*
5 *HOOR EMPLOYMENT PRACTICES LITIGATION*, United States District Court, District of
6 Kansas MDL Case No. 2138 (FLSA Condition Certification); *Czuchaj v. Conair Corporation*,
7 United States District Court, Southern District of California Case No. 13CV1901; *Dilts, et al. v.*
8 *Penske Logistics, L.L.C., et al.*, United States District Court, Southern District of California
9 Case No. 08CV0318; *Englert, et al. v. AT&T Wireless Services, Inc., et al.*, Circuit Court of the
10 Second Circuit, State of Hawaii Case No. 02-1-0074; *Evans v. Washington Mutual Bank*,
11 Orange County Superior Court Case No. 02CC15415; *Filion v. Ethan Allen Retail Inc.*, United
12 States District Court, Southern District of California Case No. 05CV2340; *Gerard v. Les*
13 *Schwab Tire Centers of California, Inc.*, Sacramento County Superior Court Case No. 2007-
14 30000003; *Grana, et al. v. PICO Enterprises, Inc. dba Phyle Inventory Control Specialist and*
15 *PICS L.A.S.C.* Case No. BC472891; *Gutierrez v. Save Mart Supermarkets San Mateo Superior*
16 *Case No. CIV530955; Wilcox v Albertsons*, San Diego County Superior Court Case No.
17 GIC833922; *Gonzalez, et al. v. Freedom Communications, Inc. d/b/a The Orange County*
18 *Register*, Orange County Superior Court Case No. 03CC08756; *Graham, et al. v. Overland*
19 *Solutions, Inc.*, United States District Court, Southern District of California Case No.
20 10CV0672 (FLSA Conditional Certification); *Hicks v. Kaufman and Broad Home Corp.*, Los
21 Angeles County Superior Court Case No. B198414; *Hohnbaum, et al. v. Brinker Restaurant*
22 *Corporation, et al.*, San Diego County Superior Court Case No. GIC834348; *KEMP, et al. v.*
23 *CSEA, et al.*, Circuit Court of the First Circuit, State of Hawaii Case No. 98-3815-08; *LIBERTY*
24 *MUTUAL OVERTIME CASES*, Los Angeles County Superior Court Case No. JCCP 4234;
25 *Mitchell, et al. v. Acosta, Inc., dba Acosta Sales and Marketing Company*, United States
26 District Court, Central District of California Case No.11CV07196 (FLSA Conditional
27 Certification); *Santana v. Rady Children's Hospital-San Diego*, San Diego County Superior
28 Court Case No. 37-2014-00022411; *Schaffer v. Rady Children's Hospital-San Diego*, San

Diego County Superior Court Case No. 337-2015-00022978; *Schneider, et al. v. Catholic Healthcare West*, San Francisco County Superior Court Case No. CGC-10-506243; *Salucci v. Amada Senior Care, Inc.*, Orange County Superior Court Case No. 37-2015-00778081; *Smith v. California Pizza Kitchen*, San Diego County Superior Court Case No. 37-2008-00083992; STEROID HORMONE PRODUCT CASES, Los Angeles County Superior Court Case No. JCCP 4363; *Stevenson Aibangbee v. Victoria Apartments, et al.*, Los Angeles County Superior Court Case No. BC299498; *Swift v. Liebert Corp.*, Orange County Superior Court Case No. 00CC04588; *Sylvia, et al. v. Wells Fargo Home Mortgage, Inc.*, Orange County Superior Court Case No. 03CC05747; *Vaquero v. Ashley Furniture Industries, Inc., et al.*, United States District Court, Central District of California Case No. 12CV8590; *Vaquero v. Stoneledge Furniture LLC*, Los Angeles County Superior Court Case No. BC522676; *Vazquez v. Kraft Heinz Foods Company*, United States District Court, Southern District of California Case No. 16-CV-02749; *Watson v. Raytheon Company*, United States District Court, Southern District of California Case No. 10CV0634; and *Weigele v. FedEx Ground Package System, Inc.*, United States District Court, Southern District of California Case No. 06CV1330, among others, as well as being appointed Class Counsel in connection with well over 250 class action settlements.

11. As Class and PAGA Representative Counsel, CKS has actively commenced, prosecuted and concluded numerous state and federal class and representative actions. Since 2016, CKS has played a central role in the resolution of over 250 such cases, including the following, which have received court approval: (a) *Arellano, et al. v. Container Connection of Southern California, Inc.*, Los Angeles County Superior Court, Case No. BC500675, Hon. Anne I. Jones; (b) *Castro v. Home Depot U.S.A., Inc.*, Los Angeles County Superior Court, Case No. BC577885, Hon. Elihu M. Berle; (c) *Czuchaj v. Conair Corporation*, United States District Court, Southern District of California, Case No. 13-CV-1901 BEN, Hon. Roger T. Benitez; (d) *Gardiner v. TSYS*, United States District Court, Central District of California, Case No. 18-cv-00415, Hon. David O. Carter; (e) *Grana v. PICO Enterprises, Inc.*, Los Angeles County Superior Court, Case No. BC472891, Hon. Stephanie M. Bowick; (f) *Gutierrez v. Save*

1 *Mart Supermarkets*, San Mateo County Superior Court, Case No. CIV530955, Hon. Marie S.
2 Weiner; (g) *Hernandez v. Workforce Enterprises WFE, Inc.*, Los Angeles County Superior
3 Court, Case No. BC590913, Hon. Elihu M. Berle; (h) *Hicks v. Poway Academy of Hair Design,*
4 *Inc.*, San Diego County Superior Court, Case No. 2014-00026517, Hon. Ronald L. Styn; (i)
5 *Hubbard v. Caliber Home Loans, Inc.*, Orange County Superior Court, Case No. 2018-
6 01017838; (j) *Klein v. Loomis Armored US, LLC*, San Bernardino County Superior Court, Case
7 No. CIVDS1704547, Hon. David Cohn; (k) *Laureano v. The Art of Shaving*, Los Angeles
8 County Superior Court, Case No. BC550093, Hon. Amy D. Hogue; (l) *Lopez, et al. v.*
9 *Management & Training Corporation, et al.*, United States District Court, Southern District of
10 California, Case No. 17-CV-010624 JM, Hon. Jeffrey T. Miller; (m) *Magdaleno v. Shelly*
11 *Automotive, LLC*, Orange County Superior Court, Case No. 2013-0043958, Hon. Kim. G.
12 Dunning; (n) *McGrath, et al. v. Wyndham Resort Development Corporation, et al.*, United
13 States District Court, Southern District of California, Case No. 15-CV-1631 JM, Hon. Jeffrey
14 T. Miller; (o) *Mena v. Wolfgang Puck Catering*, Los Angeles County Superior Court, Case No.
15 BC582743, Hon. John Shepard Wiley, Jr.; (p) *Morales v. The Los Angeles Country Club*, Los
16 Angeles County Superior Court, Case No. BC566493, Hon. William F. Highberger; (q) *Nijmeh*
17 *v. Bon Appetit Management Company, Inc.*, Santa Clara County Superior Court, Case No.
18 16CV294127, Hon. Thomas E. Kuhnle; (r) *Plascencia v. Aramark Services, Inc.*, Santa Clara
19 County Superior Court, Case No. 2015-1-CV-288310, Hon. Brian C. Walsh; (s) *Plimpton v.*
20 *Gordon Trucking, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1511918,
21 Hon. Donald Alvarez; (t) *Raya v. Amazon*, United States District Court, Northern District of
22 California, Case No. 15-CV-02005 MMC, Hon. Maxine M. Chesney; (u) *Rivas v. ESA*
23 *Management*, United States District Court, Central District of California, Case No. 14-CV-
24 5767, Hon. Dale S. Fischer; (v) *Rodriguez v Healthcare Partner Medical Group, Inc.*, Los
25 Angeles County Superior Court, Case No. BC541313, Hon. Kenneth Freeman; (w) *Ryan v.*
26 *Dignity Health*, Sacramento County Superior Court, Case No. 2013-00147371, Honorable Alan
27 G. Perkins; (x) *Santana v. Rady Children's Hospital-San Diego*, San Diego County Superior
28 Court, Case No. 37-2014-00022411, Hon. Joel R. Wohlfeil; (y) *Schaffer v. Rady Children's*

1 *Hospital-San Diego*, San Diego County Superior Court, Case No. 337-2015-00022978, Hon.
2 Joel R. Wohlfeil; (z) *Schneider v. Catholic Healthcare West*, San Francisco County Superior
3 Court, Case No. CGC-10-506243, Hon. Angela Bradstreet; (aa) *Schwartz v Bank of the West*,
4 San Francisco County Superior Court, Case No. CGC-14-538955, Hon. Harold E. Kahn; (bb)
5 *Syed v. M.I. Swaco*, United States District Court, Eastern District of California, Case No. 12-
6 CV-01718 DAD, Hon. Dale A. Drozd; (cc) *Vaquero, et al. v. Stoneledge Furniture, LLC*, Los
7 Angeles County Superior Court, Case No. BC522676, Hon. Elihu M. Berle; (dd) *Vazquez v.*
8 *Kraft Heinz Foods Company*, United States District Court, Southern District of California Case
9 No. 16-CV-02749, Hon. William Q. Hayes; (ee) *Walsh v. Cedars-Sinai Medical Center*, Los
10 Angeles County Superior Court, Case No. BC487290, Hon. William F. Highberger; among
11 others.

12 12. Plaintiffs Christopher Ornelas and Christopher Nieto (“Plaintiffs”) seek
13 preliminary approval of a \$179,000 non-reversionary wage and hour class and Private Attorneys
14 General Act (“PAGA”) settlement for a putative class of 25 non-exempt California employees
15 of Defendant TEKsystems, Inc. (“TEKsystems” or “Defendant”) employed as security system
16 installers at any time during the period from November 6, 2015 through July 20, 2023 (the
17 “Class Period”) and approximately 316 aggrieved employees employed by TEKsystems from
18 July 23, 2020 through July 20, 2023 (“PAGA Period”). The proposed Settlement is
19 memorialized in the Class Action and PAGA Settlement Agreement and Class Notice
20 (“Agreement” or “SA”), attached as Exhibit 1 (Exh. A – Notice of Class Action Settlement).
21 For the Court’s convenience, redline versions reflecting changes to the Model Agreement and
22 Notice of Class Action Settlement is attached as Exhibit 2.

23 13. Plaintiffs contend that during the Class and PAGA Periods, TEKsystems
24 violated California’s Unfair Competition Law (“UCL”), California Business and Professions
25 Code sections 17200, *et seq.*, predicated on the following violations of the California Labor
26 Code: 1) failure to pay wages including minimum, regular, and overtime wages for all time
27 worked or subject to Defendant’s control; 2) failure to reimburse business-related expenses; 3)
28 failure to provide accurate itemized wage statements; 4) failure to timely pay all final wages

1 owed; and 5) failure to maintain accurate records.

2 14. TEKsystems is a staffing and recruitment company that provided services to
3 meet its clients' needs. Among Defendant's clients are various residential and commercial
4 security companies, including ADT, for which Plaintiff Ornelas performed security installation
5 services.

6 15. The proposed Class is defined as all hourly paid, non-exempt "security system
7 installers" in California at any time during the Class Period, defined as from November 6, 2015
8 through July 20, 2023.

9 16. The putative class of all non-exempt employees has an estimated 25 members
10 who worked an estimated 2,379 Workweeks during the Class Period. As of November 23,
11 2022, there were 316 Aggrieved Employees who worked 9,729 Pay Periods during the PAGA
12 Period. Of the 316 Aggrieved Employees, 300 were no longer employed as of November 2022.
13 Therefore, Plaintiffs have extrapolated the number of Pay Periods worked by the remaining 16
14 Aggrieved Employees through the end of the PAGA Period for an estimated 10,282 Pay
15 Periods during the PAGA Period, July 23, 2020 through July 20, 2023.

16 17. On November 6, 2019, Plaintiff Christopher Ornelas commenced this action by
17 filing a Class Action Complaint in Los Angeles Superior alleging a cause of action for violation
18 of the UCL predicated on violations of the California Labor Code. On July 23, 2021, Plaintiff
19 Ornelas filed a First Amended Complaint adding Christopher Nieto as a named plaintiff and
20 alleging causes of action against TEKsystems for civil penalties under the PAGA for violations
21 of the California Labor Code. Attached hereto as Exhibit 3 is a true and correct copy of the
22 First Amended Class and PAGA Representative Action Complaint.

23 18. The Court has not granted class certification. However, on May 10, 2021, the
24 Court granted TEKsystems's Motion to Deny Class Certification with respect to non-exempt
25 "security system installers" who were employed by TEKsystems at any time within the State of
26 California since November 6, 2015 and who signed an arbitration agreement with TEKsystems,
27 leaving a proposed class consisting of 25 individuals – including Plaintiff Ornelas.
28

1 19. To prepare for mediation, Plaintiffs requested, and Defendant produced, key
2 data that included: (1) total number of putative class members; (2) aggregate number of
3 workweeks worked by putative class members through the date of mediation; (3) average
4 hourly rate of pay; (4) and the amount of reimbursements paid by Defendant to putative class
5 members. In addition, Defendant produced excel spreadsheet data containing Plaintiff
6 Ornelas's time records (through Pay Period ending July 31, 2016).

7 20. After receipt of the data and an analysis of the information produced by,
8 Plaintiffs' Counsel retained the services of a damages' consultant to review the information and
9 data to assess violation rates for unpaid or underpaid expense reimbursements for tools,
10 mileage, and cell phone expenses, unpaid or underpaid wages, including overtime wages for all
11 hours worked including travel time between work appointments and hours worked taking
12 inventory, and PAGA civil penalties, and to extrapolate the damages to the putative Class.

13 21. On February 2, 2021, the Parties attended mediation with Honorable Wynne
14 Carvill (Ret.), an experienced and respected wage and hour mediator. Honorable Wynne
15 Carvill was a presiding judge in the Alameda County Superior Court from 2003 – 2019 and
16 served in the Complex Litigation division from 2012 – 2015. The Parties engaged in a day of
17 serious, informed and lengthy arms'-length negotiations, but were unable to reach a settlement
18 at the mediation. Thereafter, the Parties continued their settlement efforts and engaged in
19 extensive post-mediation settlement negotiations, which resulted in a Settlement in principle
20 and a memorandum of understanding executed in July of 2023. The long-form Agreement was
21 fully executed on December 7, 2023.

22 22. Plaintiffs allege Defendant failed to pay for all hours worked because Plaintiffs
23 were required to travel to work-related locations without payment for travel time. Plaintiffs
24 further allege Defendant failed to pay security system installers for time spent traveling
25 between installation appointment locations, which Plaintiffs allege was at times up to 15 hours
26 per workweek.

27 23. TEKsystems contends that it required its non-exempt employees, including
28 Plaintiffs, to accurately record all time work, and paid for all hours worked. According to

1 Defendant, travel time between installation appointments was included in hours worked and
2 paid.

3 24. Plaintiffs allege security system installers were required to use their personal
4 vehicles for travel but were not reimbursed for work-related mileage and other vehicle related
5 expenses and were required to purchase tools for proper installation without reimbursement in
6 violation of Labor Code section 2082.

7 25. TEKsystems disputes that it did not reimburse employees for all business
8 expenses incurred in the discharge of their duties for Defendant, including mileage for travel
9 time and contends that it reimbursed for all business expenses whenever reimbursement was
10 requested. In preparation for mediation, Defendant provided data of the amount of
11 reimbursement paid to non-exempt security system installers during the Class and PAGA
12 Period. Furthermore, Defendant contends that it did not require the purchase of any tools but if
13 such tools were necessary, they would be exempt from reimbursement as “hand tools and
14 equipment customarily required by the trade or craft.”

15 26. The Parties have agreed the Action be settled for the Gross Settlement Amount
16 of \$179,000 (“GSA”) which, subject to Court approval, includes: (a) attorneys’ fees of
17 \$59,660.70 (one-third of the GSA) to compensate Class Counsel for work performed and
18 remaining to be performed in securing final Court approval; (b) Class Counsel’s litigation
19 expenses of up to \$9,500; (c) Service Payments of \$5,000 each to Plaintiffs Christopher
20 Ornelas and Christopher Nieto in consideration of their initiation and prosecution of the action,
21 work performed, and risks undertaken for the payment of costs in the event the case was
22 unsuccessful, and benefits conferred on absent Class Members; (d) PAGA Payment of \$75,000
23 of which \$56,250 (75%) will be paid to the LWDA, and \$18,750 (25%) will be distributed to
24 Aggrieved Employees; and (e) Administration expenses to ILYM not to exceed \$7,500.

25 27. In addition to the GSA, Defendant will pay the Employer Tax Obligations.

26 28. Based on anticipated Court-approved deductions for attorneys’ fees, litigation
27 costs, Service Payments, PAGA Payment, and administration expenses, the Net Settlement
28 Amount estimated at \$17,339.30 will be distributed to Participating Class Members based on

1 number of Workweeks worked at any time during Class Period without the need to return a
2 claim form.

3 29. With an estimated 2,379 Workweeks in the Class Period, a Participating Class
4 Member will receive an estimated \$7.29 for each Workweek worked during the Class Period.

5 30. The \$18,750 PAGA Penalties will be distributed to the aggrieved employees in
6 the who worked a total of an estimated 10,282 pay periods in the PAGA Period. The
7 approximately 316 aggrieved employees will receive a PAGA penalties of approximately \$1.82
8 per pay period ($\$18,750/10,282 = \1.82).

9 31. No part of the GSA may revert to Defendant under any circumstances.

10 32. In exchange for a Settlement Payment, all Class Members who do not timely
11 requested exclusion will release the "Released Class Claims" arising from the claims alleged in
12 the operative complaint.

13 33. All Non-Participating Class Members who are Aggrieved Employees will
14 release "Released PAGA Claims" for all PAGA penalties that were alleged, or reasonably
15 could have been alleged, based on the PAGA Period, in the operative complaint, and the PAGA
16 Notice.

17 34. Following preliminary approval, ILYM will mail the approved Notice of Class
18 Action Settlement ("Class Notice") to each Class Member. The Notice advises the Class: (1) of
19 the right to participate in the Settlement and to receive a Settlement Payment without a claim
20 form; (2) how to object or opt out of the Settlement; (3) how to dispute the information on
21 which Settlement Payments are calculated; (4) of the Released Claims; and (5) of the date, time
22 and place to appear for the Final Approval hearing.

23 35. Class members perform duties which require reading instructions in English and
24 communicating in English. The Parties agree class members are able to read and understand
25 English and translation is unnecessary.

26 36. ILYM will endeavor to locate Class Members to allow participation in the
27 Settlement and receipt of settlement checks, by means which include a National Change of
28 Address database search prior to the initial mailing of the Class Notice, and thereafter, skip

1 tracing undelivered Class Notices.

2 37. All checks not cashed by the 180th day, will be cancelled, and sums represented
3 by the uncashed checks will be sent to the California Controller, Unclaimed Property Division
4 for further handling on behalf of Class Members whose checks were voided.

5 38. The Parties attended a full day of mediation with Judge Carvill, and after
6 extensive post-mediation negotiations, spanning over two years, reached a settlement in
7 principle. Thereafter, the Parties continued their arms'-length, and sometimes contentious,
8 negotiations by phone and email to create the detailed written Agreement before the Court for
9 approval. Counsel aggressively pursued their respective positions at all times.

10 39. Plaintiffs' Counsel have significant experience litigating wage and hour
11 employment class actions. This allowed Counsel to evaluate settlement of the Class claims
12 compared to the risks of further litigation, including trial, appeals and collection. Defense
13 counsel with Epstein Becker & Green, PC are also highly skilled and sophisticated lawyers,
14 with extensive class action experience. They defended their client vigorously and aggressively
15 through all phases of the case, including mediation and subsequent negotiations.

16 40. Plaintiffs' Counsel believes the Settlement achieved in this action is fair and
17 reasonable and in the best interest of the Class in light of the monetary recovery by the Class,
18 complexities and difficulties of this litigation, the state of the law, the potential the case may not
19 have been certified, an adverse summary judgment, the lengthy process of establishing specific
20 damages, and various possible delays and uncertainty regarding the outcome of appeals. Each of
21 these factors was carefully considered before reaching agreement.

22 41. Class Counsel relied on similar types of data and documents as in *Kullar* and
23 *Munoz*, including time, pay, and employment data and records. Plaintiffs' counsel and their
24 consultant reviewed and analyzed time and pay data to assess liability and to calculate Class-
25 wide damages before attending mediation.

26 42. Calculations of the potential maximum value for each claim follow, with rational
27 discounts explained by Counsel.

28 43. Based on the damage assessments made for each claim as discussed below, and

1 the realistic ranges of recovery, the \$179,000 Gross Settlement Amount is fair and reasonable
2 given that it represents approximately 15% of the **\$1,194,595** estimated damages on the primary
3 claims alleged (exclusive of PAGA Penalties).

4 44. Class Counsel also considered that Plaintiffs' claims would be difficult to certify,
5 prove and manage at trial, including the primary off-the-clock overtime wages claim, given that
6 Counsel would have to reliably survey putative class members devise a way to present this
7 evidence at trial. Class Counsel also considered that Defendant prevailed on a motion to deny
8 class certification, limiting the putative class to only 25 individuals, and effectively making
9 obtaining class certification more challenging due to a potential finding of lack of numerosity.

10 45. Plaintiffs allege that installers were unpaid for travel time for distant start
11 locations and for distant final job locations. TEKsystems would schedule the first job up to 1.5
12 to 2.0 hours away and did not pay for travel time to reach the first job location. Similarly, the
13 last jobs of the day often left the installers over an hour away from home, whether by mileage or
14 due to traffic congestion, travel all *without pay*.

15 46. TEKsystems disputes the contention and contends Plaintiffs and Class Members
16 were paid hourly for all time worked after they clocked in. Given certain information and
17 evidence provided by TEKsystems showing hourly wages were paid from the time of the
18 clocked in, Plaintiffs assigned a nominal value to the minimum wage claim and estimated
19 TEKsystems's maximum exposure at \$352,805 [calculated by assuming 5 hours unpaid per
20 workweek x 2,379 workweeks in Class Period = 11,895 hours unpaid at the average hourly rate
21 of \$29.66 = \$352,805.] Plaintiffs estimated probability of certification at 50% and success at
22 trial at 50%, resulting in a discounted realistic exposure of \$88,201.25.

23 47. Employers must pay overtime wages at 1-1/2 times employee's regular rate of
24 pay for hours worked over 8 per day or 40 per week. Labor Code §§ 510, 1194. Plaintiffs allege
25 that based upon time worked off-the-clock, TEKsystems did not pay overtime wages earned
26 when the off-the-clock time caused shifts to exceed 8 per day. Plaintiffs' damages' consultant
27 assumed ten hours of unpaid overtime per workweek extrapolated to the Class, the amount of
28 underpaid overtime wages at \$529,208.

1 48. TEKsystems contends that all overtime worked was properly paid, that no
2 evidence exists of a policy or practice of underpaying overtime, and further that this claim is not
3 amenable to class treatment. Plaintiffs estimated probability of certification at 50% and success
4 at trial at 50%, resulting in a discounted realistic exposure of **\$132,302**.

5 49. An employer must reimburse an employee's reasonable business-related
6 expenses. Labor Code § 2802. Plaintiffs allege TEKsystems failed to adequately reimburse
7 Class Members for business-related personal cell phone, specialty tools, and mileage expenses.

8 50. Employees were required to use their personal cell phones to communicate with
9 TEKsystems and its customers. Plaintiffs estimated \$50 per month in cell phone expenses. The
10 average U.S. cell phone bill is estimated at \$70 per month. Using \$50.00 per month, maximum
11 exposure was calculated at \$29,737.50 [calculated at 2,379 workweeks x \$12.50/workweek (\$50
12 per month/4 workweeks) = \$29,737.50.]

13 51. TEKsystems contends that at all times its policies and practices regarding
14 reimbursing employees for necessary business expenses complied with California law, and
15 further that this claim is not amenable to class treatment. Given the need for individualized
16 inquiries as to employees' monthly cell phone bill amounts and the amount of time spent using
17 personal cell phones for work, a court may deny certification. Additionally, Defendant provided
18 amounts paid for expense reimbursements during the Class Period, demonstrating that some
19 business expenses were reimbursed.

20 52. Plaintiffs allege that Class Members drove their personal vehicles between 250 to
21 500 miles *per week* for business use without reimbursement by TEKsystems.

22 53. Maximum exposure on this claim was estimated at \$330,681.00 [250 miles per
23 week x \$2,379 workweeks x \$.0556]. TEKsystems contends its policies and practices regarding
24 reimbursing employees for necessary business expenses complied with California law and that
25 it reimbursed mileage whenever it was requested, and that this claim is not amenable to class
26 treatment.

27 54. Plaintiffs allege that Class Members were required to use many different types of
28 tools, both regular tools and those specialized for the work, but that TEKsystems provided *zero*

1 tools, even a basic toolset, and never provided any of the specialty tools required to install or
2 replace security systems. Class Members were required to buy tools needed to complete their
3 duties without reimbursement by TEKsystems.

4 55. Maximum exposure on this claim was estimated at \$75,000. Plaintiffs assumed a
5 one-time \$3,000 tool purchase expense per class member [\$3,000 x 25 class members]. For
6 reoccurring expenses for maintenance of installation tools and work computers, Plaintiffs
7 estimated a total amount of \$23,790 [calculated at 2,379 workweeks x \$10.00/workweek =
8 \$23,790.00]. The total estimated amount owed is thus \$98,790 [\$75,000 + \$23,790].

9 56. TEKsystems contends its policies and practices regarding reimbursing
10 employees for necessary business expenses complied with California law, that employees would
11 be exempt from reimbursement because “hand tools and equipment customarily required by the
12 trade or craft” (Wage Order 7, § 9(B)), and that this claim is not amenable to class treatment.

13 57. In sum, the total estimated amount owed for all business expenses is \$459,208.50
14 [\$29,737.50 + \$330,681.00 + \$98,790.00]. However, Defendant paid \$146,626.78 in expense
15 reimbursements during the Class Period. Therefore, the total estimated amount is \$312,581.72.
16 Plaintiffs estimated probability of certification at 50%, and success at trial at 50%, resulting in a
17 discounted realistic exposure of **\$78,145.43**.

18 58. There are an estimated 10,282 Pay Periods in the PAGA Period, July 23, 2020 –
19 July 20, 2023. Using the initial violation rates for the 316 Aggrieved Employees, maximum
20 penalties were assessed for violations of Labor Code §§ 510, 1194 (minimum wages (\$100/Pay
21 Period (“PP”) at \$1,028,200, and overtime wages (\$100/PP) at \$1,028,200). Using initial
22 violation rates for 10,282 Pay Periods in which Aggrieved Employees did not receive proper
23 expense reimbursements for violation of Labor Code § 2802, and assuming expenses should
24 have been reimbursed at least monthly (10,282/4 = 2,571 Pay Periods), maximum penalties
25 were assessed for violations (\$100/PP): **\$257,050**.

26 59. Plaintiffs concluded the Settlement is fair and reasonable in light of
27 PowerSchool’s substantive claim defenses, and the risks of non-certification, claims being
28 stricken as unmanageable, failure to prove claims at trial, and likely appeals. The Gross

1 Settlement Amount of \$179,000 represents approximately ninety-seven percent (15%) percent
2 of the value of the Class claims [\$352,805 (unpaid minimum wages) + \$529,208 (unpaid
3 overtime wages) + \$312,582 (expense reimbursements) = \$1,194,595], without accounting for
4 reasonable discounts for probability of class certification and success at trial.

5 60. Assuming a probability of certification at 50%, and success at trial at 50%, the
6 discounted realistic exposure of \$298,648.75 [$\$1,194,595/2 = \$597,297.50/2 = \$298,648.75$].
7 Thus, the Gross Settlement Amount represents approximately 60% of the Class Claims.

8 61. Class Counsel seek attorneys' fees up to \$59,660.70, representing one-third of
9 the Gross Settlement Amount. The attorneys' fees request is reasonable and should be granted.

10 62. Indeed, Class Counsel have been awarded one-third of the common fund in
11 numerous class action and PAGA actions. Since 2020, Cohelan Khoury & Singer has been
12 awarded one-third of a common fund in many class and representative action settlements,
13 including:

14 a) *Hubbard v. Caliber Home Loans, Inc.*, Orange County Superior Court, Case No.
15 2018-01017838 (Hon. Glenda Sanders – approving attorneys' fees of 33-1/3% of \$175,000
settlement in a PAGA action).

16 b) *Redin v. Accountabilities Professional Group, Et al.*, Orange County Superior
17 Court, Case No. 2017-00929734 (Hon. Glenda Sanders –attorneys' fees of 33-1/3% of \$255,000
settlement in Class action).

18 c) *White v. Sacramento Regional Transit District*, Sacramento County Superior
19 Court, Case No. 234-2018-00240461 (Hon. David D. Alba –attorneys' fees of 33-1/3% of
\$385,000 settlement in Class action).

20 d) *Burris v. Resort Vacations, Inc.*, Orange County Superior Court, Case No. 30-
21 2018-00997260 (Hon. Randall J. Sherman –attorneys' fees of 33-1/3% of \$1,485,000 settlement
in Class action).

22 e) *Jimenez v. Reyes Holdings, LLC, et al.*, San Diego County Superior Court, Case
23 No. 37-2019-00051577 (Hon. Joel R. Wohfeil –attorneys' fees of 33-1/3% of \$650,000
settlement in Class and Representative action).

24 f) *Santos, et al. v. National General Management Corp.*, San Bernardino County
25 Superior Court, Case No. CIVDS 1918865 (Hon. David Cohn –attorneys' fees of 33-1/3% of
\$680,000 settlement in PAGA action).

26 g) *Loreto v. General Dynamics Information Technology, Inc.*, USDC Southern
27 District of California, Case No. 3:19-cv-01366-GPC-MSB (Hon. Gonzalo P. Curiel –attorneys'
fees of 33-1/3% of \$900,000 settlement in a pre-certification wage and hour class action).

h) *Romanov v. Amazon Services LLC.*, USDC Central District of California, Case No. 2:20-cv-02692-SB-KS (Hon. Stanley Blumenfeld, Jr. – approving attorneys’ fees of 33-1/3% of \$700,000 settlement in a pre-certification wage and hour class action).

i) *Olson v. Wrike, Inc.*, Santa Clara County Superior Court, Case No. 20CV366599 (Hon. Patricia M. Lucas – approving attorneys’ fees of 33-1/3% of \$2,000,000 settlement in a pre-certification wage and hour class action).

j) *Gutierrez v. Kite Electric Incorporated*, Orange County Superior Court, Case No. 30-2020-01133960 (Hon. Peter J. Wilson – approving attorneys’ fees of 33-1/3% of \$458,991 settlement in a pre-certification wage and hour class action).

k) *Ramos Gonzalez v. Staff Pro, LLC, et al.*, San Diego County Superior Court, Case No. 37-2019-00044561 (Hon. Joel R. Wohfeil –attorneys’ fees of 33-1/3% of \$1,500,000 settlement in Class and Representative action).

l) *Gutierrez v. Kite Electric Incorporated*, Orange County Superior Court, Case No. 30-2020-01133960 (Hon. Peter J. Wilson – approving attorneys’ fees of 33-1/3% of \$458,991 settlement in a pre-certification wage and hour class action).

m) *Dolan v. Abacus Data Systems, Inc.*, San Diego County Superior Court, Case No. 37-2019-00051447 (Hon. Katherine Bacal –attorneys’ fees of 33-1/3% of \$600,000 settlement in Class and Representative action).

n) *Lopez, et al. v. Pacific Gas and Electric Company.*, San Francisco County Superior Court, Case No. CGC-17-562970 (Hon. Richard B. Ulmer, Jr. –attorneys’ fees of 33-1/3% of \$350,000 settlement in Class and Representative action).

o) *Popal v. Wells Fargo Bank, National Associate*, San Diego County Superior Court, Case No. 37-2020-00038101 (Hon. Gregory W. Pollack –attorneys’ fees of 33-1/3% of \$3,000,000 settlement in Class and Representative action).

p) *Randolph v. Konica Minolta Business Solutions U.S.A., Inc.*, Sacramento County Superior Court, Case No. 34-2018-00237087 (Hon. Lauri A. Damrell – attorneys’ fees of 33-1/3% of \$325,000 settlement in Class and Representative action).

q) *Sanchez, et al. v. Renzenberger, Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV46131 (Hon. Yvette M. Palazuelos – attorneys’ fees of 33-1/3% of \$2,400,000 settlement in Class and Representative action).

r) *De Benning v. Costco Wholesale Corporation*, Sacramento County Superior Court, Case No. 34-2021-00309030 (Hon. Gregory W. Pollack – attorneys’ fees of 33-1/3% of \$9,000,000 settlement in Class and Representative action).

s) *Tam v. Q Tech Corporation*, Los Angeles County Superior Court, Case No. 21STCV18635, (Hon. Elihu M. Berle – attorneys’ fees of 33-1/3% of \$650,000 settlement in Class and Representative action).

63. Class Counsel will provide their lodestar and time records at final approval.

64. Plaintiffs seeks a \$5,000 service payment each for the risks they took, the work they did, and the money their efforts will confer on the Class based on the lawsuit she filed against TEKsystems. Plaintiffs estimates they spent more than forty hours working on this case

1 with their attorneys, which they detail in their declaration. Plaintiffs also executed a general
2 release in conjunction with the Settlement.

3 65. Class Counsel have achieved enhancement awards for Plaintiffs of \$10,000 or
4 more in cases of similar value. Thus, this Court should award Plaintiffs \$5,000 each (\$10,000
5 total) in recognition of their service to the Class and general release.

6 66. The Class of all non-exempt employees employed by TEKsystems during the
7 Class Period is ascertainable from TEKsystems's records and is numerous enough so that
8 joinder would be impracticable, at 25 class members. For settlement purposes, Defendant does
9 not dispute that there is numerosity for purposes of class certification.

10 67. The same written policies applied to the entire putative Class, and common
11 questions predominate, including: whether TEKsystem's paid for all hours worked and whether
12 TEKsystem's reimbursed for all business expenses incurred.

13 68. Plaintiffs' claims are typical because they were non-exempt employees subject to
14 the same written policies as the putative class and because they suffered the same overtime,
15 expense reimbursement, and derivative claims as other putative class members.

16 69. Plaintiffs can and will continue to protect the interests of the Class. Plaintiffs
17 accepted the risks of serving as a class representative, spent significant time assisting in the
18 prosecution of the action, and placed the interest of the class above their own.

19 70. Plaintiffs' attorneys are qualified to conduct the litigation and Plaintiff's interests
20 are not adverse to the interest of the Class.

21 71. Class Counsel has no conflicts of interest, has vigorously prosecuted this action
22 on behalf of Plaintiffs and the Class, and has significant experience litigating employment wage
23 and hour class actions. Plaintiffs and the Class have co-extensive claims, the terms of the
24 Settlement apply to all Class Members equally, and no conflict exists between them.

25 72. I declare that I am not aware of any other pending matter or action asserting
26 claims that will be extinguished or adversely affected by the Settlement.

27 ///

28 ///

1 73. On the same date this motion and its exhibits are filed with the Court, they will
2 be served upon Defendant and provided to the Labor and Workforce Development Agency
3 (“LWDA”) via the LWDA’s website, using the appropriate intake form. Attached as Exhibit 4
4 is a true and correct copy of the LWDA confirmation of Receipt.

5 I declare under the penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct and that this declaration is executed on January 17, 2024, in, San
7 Diego, California.



Michael D. Singer

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Christopher Ornelas and Christopher Nieto (“Plaintiffs”) and Defendant TEKsystems, Inc. (“TEKsystems” or “Defendant”). The Agreement refers to Plaintiffs and TEKsystems collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against TEKsystems captioned *Christopher Ornelas, et al. v. TEKsystems, Inc.* initiated on November 6, 2019 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means any person employed by Defendant within the State of California in an hourly paid, non-exempt “security system installer” position during the PAGA Period.
- 1.5. “Class” means all persons in the State of California who were employed by Defendant as hourly paid, non-exempt “security system installers” at any time during the Class Period and who did not sign an arbitration agreement with Defendant.
- 1.6. “Class Counsel” means Michael D. Singer and Marta Manus of Cohelan Khoury & Singer and Rodney Mesriani of Mesriani Law Group, APLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in TEKsystems’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from November 6, 2015 through July 20, 2023.
- 1.13. “Class Representative” means the named Plaintiff Christopher Ornelas in the Operative Complaint (defined below) in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Court” means the Superior Court of California, County of Los Angeles.
- 1.15. “TEKsystems, Inc.” means named Defendant TEKsystems, Inc.
- 1.16. “Defense Counsel” means Michael S. Kun and Kevin D. Sullivan of Epstein Becker & Green, P.C.
- 1.17. “Effective Date” means the date by when the following have occurred: (a) the Court enters Judgment on this settlement; and (b) the Judgment is Final.
- 1.18. “Final,” as used in the definition of Effective Date, shall mean the latest of: (i) if there is an appeal of the Judgment, the remittitur date if the Judgment is affirmed on appeal; (ii) if there is an appeal of the Judgment, the remittitur date following dismissal of such appeal; (iii) if there is an appeal of the Judgment, the date the remittitur has issued following expiration of the time to file a petition for certiorari in the United States Supreme Court petition or a petition for review in the California Supreme Court, as applicable; (iv) if such a petition is filed and the petition is denied or the judgment is affirmed pursuant to such petition, the date the remittitur has issued; or (v) if no appeal is filed, the expiration date of the time for filing or noticing any appeal from the judgment – i.e., 61 days following notice of entry of judgment served on all parties and the LWDA.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$179,000 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross

Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Service Payment and the Administrator's Expenses.

- 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for TEKsystems for at least one day during the PAGA Period.
- 1.31. "PAGA Period" means the period from July 23, 2020 through July 20, 2023.
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698, *et seq.*).
- 1.33. "PAGA Notice" means Plaintiff Christopher Nieto's March 12, 2021 letter to TEKsystems, Inc. and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$18,750) and the 75% to LWDA (\$56,250) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiffs" mean Christopher Ornelas and Christopher Nieto, the named plaintiffs in the Action.

- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval of Class and PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.41. “Released Parties” means: TEKsystems, Inc. and each of its insurers, brands, concepts, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers, directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or entity that could be jointly liable with Defendant.
- 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.
- 1.44. “Service Payments” means the payments to the named Plaintiffs for initiating the Action and providing services in support of the Action.
- 1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during which a Class Member worked for TEKsystems for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On November 6, 2019, Plaintiff Christopher Ornelas commenced this Action by filing a Class Action Complaint alleging a cause of action against TEKsystems, Inc. for violation of California’s Unfair Competition Law (“UCL”), California Business and Professions Code §§ 17200, *et seq.*, predicated on violations of the California Labor Code. On July 23, 2021, Plaintiff filed a First Amended Complaint adding Christopher Nieto as a named plaintiff and alleging causes of action against TEKsystems, Inc. for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §§ 2698, *et seq.* The First Amended Class and PAGA Representative Action Complaint is

the operative complaint in the Action (the “Operative Complaint.”) TEKsystems, Inc. denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged.

- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), on March 12, 2021, Plaintiff Nieto gave timely written notice to TEKsystems and the LWDA by sending the PAGA Notice.
- 2.3. On February 2, 2021, the Parties participated in a mediation presided over by the Honorable Wynne Carvill (Ret.). The Parties did not reach a settlement at the mediation. Thereafter, the Parties continued their settlement efforts and engaged in extensive post-mediation settlement negotiations, which led to this Agreement to settle the Action.
- 2.4. Prior to mediation and negotiating the Settlement, Plaintiffs obtained, through formal and informal discovery, documents, data, and information related to Plaintiffs’ claims in the Action. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.5. The Court has not granted class certification. However, on May 10, 2021, the Court granted Defendant’s motion to deny class certification with respect to those non-exempt “security system installers” who were employed by TEKsystems at any time within the State of California since November 6, 2015 and who signed an arbitration agreement with TEKsystems, leaving a proposed class consisting of 25 individuals – including Ornelas.
- 2.6. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, TEKsystems, Inc. promises to pay \$179,000 and no more as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. TEKsystems, Inc. has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to TEKsystems, Inc.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct

the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

- 3.2.1. To Plaintiffs: Service Payments to the named Plaintiffs of not more than \$5,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment, the Plaintiffs are entitled to receive as a Participating Class Member. TEKsystems, Inc. will not oppose Plaintiffs' request for Service Payments to each Plaintiff that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Service Payments less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Service Payments.
- 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$59,660.70 and a Class Counsel Litigation Expenses Payment of not more than \$9,500. TEKsystems, Inc. will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds TEKsystems, Inc. harmless, and indemnifies TEKsystems, Inc., from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$7,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$7,500, the Administrator will allocate the remainder to the Net Settlement Amount.
- 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks

worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for [e.g., interest, penalties, and accountable reimbursement] (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$75,000 to be paid from the Gross Settlement Amount, with 75% (\$56,250) allocated to the LWDA PAGA Payment and 25% (\$18,750) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$18,750 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records through November 19, 2022, Defendant estimates there are 25 Class Members who collectively worked a total of 2,379 Workweeks from November 6, 2019 to November 19, 2022. Defendant estimates there are 316 Aggrieved Employees who

worked a total of 9,729 of PAGA Pay Periods from July 23, 2020 to November 19, 2022.

- 4.2. Class Data. Not later than fifteen (15) calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than fourteen (14) calendar days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the

Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

- 5.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences [that occurred during the Class Period], including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiffs' PAGA Notice ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in

all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs each expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

5.2. Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including all claims for violation of California's Unfair Competition Law predicated on violation of the California Labor Code sections 510, 1194, 1194.2, 1197.1 and 2802. The release shall apply to Plaintiffs and the Class Members during the Class Period (defined above). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Aggrieved Employees: All Aggrieved Employees – whether or not they are Participating Class Members – are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice, including PAGA penalties for: (1) failure to pay all wages, (2) failure to reimburse business expenses, (3) failure to provide accurate wage statements, (4) failure to timely pay wages due during and upon termination of employment, and (5) failure to maintain accurate records. The release shall apply to Plaintiffs the Aggrieved Employees, the Labor & Workforce Development Agency, and the State of California during the PAGA Period.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. TEKsystems, Inc.'s Declaration in Support of Preliminary Approval. Within fourteen

(14) days of the full execution of this Agreement, TEKsystems, Inc. will prepare and deliver to Class Counsel a signed Declaration from TEKsystems, Inc. and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declaration, Defense Counsel and TEKsystems, Inc. shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.2. Plaintiffs' Responsibilities. Plaintiffs' Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties

by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4. Notice to Class Members.
 - 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.
 - 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, with Spanish translation if applicable, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
 - 7.4.3 Not later than 3 business days after the Administrator's receipt of any Class

Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, TEKsystems, Inc., or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to

challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Service Payments.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal

objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Service Payments, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE]** Based on its records, TEKsystems estimates that, as of the date of this Settlement Agreement, (1) there are 25 Class Members who collectively worked 2,379 Total Workweeks from November 6, 2015 through November 19, 2022 and (2) there were 316 Aggrieved Employees who worked 9,729 Pay Periods from July 23, 2020 through November 19, 2022. If it is determined that the total number of Workweeks collectively worked by the Class from November 6, 2015 through November 19, 2022 is more than 10% greater than 2,379 Workweeks that Defendant represented there to be through that time period (i.e., if there were actually 2,617 workweeks or more collectively worked by the Class from November 6, 2015 through November 19, 2022), then Defendant agrees to increase the GSA on a proportional basis to the extent the threshold is exceeded (e.g., if the total number of Workweeks from November 6, 2015 through November 19, 2022 was actually 11% more than 2,379 – i.e., the total number increases by 11% to 2,641 Workweeks – the GSA will increase by one percent (1%)). If it is determined that the total number of Pay Periods collectively worked by the Aggrieved Employees from July 23, 2020 through November 19, 2022 is more than 10% greater than

9,729 pay periods that Defendant represented there to be through that time period (i.e., if there were actually 10,702 Pay Periods or more collectively worked by the Aggrieved Employees from July 23, 2020 through November 19, 2022), then Defendant agrees to increase the GSA on a proportional basis to the extent the threshold is exceeded (e.g., if the total number of Pay Periods from July 23, 2020 through November 19, 2022 was actually 11% more than 9,729 – i.e., the total number increases by 11% to 10,799 Pay Periods – the GSA will increase by one percent (1%)). In the alternative, Defendant may elect to shorten the Class Period and/or PAGA Period, as applicable, in order to stay within the 10% cushion.

9. TEKSYSTEMS, INC.’S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, TEKsystems may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if TEKsystems withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, TEKsystems will remain responsible for paying all Settlement Administration Expenses incurred to that point. TEKsystems must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Service Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by TEKsystems that any of the allegations in the Operative Complaint have merit or that TEKsystems has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that TEKsystems' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant

Preliminary Approval, Final Approval, or enter Judgment, TEKsystems reserves the right to contest certification of any class for any reasons, and TEKsystems reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest TEKsystems' defenses. The Settlement, this Agreement, and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, TEKsystems, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit another person to disclose, disseminate, or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, TEKsystems, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibit(s) shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and TEKsystems, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this

Agreement.

- 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8. No Tax Advice. Neither Plaintiffs, Class Counsel, TEKsystems, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibit(s) will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by TEKsystems in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and

no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Class Data received from TEKsystems unless, prior to the Court's discharge of the Administrator's obligation, TEKsystems makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17. Notice. All notices, demands, or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Cohelan Khoury & Singer
Marta Manus
mmanus@ckslaw.com
Michael Singer
msinger@ckslaw.com
605 C Street, Suite 200
San Diego, California 92101

To TEKsystems, Inc.:

Epstein Becker & Green, P.C.
Michael S. Kun
mkun@ebglaw.com
Kevin D. Sullivan
ksullivan@ebglaw.com
1925 Century Park East, Suite 500
Los Angeles, California 90067-2506

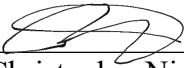
12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the

litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.



Christopher Ornelas



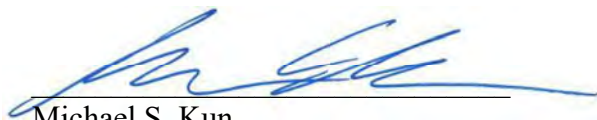
Christopher Nieto



Joe Pichler
Authorized signatory for TEKsystems, Inc.



Michael D. Singer
Marta Manus
Rodney Mesriani
Counsel for Plaintiffs
Christopher Ornelas and Christopher Nieto



Michael S. Kun
Kevin D. Sullivan
Counsel for Defendant
TEKsystems, Inc.

EXHIBIT A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Ornelas, et al. v. TEKsystems, Inc.

Los Angeles County Superior Court Case No. 19STCV39944

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against TEKsystems, Inc. (“TEKsystems” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by two former TEKsystems employees Christopher Ornelas and Christopher Nieto (“Plaintiffs”) and seeks payment of (1) allegedly owed wages and other relief for a class of non-exempt “security system installers” who worked for TEKsystems within the State of California at any time from November 6, 2015 through July 20, 2023 (the “Class Period”) and who did not sign an arbitration agreement with TEKsystems (the “Class Members”); and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all non-exempt “security system installers” who worked for TEKsystems within the State of California at any time from July 23, 2020 through July 20, 2023 (the “PAGA Period”) regardless of whether the employee signed an arbitration agreement with TEKsystems (the “Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring TEKsystems to fund Individual Class Payments, and (2) a PAGA Settlement requiring TEKsystems to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on TEKsystems’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ _____ (less withholding) and your Individual PAGA Payment is estimated to be \$ _____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to TEKsystems’ records, you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on TEKsystems’ records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks/pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires TEKsystems to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against TEKsystems.

If you worked for TEKsystems during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against TEKsystems.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against TEKsystems, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

TEKsystems will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against TEKsystems that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. TEKsystems must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the Settlement PAGA	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You

Written Objections Must be Submitted by 	are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by 	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to TEKsystems’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former TEKsystems employees. The Action accuses TEKsystems of violating California labor laws by failing to pay all overtime wages, minimum wages, wages due upon termination, and reimbursable expenses purportedly owed and failing to provide accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”). Plaintiffs are represented by attorneys in the Action: Cohelan Khoury & Singer and Mesriani Law Group, APLC (“Class Counsel”).

TEKsystems strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether TEKsystems or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and TEKsystems hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. Although the parties did not reach a settlement at the mediation, they continued settlement negotiations and were ultimately successful in reaching a mutually agreed upon settlement. By signing a lengthy written settlement

agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and TEKsystems have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, TEKsystems does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) TEKsystems has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. TEKsystems Will Pay \$179,000 as the Gross Settlement Amount (Gross Settlement). TEKsystems has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Service Payments to the named Plaintiffs, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, TEKsystems will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final after the deadline to file any appeal expires, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$59,660.70 (33.33% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$9,500 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$5,000 each (total of \$10,000) as a Service Payment to the named Plaintiffs for filing the Action, working with Class Counsel and representing the Class. A Service Award will be the only monies Plaintiffs will receive other than Plaintiffs’ Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$7,500 to the Administrator for services administering the Settlement.
 - D. Up to \$75,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their

PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiffs and TEKsystems are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% of each Individual Class Payment as penalties, interest, and accountable reimbursement not subject to withholdings (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. TEKsystems will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and TEKsystems have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against TEKsystems.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against TEKsystems based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and TEKsystems have agreed that, in either case, the Settlement will be void: TEKsystems will not pay any money and Class Members will not release any claims against TEKsystems.
8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and TEKsystems has fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted-out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against TEKsystems or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including all claims for violation of California’s Unfair Competition Law predicated on violation of California Labor Code sections 510, 1194, 1197.1, and 2802. The release shall apply to Plaintiffs and the Class Members for the time period from November 6, 2015 through July 20, 2023.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and TEKsystems has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against TEKsystems, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against TEKsystems or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice, including PAGA penalties for: (1) failure to pay all wages, (2) failure to reimburse business expenses, (3) failure to provide accurate wage statements, (4) failure to timely pay wages due during and upon termination of employment, and (5) failure to maintain accurate records. The release shall apply to Plaintiffs, the Aggrieved Employees, the Labor & Workforce Development Agency, and the State of California for the time period from July 23, 2020 through July 20, 2023.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$18,750 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in TEKsystems' records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept TEKsystems' calculation of Workweeks and/or Pay Periods based on TEKsystems' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and TEKsystems' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts-out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Ornelas, et al. v. TEKsystems, Inc., and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and TEKsystems are asking the Court to approve. At least 16 court days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Awards stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Service Payments. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [URL] or the Court's website [URL].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Payments may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending**

written objections to the Administrator is _____. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Ornelas, et al. v. TEKsystems, Inc.* and include your name, current address, telephone number, and approximate dates of employment for TEKsystems and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ [time] in Department 12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything TEKsystems and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to ILYM's website at [URL]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 19STCV39944. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorney: Marta Manus and Michael D. Singer

Email Address: mmanus@ckslaw.com
msinger@ckslaw.com

Name of Firm: Cohelan Khoury & Singer

Mailing Address: 605 C Street, Suite 200
San Diego, CA 92101

Telephone: (619) 595-3001

Settlement Administrator:

Name of Company: ILYM Group, Inc.

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

~~MODEL~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE¹

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between ~~plaintiff~~ _____ (“~~Plaintiff~~”) ~~Plaintiffs~~ Christopher Ornelas and ~~defendant~~ XYZ (“~~XYZ~~”) ~~Christopher Nieto~~ (“~~Plaintiffs~~”) and Defendant TEKsystems, Inc. (“~~TEKsystems~~” or “~~Defendant~~”). The Agreement refers to ~~Plaintiff~~ ~~Plaintiffs~~ and ~~XYZ~~ ~~TEKsystems~~ collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the ~~Plaintiff’s~~ ~~Plaintiffs’~~ lawsuit alleging wage and hour violations against ~~XYZ~~ ~~TEKsystems~~ captioned _____ *Christopher Ornelas, et al. v. TEKsystems, Inc.* initiated on November 6, 2019 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means _____, ~~ILYM Group, Inc.~~, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means ~~[e.g., any person employed by XYZ in Defendant within the State of California and classified as a _____ who worked for XYZ in an hourly paid, non-exempt “security system installer” position during the PAGA Period].~~
- 1.5. “Class” means ~~[define class e.g., all persons employed by XYZ in the State of California and classified who were employed by Defendant as _____ who worked for XYZ hourly paid, non-exempt “security system installers” at any time during the Class Period].~~ and who did not sign an arbitration agreement with Defendant.
- 1.6. “Class Counsel” means _____ ~~Michael D. Singer and Marta Manus of Cohelan Khoury & Singer and Rodney Mesriani of Mesriani Law Group, APLC.~~
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in ~~XYZ’s~~ ~~TEKsystems’s~~ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from _____ to _____.[#]November 6, 2015 through July 20, 2023.

1.13. “Class Representative” means the named Plaintiff Christopher Ornelas in the ~~operative complaint~~ Operative Complaint (defined below) in the Action seeking Court approval to serve as a Class Representative.

~~1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.~~

~~1.15.~~1.14. “Court” means the Superior Court of California, County of Los Angeles.

~~1.16.~~1.15. “~~XYZ~~” “TEKsystems, Inc.” means named Defendant _____ .TEKsystems, Inc.

~~1.17.~~1.16. “Defense Counsel” means _____.Michael S. Kun and Kevin D. Sullivan of Epstein Becker & Green, P.C.

~~1.18.~~“Effective Date” means the date by when ~~both of~~ the following have occurred:

~~1.19.~~1.17. (a) the Court enters ~~a~~ Judgment on ~~its Order Granting Final Approval of the Settlement~~this settlement; and (b) the Judgment is ~~final. The Judgment is final as of the latest of the following occurrences:~~ (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittiturFinal.

1.18. “Final,” as used in the definition of Effective Date, shall mean the latest of: (i) if there is an appeal of the Judgment, the remittitur date if the Judgment is affirmed on appeal; (ii) if there is an appeal of the Judgment, the remittitur date following dismissal of such appeal; (iii) if there is an appeal of the Judgment, the date the remittitur has issued

following expiration of the time to file a petition for certiorari in the United States Supreme Court petition or a petition for review in the California Supreme Court, as applicable; (iv) if such a petition is filed and the petition is denied or the judgment is affirmed pursuant to such petition, the date the remittitur has issued; or (v) if no appeal is filed, the expiration date of the time for filing or noticing any appeal from the judgment – i.e., 61 days following notice of entry of judgment served on all parties and the LWDA.

~~1.20.~~1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

~~1.21.~~1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

~~1.22.~~1.21. “Final Judgment” means the Judgment ~~Entered~~entered by the Court upon Granting Final Approval of the Settlement.

1.22. “Gross Settlement Amount” means \$~~_____~~179,000 which is the total amount ~~XYZ~~Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross

Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, ~~Class Representative~~Service Payment and the Administrator’s Expenses.

1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of ~~Workweeks~~Pay Periods worked during the PAGA Period.

1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, ~~Class Representative~~Service ~~Payment~~Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. -The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for ~~XYZTEKsystems~~ for at least one day during the PAGA Period.

1.31. “PAGA Period” means the period from _____ⁱⁱⁱ to _____ July 23, 2020 through July 20, 2023.

1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698~~;~~, *et seq.*).

1.33. “PAGA Notice” means ~~Plaintiff’s~~ _____ Plaintiff Christopher Nieto’s March 12, 2021 letter to ~~XYZTEKsystems, Inc.~~ and the LWDA ~~[and Plaintiff’s~~ _____ letter to ~~XYZ and the LWDA]~~ providing notice pursuant to Labor Code section 2699.3, subd.~~4~~. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees ~~(_____)~~ (\$18,750) and the 75% to LWDA ~~(_____)~~ (\$56,250) in settlement of PAGA claims.

1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. ~~“Plaintiff” means _____, Plaintiffs” mean Christopher Ornelas and Christopher Nieto,~~
the named ~~plaintiff~~plaintiffs in the Action.

~~1.36.~~1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

~~1.37.~~1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval of Class and ~~Approval of~~ PAGA Settlement.

~~1.38.~~1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

~~1.39.~~1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

~~1.40.~~1.41. “Released Parties” means: ~~XYZTEKsystems, Inc.~~ and each of its ~~former and present directors, officers, shareholders, owners, [members], attorneys,~~ insurers, brands, concepts, affiliates, subsidiaries, parent companies, predecessors, successors, assigns ~~[subsidiaries] [affiliates],~~ employees, officers, directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or entity that could be jointly liable with Defendant.

~~1.41.~~1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

~~1.42.~~1.43. “Response Deadline” means ~~[e.g., sixty (60)]~~ days after the Administrator mails Notice to Class Members and Aggrieved Employees; and shall be the last date on which

Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional **fourteen (14)** calendar days beyond the Response Deadline has expired.

1.44. “Service Payments” means the payments to the named Plaintiffs for initiating the Action and providing services in support of the Action.

~~1.43.~~1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

~~1.44.~~1.46. “Workweek” means any week during which a Class Member worked for **XYZTEKsystems** for at least one day, during the Class Period^{iv}.

2. RECITALS.

2.1. On _____November 6, 2019, Plaintiff Christopher Ornelas commenced this Action by filing a **Class Action** Complaint alleging ~~causes~~a cause of action against **XYZTEKsystems, Inc.** for _____. ~~[The Complaint is the operative complaint in the Action (the “Operative Complaint.”)]~~ [violation of California’s Unfair Competition Law (“UCL”), California Business and Professions Code §§ 17200, *et seq.*, predicated on violations of the California Labor Code. On _____July 23, 2021, Plaintiff filed a ~~[e.g., First Amended Complaint]~~ adding Christopher Nieto as a named plaintiff and alleging causes of action against **XYZTEKsystems, Inc.** for _____. The ~~[e.g., civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §§ 2698, *et seq.* The First Amended]~~ Complaint is the operative complaint in the Class and PAGA Representative Action Complaint is

the operative complaint in the Action (the “Operative Complaint.”) ~~XYZ.~~ **TEKsystems, Inc.** denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged.

~~2.1.~~2.2. Pursuant to Labor Code section 2699.3, subd. ~~(a)~~, on **March 12, 2021**, Plaintiff **Nieto** gave timely written notice to **XYZTEKsystems** and the LWDA by sending the PAGA Notice.

~~2.2.~~2.3. On _____~~[type in additional dates]~~, February 2, 2021, the Parties participated in ~~an all-day~~ mediation presided over by _____ the Honorable Wynne Carvill (Ret.). The Parties did not reach a settlement at the mediation. Thereafter, the Parties continued their settlement efforts and engaged in extensive post-mediation settlement negotiations, which led to this Agreement to settle the Action ~~[describe alternative means of negotiation]~~.

~~2.3.~~2.4. Prior to ~~mediation and~~ negotiating the Settlement, ~~Plaintiff~~Plaintiffs obtained, through ~~formal and~~ informal discovery, ~~[documents, testimony]~~data, and

information ~~obtained~~. Plaintiff's related to Plaintiffs' claims in the Action. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.4. ~~The Court ☐ has ☐ has not granted class certification. [insert details as needed]~~

2.5. The Court has not granted class certification. However, on May 10, 2021, the Court granted Defendant's motion to deny class certification with respect to those non-exempt "security system installers" who were employed by TEKsystems at any time within the State of California since November 6, 2015 and who signed an arbitration agreement with TEKsystems, leaving a proposed class consisting of 25 individuals – including Ornelas.

~~2.5.2.6.~~ The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, ~~XYZ~~TEKsystems, Inc. promises to pay \$_____179,000 and no more as the Gross Settlement Amount ~~}, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.} XYZ. TEKsystems, Inc.~~ has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to ~~XYZ~~TEKsystems, Inc.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. ~~To Plaintiff: Class Representative~~Plaintiffs: Service ~~Payment~~Payments to the ~~Class Representative~~named Plaintiffs of not more than \$_____5,000 each (in addition to any Individual Class Payment ~~} and any Individual PAGA Payment~~}, the ~~Class Representative is~~Plaintiffs are entitled to receive as a Participating Class Member). ~~XYZ. TEKsystems, Inc.~~ will not oppose ~~Plaintiff's~~Plaintiffs' request for a ~~Class Representative~~Service ~~Payment~~Payments to each Plaintiff that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, ~~Plaintiff~~Plaintiffs will seek Court approval for any ~~Class Representative Service~~Payments no later than ~~{sixteen (16) court} days~~ prior to the Final Approval Hearing. If the Court approves a ~~Class Representative~~

Service ~~Payment~~Payments less than the amount requested, the Administrator will ~~retain~~allocate the remainder ~~into~~ the Net Settlement Amount. The Administrator will pay the ~~Class Representative~~Service ~~Payment~~Payments using IRS Form 1099. ~~Plaintiff~~assumesPlaintiffs assume full responsibility and liability for employee taxes owed on the ~~Class Representative~~Service ~~Payment~~Payments.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$~~59,660.70~~ and a Class Counsel Litigation Expenses Payment of not more than \$~~9,500~~. XYZTEKsystems, Inc. will not oppose requests for these payments provided that do not exceed these amounts. ~~Plaintiff~~Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than ~~{sixteen (16) court}~~ days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other ~~Plaintiff's~~Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds XYZTEKsystems, Inc. harmless, and indemnifies XYZ,TEKsystems, Inc., from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed ~~-\$~~~~7,500~~ except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$~~7,500~~, the Administrator will ~~retain~~allocate the remainder ~~into~~ the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks

worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

~~3.2.3.1.~~3.2.4.1. Tax Allocation of Individual Class Payments. %~~20~~20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will

be reported on an IRS W-2 Form. The ~~%~~ 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for [e.g., interest ~~and~~, penalties, ~~and accountable reimbursement~~] (the "Non-Wage Portion").^{viib} The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

~~3.2.3.2.3.2.4.2.~~ Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. ~~The~~ Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

~~3.2.4.3.2.5.~~ To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of ~~\$~~ \$75,000 to be paid from the Gross Settlement Amount, with 75% ~~(\$~~ (\$56,250) allocated to the LWDA PAGA Payment and 25% ~~(\$~~ (\$18,750) allocated to the Individual PAGA Payments.

~~3.2.4.1.3.2.5.1.~~ The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ~~\$~~ \$18,750 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

~~3.2.4.2.3.2.5.2.~~ If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. ~~Based on a review of its records to date, XYZ through November 19, 2022, Defendant~~ estimates there are 25 Class Members who collectively worked a total of 2,379 Workweeks, ~~and~~ of from November 6, 2019 to November 19, 2022. Defendant estimates there are 316 Aggrieved Employees who ~~worked a total~~ of PAGA Pay Periods.

~~worked a total of 9,729 of PAGA Pay Periods from July 23, 2020 to November 19, 2022.~~

- 4.2. Class Data. Not later than ~~{e.g., fifteen (15)}~~ calendar days after the Court grants Preliminary Approval of the Settlement, XYZDefendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. XYZDefendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. -Without any extension of the deadline by which XYZDefendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. XYZDefendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay XYZ'sDefendant's share of payroll taxes by transmitting the funds to the Administrator no later than ~~{fourteen (14)}~~ calendar days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within ~~{fourteen (14)}~~ calendar days after XYZDefendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the ~~Class Representative~~Service ~~Payment~~Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the ~~Class Representative~~Service ~~Payment~~Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). -The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the

Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

~~4.4.1.4.2.~~ 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within ~~{seven (7)}~~ calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

~~4.4.2.4.3.~~ 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks ~~{to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).} [or to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient") _____]. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.~~(b).

~~4.4.3.4.4.~~ 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate ~~XYZ~~Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when ~~XYZ~~Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, ~~Plaintiff~~Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff'sPlaintiffs' Release. ~~Plaintiff~~Plaintiffs and ~~his or her~~their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences [that occurred during the Class Period], including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, ~~Plaintiff'sPlaintiffs' PAGA Notice, [or ascertained during the Action and released under 6.2, below]. ("Plaintiffs ("Plaintiffs' Release.")Plaintiffs").~~ Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any

claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. ~~Plaintiff acknowledges~~ Plaintiffs acknowledge that ~~Plaintiff~~ Plaintiffs may discover facts or law different from, or in addition to, the facts or law that ~~Plaintiff~~ Plaintiffs now ~~knows~~ know or ~~believes~~ believe to be true but ~~agrees~~ agree, nonetheless, that ~~Plaintiff's~~ Plaintiffs' Release shall be and remain effective in ~~all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.~~

~~Plaintiff~~ shall respect, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of ~~Plaintiff's~~ Plaintiffs' Release, ~~Plaintiff~~ Plaintiffs each expressly ~~waives~~ waive and ~~relinquishes~~ relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

5.2. Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint ~~[and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.].~~, including all claims for violation of California's Unfair Competition Law predicated on violation of the California Labor Code sections 510, 1194, 1194.2, 1197.1 and 2802. The release shall apply to Plaintiffs and the Class Members during the Class Period (defined above). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by ~~Non-Participating Class Members Who Are~~ Aggrieved Employees: All ~~Non-Participating Class Members who are~~ Aggrieved Employees – ~~whether or not they are Participating Class Members~~ – are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA

penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint~~[,] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.],~~ and the PAGA Notice, including PAGA penalties for: (1) failure to pay all wages, (2) failure to reimburse business expenses, (3) failure to provide accurate wage statements, (4) failure to timely pay wages due during and upon termination of employment, and (5) failure to maintain accurate records. The release shall apply to Plaintiffs the Aggrieved Employees, the Labor & Workforce Development Agency, and the State of California during the PAGA Period.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1. ~~XYZ’s~~TEKsystems, Inc.’s Declaration in Support of Preliminary Approval. Within ~~fourteen~~

(14) days of the full execution of this Agreement, ~~XYZ~~TEKsystems, Inc. will prepare and deliver to Class Counsel a signed Declaration from ~~XYZ~~TEKsystems, Inc. and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator~~—and—Cy—Pres—Recipient.~~ In their ~~Declarations~~Declaration, Defense Counsel and ~~XYZ~~TEKsystems, Inc. shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

~~6.1.6.2. Plaintiff’s~~Plaintiffs’ Responsibilities. ~~Plaintiff~~Plaintiffs’ Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code ~~Section~~section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members~~[and/or the proposed Cy Pres];~~; and the nature and extent of any financial relationship with ~~Plaintiff~~Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from ~~Plaintiff~~Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, ~~[and/or] the Administrator [and/or the proposed Cy Pres];~~; (v) a signed declaration from

each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, ~~Plaintiff~~**Plaintiffs** and Class Counsel ~~Declaration~~ shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

~~6.2.6.3.~~ Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ~~[30]~~**60** days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. -The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury

Regulation section 468B-1.

7.4. Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, ~~PAGA Members~~Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than ~~{14}~~ days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice~~—~~, with Spanish translation~~;~~ if applicable~~},~~ substantially in the form attached to this Agreement as Exhibit ~~_____~~.A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than ~~{3}~~ business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. ~~-~~The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

~~7.4.3~~7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional ~~{14}~~ days beyond the ~~{60}~~ days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

~~7.4.4~~7.4.5 If the Administrator, ~~XYZTEK~~systems, Inc., or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or

overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than ~~{14}~~ days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than ~~{60}~~ days after the Administrator mails the Class Notice (plus an additional ~~{14}~~ days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. -To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

~~7.5.2~~ The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. -The Administrator's determination shall be final and not appealable or otherwise susceptible to

challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

~~7.5.27.5.3~~ Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

~~7.5.37.5.4~~ Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have {60} days after the Administrator mails the Class Notice (plus an additional {14} days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. -The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or ~~Class Representative~~ Service ~~Payment~~Payments.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal

objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than {60} days after the Administrator's mailing of the Class Notice (plus an additional {14} days for Class Members whose Class Notice was re-mailed).

~~7.7.2~~7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment, and ~~Class—Representative—~~Service ~~Payment~~Payments, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than {5} days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than {14} days before the date by which ~~Plaintiff is~~Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or

requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within ~~{10}~~ days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least ~~{15}~~ days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE] Based on its records, ~~XYZTEKsystems~~ estimates that, as of the date of this Settlement Agreement, (1) there are 25 Class Members ~~and~~ who collectively worked 2,379 Total Workweeks ~~during the Class period from November 6, 2015 through November 19, 2022~~ and (2) there were 316 Aggrieved Employees who worked 9,729 Pay Periods ~~during the~~ from July 23, 2020 through November 19, 2022. If it is determined that the total number of Workweeks collectively worked by the Class from November 6, 2015 through November 19, 2022 is more than 10% greater than 2,379 Workweeks that Defendant represented there to be through that time period (i.e., if there were actually 2,617 workweeks or more collectively worked by the Class from November 6, 2015 through November 19, 2022), then Defendant agrees to increase the GSA on a proportional basis to the extent the threshold is exceeded (e.g., if the total number of Workweeks from November 6, 2015 through November 19, 2022 was actually 11% more than 2,379 – i.e., the total number increases by 11% to 2,641 Workweeks – the GSA will increase by one percent (1%)). If it is determined that the total number of Pay Periods collectively worked by the Aggrieved Employees from July 23, 2020 through November 19, 2022 is more than 10% greater than

9,729 pay periods that Defendant represented there to be through that time period (i.e., if there were actually 10,702 Pay Periods or more collectively worked by the Aggrieved Employees from July 23, 2020 through November 19, 2022), then Defendant agrees to increase the GSA on a proportional basis to the extent the threshold is exceeded (e.g., if the total number of Pay Periods from July 23, 2020 through November 19, 2022 was actually 11% more than 9,729 – i.e., the total number increases by 11% to 10,799 Pay Periods – the GSA will increase by one percent (1%)). In the alternative, Defendant may elect to shorten the Class Period and/or PAGA Period:^{viii}, as applicable, in order to stay within the 10% cushion.

8.9. ~~XYZ~~STEKSYSTEMS, INC.'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds % 10 of the total of all Class Members, ~~XYZTEKsystems~~ may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if ~~XYZTEKsystems~~ withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further

obligation to perform under this Agreement; provided, however, ~~XYZTEK~~systems will remain responsible for paying all Settlement Administration Expenses incurred to that point. ~~XYZTEK~~systems must notify Class Counsel and the Court of its election to withdraw not later than ~~{seven}~~ days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

9.10. MOTION FOR FINAL APPROVAL. Not later than ~~{16}~~ court days before the calendared Final Approval Hearing, ~~Plaintiff~~Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). ~~Plaintiff~~Plaintiffs shall provide drafts of these documents to Defense Counsel not later than ~~{seven}~~ days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later ~~that~~ ~~{than five}~~ court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the ~~Class Representative~~Service ~~Payment~~Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

~~10.2.~~10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

~~10.3.~~10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial,

extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

~~10.4.10.5.~~ Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. -If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the ~~Class Representative~~ Service ~~Payment~~Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10.11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

11.12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by XYZTEKsystems that any of the allegations in the Operative Complaint have merit or that XYZTEKsystems has any liability for any claims asserted; nor should it be intended or construed as an admission by PlaintiffPlaintiffs that XYZ'sTEKsystems' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant

Preliminary Approval, Final Approval, or enter Judgment, XYZTEKsystems reserves the right to contest certification of any class for any reasons, and XYZ TEKsystems reserves all available defenses to the claims in the Action, and Plaintiff reservesPlaintiffs reserve the right to move for class certification on any grounds available and to contest XYZ'sTEKsystems' defenses. The Settlement, this Agreement, and Parties'Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

~~12.1.12.2.~~ Confidentiality Prior to Preliminary Approval. PlaintiffPlaintiffs, Class Counsel, XYZTEKsystems, and Defense Counsel separately agree that, until the Motion for

Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit another person to disclose, disseminate, or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. ~~Plaintiff~~Plaintiffs, Class Counsel, ~~XYZTEK~~systems, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

~~12.2.12.3.~~ No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. -Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

~~12.3.12.4.~~ Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached ~~exhibit~~exhibit(s) shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

~~12.5.~~ Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by ~~Plaintiff~~Plaintiffs and ~~XYZTEK~~systems, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this

Agreement.

~~12.4.12.6.~~ Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to

implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

~~12.5.~~12.7. No Prior Assignments. -The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

~~12.6.~~12.8. No Tax Advice. Neither ~~Plaintiff~~Plaintiffs, Class Counsel, ~~XYZTEK~~systems, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

~~12.7.~~12.9. Modification of Agreement. -This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

~~12.8.~~12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

~~12.9.~~12.11. Applicable Law. All terms and conditions of this Agreement and its ~~exhibit~~exhibit(s) will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

~~12.10.~~12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

~~12.11.~~12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

~~12.12.~~12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by ~~XYZTEK~~systems in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and

no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, ~~Plaintiff~~Plaintiffs shall destroy all paper and electronic versions of Class Data received from ~~XYZTEK~~systems unless, prior to the Court's

discharge of the Administrator’s obligation, ~~XYZ~~TEKsystems makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

~~12.12.~~12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

~~12.13.~~12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

~~12.14.~~12.17. Notice. All notices, demands, or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To ~~Plaintiff~~Plaintiffs:

Cohelan Khoury & Singer Marta Manus mmanus@ckslaw.com Michael Singer msinger@ckslaw.com 605 C Street, Suite 200 San Diego, California 92101	
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To ~~XYZ~~:TEKsystems, Inc.:

Epstein Becker & Green, P.C. Michael S. Kun mkun@ebglaw.com Kevin D. Sullivan ksullivan@ebglaw.com 1925 Century Park East, Suite 500 Los Angeles, California 90067-2506	
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~~12.15.~~12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the

litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

 For Plaintiff For XYZ

Christopher Ornelas

Christopher Nieto

Authorized signatory for TEKsystems, Inc.

Michael D. Singer
Marta Manus
Rodney Mesriani
Counsel For XYZ for Plaintiffs

Michael S. Kun
Kevin D. Sullivan
Counsel For Plaintiff _____for Defendant
TEKsystems, Inc.

Christopher Ornelas and Christopher Nieto

EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND
HEARING DATE FOR FINAL COURT APPROVAL**

{Case Name and Number}

Ornelas, et al. v. TEKsystems, Inc.

Los Angeles County Superior Court Case No. 19STCV39944

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against _____ (abbreviate name; “XYZTEKsystems, Inc. (“TEKsystems” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by ~~a[n] two former~~ XYZ employee _____ (“Plaintiff TEKsystems employees Christopher Ornelas and Christopher Nieto (“Plaintiffs”) and seeks payment of (1) ~~back~~ allegedly owed wages ~~[and other relief]~~ for a class of ~~[e.g., hourly]~~ employees (“Class Members”) non-exempt “security system installers” who worked for XYZ during TEKsystems within the State of California at any time from November 6, 2015 through July 20, 2023 (the “Class Period—(_____ to _____);”) and who did not sign an arbitration agreement with TEKsystems (the “Class Members”); and (2) penalties under the California Private ~~Attorney~~ Attorneys General Act (“PAGA”) for all ~~[e.g., hourly]~~ employees non-exempt “security system installers” who worked for XYZ during the TEKsystems within the State of California at any time from July 23, 2020 through July 20, 2023 (the “PAGA Period—(_____ to _____) (“”) regardless of whether the employee signed an arbitration agreement with TEKsystems (the “Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring XYZTEKsystems to fund Individual Class Payments, and (2) a PAGA Settlement requiring XYZTEKsystems to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on XYZ’s TEKsystems’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ _____ (less withholding) and your Individual PAGA Payment is estimated to be \$ _____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to XYZ’s TEKsystems’ records, you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on XYZ’s TEKsystems’ records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweekspay periods** during the PAGA Period. If you believe that you worked more workweeks/pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this

Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. -At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to ~~Plaintiff~~Plaintiffs and ~~Plaintiff's~~Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires XYZTEKsystems to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against XYZTEKsystems.

If you worked for XYZTEKsystems during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against **XYZTEKsystems**.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against **XYZTEKsystems**, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

XYZTEKsystems will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against XYZTEKsystems that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. XYZTEKsystems must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement PAGA Written Objections	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and PlaintiffPlaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or PlaintiffPlaintiffs , but every dollar paid to Class

Must be Submitted by _____	Counsel and Plaintiff Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to XYZ’s TEKsystems’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

~~Plaintiff is a[n]~~ ~~Plaintiffs are former~~ ~~XYZ employee.~~ **TEKsystems employees.** The Action accuses ~~XYZ~~ **TEKsystems** of violating California labor laws by failing to pay ~~[e.g., all~~ overtime wages, minimum wages, wages due upon termination, and reimbursable expenses] **purportedly owed** and failing to provide ~~[e.g., meal periods, rest breaks and~~ accurate itemized wage statements]. Based on the same claims, ~~Plaintiff has~~ **Plaintiffs have** also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”). ~~Plaintiff is~~ **Plaintiffs are** represented by attorneys in the Action: _____ **Cohelan Khoury & Singer and Mesriani Law Group, APLC** (“Class Counsel.”).

~~XYZ~~ **TEKsystems** strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether ~~XYZ~~ **TEKsystems** or ~~Plaintiff is~~ **Plaintiffs are** correct on the merits. In the meantime, ~~Plaintiff~~ **Plaintiffs** and ~~XYZ~~ **TEKsystems** hired ☐ an experienced, neutral mediator ☐ ~~a retired judge~~ ☐ ~~[describe alternative means of negotiation]~~ in an effort to resolve the Action by negotiating an ~~to end to~~ the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. ~~The~~ **Although the parties did not reach a settlement at the mediation, they continued settlement** negotiations and were

ultimately successful in reaching a mutually agreed upon settlement. By signing a lengthy written settlement

agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff Plaintiffs and XYZTEKsystems have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, XYZTEKsystems does not admit any violations or concede the merit of any claims.

Plaintiff Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) XYZTEKsystems has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. XYZTEKsystems Will Pay \$XXXXX179,000 as the Gross Settlement Amount (Gross Settlement). XYZTEKsystems has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, ~~Class Representative Service Payment~~ Payments to the named Plaintiffs, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, XYZTEKsystems will fund the Gross Settlement not more than [14] days after the Judgment entered by the Court ~~become~~ becomes final. The Judgment will be final ~~on~~ after the ~~date the Court enters Judgment~~ deadline to file any appeal expires, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$ _____ (_____ % \$59,660.70 (33.33% of the Gross Settlement)) to Class Counsel for attorneys' fees and up to \$ _____ \$9,500 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$ _____ \$5,000 each (total of \$10,000) as a ~~Class Representative Award~~ Service Payment to the named Plaintiffs for filing the Action, working with Class Counsel and representing the Class. ~~A Class Representative~~ A Service Award will be the only monies Plaintiff Plaintiffs will receive other than Plaintiff Plaintiffs' Individual Class Payment and any Individual PAGA Payment.

C. Up to \$ \$7,500 to the Administrator for services administering the Settlement.

D. Up to \$ \$75,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their ~~PAGA Period Pay Periods~~.

PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. ~~Plaintiff~~Plaintiffs and ~~XYZTEK~~systems are asking the Court to approve an allocation of % 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and % to ~~[e.g., 80% of each Individual Class Payment as penalties, interest, etc.]~~and accountable reimbursement not subject to withholdings (“Non-Wage Portion~~-.)~~”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. ~~[Option 1: (XYZTEKsystems will separately pay employer payroll taxes it owes on the Wage Portion-)]~~. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although ~~Plaintiff~~Plaintiffs and ~~XYZTEK~~systems have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies **will be deposited with the California Controller's Unclaimed Property Fund in your name.**
- ☐ ~~will be deposited with the California Controller's Unclaimed Property Fund in your name.~~
- ☐ ~~will irrevocably lost to you because they will be paid to a non profit organization or foundation (“Cy Pres”).~~

If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against ~~XYZTEK~~systems.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against ~~XYZTEK~~systems based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and ~~XYZTEK~~systems have agreed that, in either case, the Settlement will be void: ~~XYZTEK~~systems will not pay any money and Class Members will not release any claims against ~~XYZTEK~~systems.
8. Administrator. -The Court has appointed a neutral company, _____ ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Class Members' Release. After the Judgment is final and ~~XYZTEK~~systems has fully funded the Gross Settlement [~~Option 1:~~ (and separately paid all employer payroll taxes)], Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted-out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against ~~XYZTEK~~systems or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and

assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint ~~[and ascertained in the course of the Action] [including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.”]. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.~~^{viii}, including all claims for violation of California’s Unfair Competition Law predicated on violation of California Labor Code sections 510, 1194, 1197.1, and 2802. The release shall apply to Plaintiffs and the Class Members for the time period from November 6, 2015 through July 20, 2023.

10. Aggrieved Employees’ PAGA Release. —After the Court’s judgment is final, and ~~XYZTEKsystems~~ has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against ~~XYZTEKsystems~~, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against ~~XYZTEKsystems~~ or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ Releases for Participating and Non—Participating Class Members are as follows:

~~All Participating and Non Participating Class Members who are~~ All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint~~[,] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., (a) any and all claims involving any alleged failure to pay minimum wage; etc.], and the PAGA Notice, including PAGA penalties for: (1) failure to pay all wages, (2) failure to reimburse business expenses, (3) failure to provide accurate wage statements, (4) failure to timely pay wages due during and upon termination of employment, and (5) failure to maintain accurate records. The release shall apply to Plaintiffs, the Aggrieved Employees, the Labor & Workforce Development Agency, and the State of California for the time period from July 23, 2020 through July 20, 2023.~~

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$_____18,750 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in XYZ'sTEKsystems' records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept XYZ'sTEKsystems' calculation of Workweeks and/or Pay Periods based on XYZ'sTEKsystems' records as accurate unless you send copies of records containing contrary information.— You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and XYZ'sTEKsystems' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts--out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as _____,Ornelas, et al. v.

TEKsystems, Inc., and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** -Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what ~~Plaintiff~~Plaintiffs and ~~XYZ~~TEKsystems are asking the Court to approve. At least _____16 court days before the _____ Final Approval Hearing, Class Counsel and/or ~~Plaintiff~~Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service ~~Award~~Awards stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount ~~Plaintiff is~~Plaintiffs are requesting as ~~a Class Representative~~Service ~~Award~~. Payments. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [URL] or the Court's website [URL].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service ~~Award~~Payments may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or ~~Plaintiff~~Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action _____Ornelas, et al. v. TEKsystems, Inc. and include your name, current address, telephone number, and approximate dates of employment for ~~[XYZ]~~TEKsystems and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on - _____ at _____ [time] in Department ~~[7]~~12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, ~~Plaintiff~~Plaintiffs, and the Administrator. The Court will invite

comment from objectors, Class Counsel, and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything ~~XYZTEK~~systems and ~~Plaintiff~~Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____ [specific entity]'s ILYM's website at [URL]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. _____. 19STCV39944. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorney: Marta Manus and Michael D. Singer

Email Address: mmanus@ckslaw.com
msinger@ckslaw.com

Name of Firm: Cohelan Khoury & Singer

Mailing Address: 605 C Street, Suite 200
San Diego, CA 92101

Telephone: (619) 595-3001

Settlement Administrator:

Name of Company: ILYM Group, Inc.

Email Address:

Mailing Address:

Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds

☐ ~~you should consult the Unclaimed Property Fund _____ for instructions on how to retrieve the funds~~

☐ ~~you will have no way to recover the money.~~

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

ⁱ~~This Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.~~

ⁱⁱ~~Whether the “date of preliminary approval” yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties’ *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount “represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation.” (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94–95, internal quotation marks omitted.)~~

ⁱⁱⁱ~~See endnote ii above.~~

^{iv}~~The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.~~

^v~~The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.~~

^{vi}~~Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code Section 226(a) claim.)~~

^{vii}~~Insert negotiated terms, if any, addressing the possibility that XYZ’s estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an “escalator” clause memorializing XYZ’s promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ’s estimates.~~

^{viii}~~Releases in Notice should track the releases in the Settlement Agreement.~~

EXHIBIT 3

ORIGINAL

COHELAN KHOURY & SINGER

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msinger@ckslaw.com

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Santa Monica, California 90401

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Attorneys for Plaintiffs CHRISTOPHER ORNELAS, on behalf of himself and all others similarly situated, and CHRISTOPHER NIETO, on behalf of himself and all others aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES (COMPLEX)

CHRISTOPHER ORNELAS, on behalf of himself and all others similarly situated and CHRISTOPHER NIETO, on behalf of himself and all others aggrieved,

Plaintiffs,

vs.

TEKSYSTEMS, INC., a Maryland Corporation; and DOES 1 through 10, inclusive,

Defendants.

FILED
Superior Court Of California
County Of Los Angeles

JUL 23 2021

Sherri R. Carter, Executive Officer/Clerk

By Michelle Miro Deputy
Michelle Miro

Case No. 19STCV39944

FIRST AMENDED CLASS AND PAGA REPRESENTATIVE ACTION COMPLAINT FOR RESTITUTION AND CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT ("PAGA")

- 1) VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL") CALIFORNIA BUSINESS & PROFESSIONS CODE §§ 17200, *et seq.*, PREDICATED UPON VIOLATIONS OF CALIFORNIA LABOR CODE SECTIONS 510, 1194, and 2802
- 2) PAGA CIVIL PENALTIES FOR FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES [LABOR CODE §§ 510, 1194, 1197, 1197.1, 1198, and 1199(c)]
- 3) PAGA CIVIL PENALTIES FOR FAILURE TO REIMBURSE EXPENSES [LABOR CODE §§ 2802 and 2804]
- 4) PAGA CIVIL PENALTIES FOR FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS

COHELAN KHOURY & SINGER
605 C Street, Suite 200
San Diego, CA 92101

619-595-3001

FILING WINDOW

JUL 23 2021

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- [LABOR CODE § 226 and 226.3]
5) **PAGA CIVIL PENALTIES FOR
FAILURE TO TIMELY PAY WAGES
DUE DURING AND UPON
TERMINATION OF EMPLOYMENT
[LABOR CODE §§ 201, 202, 203;**
6) **PAGA CIVIL PENALTIES FOR
FAILURE TO MAINTAIN ACCURATE
RECORDS
[LABOR CODE §§ 1174 and 1174.5]**

1 Plaintiffs CHRISTOPHER ORNELAS, on behalf of himself and all others similarly
2 situated, and CHRISTOPHER NIETO, on behalf of himself and all others aggrieved
3 (“Plaintiffs”), allege as follows:

4 **GENERAL ALLEGATIONS**

5 1. Plaintiff Christopher Ornelas (“Plaintiff ORNELAS”) bring this action as a
6 proposed class action against Defendants TEKSYSTEMS, INC., and DOES 1 through 10,
7 inclusive (“Defendants” or “TEK”) for restitution of unpaid wages and expenses incurred by all
8 security system installers in the State of California at any time from four years prior to the
9 commencement of the action to the date of commencement of trial (or such earlier date as
10 determined by the Court) (proposed “Class Period”). Because there was systematic and
11 uniform denial of pay for wages and expenses and the proposed Class has a well-defined
12 community of interest, Plaintiff brings this action pursuant to California Code of Civil
13 Procedure section 382 and seeks restitution under California’s Unfair Competition Law
14 (“UCL”) Business and Professions Code section 17200, et seq, as predicated on violations of
15 Labor Code sections 510, 1194, 2802 and applicable Industrial Welfare Commission (IWC)
16 Wage Order 4-2001, sections 7-9.

17 2. Plaintiff Christopher Nieto (“Plaintiff NIETO”) brings this action as a PAGA
18 representative action pursuant to California’s Private Attorneys General Act of 2004
19 (“PAGA”), Labor Code § 2698, et seq. Plaintiff NIETO complied with all PAGA Notice
20 requirements. Labor Code § 2699.3. A true and correct copy of the Notice sent to the California
21 Labor and Workforce Development Agency (“LWDA”) on March 12, 2021 is attached hereto
22 as **Exhibit 1**. The LWDA did not intervene within the statutory period nor did Defendant TEK
23 provide a notice of cure within the statutory period of time, and as such this Complaint is
24 amended to include civil penalties recoverable under the PAGA statute, to be recovered and
25 split with the LWDA in accordance with Labor Code section 2699. Plaintiff seeks civil
26 penalties for Defendants’ failure to: pay minimum, regular, and overtime wages; reimburse
27 expenses; provide accurate wage statements; pay wages due during and upon termination of
28 employment; and maintain accurate records during the “PAGA Period” (defined as March 12,

2020 until the commencement of trial in this matter).

3. Plaintiffs are informed and believe, and based thereon allege, the following:

a. TEK employed hourly paid non-exempt “security system installers” in the state of California during the proposed Class and PAGA Periods. Plaintiff ORNELAS was employed in said position as an installer of security systems to homes and businesses in the Los Angeles area during the proposed Class Period. ORNELAS separated from employment with TEK on or about July 10, 2016;

b. During Plaintiff ORNELASs employment at TEK, he was a resident of Hawthorne, California and was deemed an hourly paid non-exempt security system installer and paid an approximate hourly rate of \$25.00 per hour;

c. Plaintiff NIETO has been employed by TEK as a security systems installer from approximately 2015 to the present;

d. During Plaintiff NIETO’s employment at TEK, he has been a resident, and is currently a resident, of Los Angeles County, California and has been deemed an hourly paid non-exempt security system installer and paid an approximate hourly rate of \$32.00 per hour;

e. During the proposed Class and PAGA Periods, Plaintiff and other similarly situated and aggrieved “installers” were subject to uniform and systematic policies wherein they were not paid for all “hours worked” as defined by IWC Wage Order 4-2001, section 1(k). Specifically, Plaintiff and other similarly situated and aggrieved employees were required to travel to locations without payment for travel time to distant locations, sometime amounting to hours of unpaid minimum, regular and overtime wages in violation of Labor Code sections 510, 1194, and the Wage Order requirement to pay minimum, regular and overtime wages for all ‘hours worked’ and subject to TEK’s control. TEK did not compensate for hours between installation locations (non-commute travel time) which amounted to as many as 10-15 unpaid hours worked, or more, each workweek. Plaintiffs are informed and believe that this practice was uniformly applied to all security system installers employed by TEK;

d. Plaintiff and other similarly situated and aggrieved employees were also

1 required to use their personal vehicles for travel, but were subject to a policy wherein TEK
2 uniformly and systematically failed to reimburse mileage and other vehicle related expenses in
3 violation of California Labor Code section 2802 and IWC Wage Order 4-2001, sections 8-9.
4 While TEK did supply some tools, Plaintiff and other similarly situated and aggrieved
5 employees had to purchase and replace tools necessary for proper installation, also without
6 reimbursement from TEK;

7 e. Plaintiff and other similarly situated and aggrieved employees suffered
8 actual harm as a direct and proximate result of Defendants' unlawful policies and practices by
9 failing to pay for all "hours worked" at the requisite minimum wage, regular rate of pay and/or
10 overtime rate of pay for shifts exceeding 8 hours per day or weeks where hours exceeded 40
11 hours, all in an amount according to proof.;

12 f. Plaintiff and other similarly situated and aggrieved employees suffered
13 actual harm as a direct and proximate result of Defendants' unlawful policies and practices for
14 failure to reimburse vehicle mileage and other travel expenses, as well as certain tool costs all
15 in an amount according to proof. Plaintiff estimates that mileage costs alone reached anywhere
16 from 250-500 miles per workweek without even basic IRS reimbursement amounts for business
17 use of personal vehicles.

18 **JURISDICTION AND VENUE**

19 4. Venue as to each Defendant is proper in this judicial district, pursuant to Code
20 of Civil Procedure section 395. Defendants employ numerous Class Members and aggrieved
21 employees in Los Angeles County and in California, and each Defendant is within the
22 jurisdiction of this Court for service of process purposes. The unlawful acts alleged herein have
23 a direct effect on Plaintiffs and those similarly situated and aggrieved within the State of
24 California and within Los Angeles County. There is no federal question at issue as the issues
25 herein are based solely on California statutes and law, including the Labor Code, IWC Wage
26 Orders, Code of Civil Procedure, and Civil Code. Thus, the above entitled court maintains
27 appropriate jurisdiction to hear this matter.

28 5. Further, Business and Professions Code section 17203 provides that any person

1 who engages in unfair competition may be enjoined in any court of competent jurisdiction.
2 Business and Professions Code section 17204 provides that any person acting on his or her own
3 behalf may bring an action in a court of competent jurisdiction. Thus, the above entitled court
4 maintains appropriate jurisdiction to hear this matter. By violating the California Labor Code,
5 Plaintiff has suffered injury in fact and loss, sufficient for standing to bring claims under
6 Business & Professions Code sections 17150, *et seq.*, and under Code of Civil Procedure
7 section 382. Based on information and belief, Plaintiffs allege that this entire action arises solely
8 under the laws of the State of California and applicable regulations of the health, safety, and
9 wages of the employees residing in the State of California. Plaintiffs allege, on information and
10 belief, that no federal question is raised and that the Class Action Fairness Act (“CAFA”), 28
11 U.S.C. section 1332(d), does not apply, or in the alternative, that exceptions for local case or
12 controversy under CAFA do apply and prohibit removal of the action the federal court. Since
13 TEK has headquarters in California, there is no diversity of citizenship for purposes of removal
14 of this action to federal court. Further, PAGA civil penalty actions are not subject to federal
15 jurisdiction.

16 **PARTIES**

17 **Plaintiff**

18 6. At all relevant times, Plaintiff CHRISTOPHER ORNELAS was a resident of the
19 State of California in the municipality of Hawthorn within Los Angeles County. Plaintiff was
20 employed by Defendants in the state of California as an hourly non-exempt “security system
21 installer” until approximately July 10, 2016. Like all others similarly situated in California,
22 Plaintiff was subject to the same pay and expense reimbursement policies implemented by TEK
23 that resulted in the loss of wages and expenses, and has in fact suffered financial harm by
24 TEK’s unfair, illegal and deceptive business acts and practices under the UCL and has standing
25 to bring this claim on behalf of himself and other similarly situated employees.

26 7. At all relevant times, Plaintiff CHRISTOPHER NIETO has been resident of the
27 State of California in Los Angeles County. Plaintiff has been employed by Defendants as an
28 hourly non-exempt “security system installer” from approximately 2015 to the present. Like all

1 others aggrieved in California, Plaintiff was subject to the same illegal pay, wage statement,
2 and expense reimbursement policies implemented by TEK, and has standing to bring a
3 representative action on behalf of himself and other aggrieved employees.

4 **Defendants**

5 8. Defendant TEKSYSTEMS, INC. is a Maryland corporation which, at all times
6 during the Class Period, engaged in business and employed Plaintiff and other members of the
7 Plaintiff Class in California and Los Angeles County.

8 9. Plaintiff is unaware of the true names, capacities, relationships of the
9 Defendants sued as DOES 1 through 10, or the extent of their participation in the conduct
10 alleged herein, but is informed and believes, and thereon alleges, that said Defendants are
11 legally responsible for the wrongful conduct alleged herein, and therefore sues these
12 Defendants by such fictitious names. Plaintiff will amend this complaint when their true names
13 and capacities are ascertained. This is permitted by law pursuant to California Code of Civil
14 Procedure section 474.

15 10. Plaintiff is informed and believes, and based thereon alleges, that each
16 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and
17 other members of the Class, and exercised control over their wages, hours, and working
18 conditions. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted in
19 all respects pertinent to this action as the agent of the other Defendants, carried out a joint
20 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant
21 is legally attributable to the other Defendants.

22 11. Any person who is a managing agent, whether known now or later, named as a
23 DOE Defendant is personally liable for civil penalties and wages pursuant to California Labor
24 Code section 558.1, which provides: "Any employer or other person acting on behalf of an
25 employer, who violates, or causes to be violated, any provision regulating minimum wages or
26 hours and days of work in any order of the Industrial Welfare Commission, or violates, or
27 causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as
28 the employer for such violation." See, *Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th 809, 238

1 Cal. Rptr. 3d 465 (petition for review denied, January 16, 2019) and *Turman v. Superior Court*
2 (2017) 17 Cal.App.5th 969.

3 **CLASS ALLEGATIONS**

4 12. Plaintiff brings this action on behalf of himself and all other similarly-situated
5 persons as a class action pursuant to California Code of Civil Procedure section 382. Plaintiff
6 seeks to represent a Plaintiff Class and subclasses composed of and defined as follows:

7 **PLAINTIFF CLASS:**

8 All persons in the State of California who were employed by TEKSYSTEMS,
9 INC. and DOES 1 through 10, inclusive (“Defendants” or “TEK”) as hourly
10 paid non-exempt “security system installers” at any time from four years prior
11 to the commencement of this action to the date of commencement of trial (or
12 such earlier date as determined by the Court (the proposed “Class Period”).

13 **Subclass One: The Unpaid Wage Subclass:**

14 All members of the Plaintiff Class who as a result of Defendants’ pay policies
15 and practices were not paid for all “hours worked” at either minimum wage,
16 their regular rate of pay and/or overtime rate of pay for overtime eligible shifts,
17 and who are owed restitution in an amount according to common proof.

18 **Subclass Two: The Expense Reimbursement Subclass:**

19 All members of the Plaintiff Class who as a result of Defendants’ business
20 expense policies and practices were not reimbursed mileage and tool
21 expenditures necessary to perform installations and are owed restitution in an
22 amount according to common proof.

23 13. Plaintiff reserves the right under Rule 3.765(b), California Rules of Court, to
24 amend or modify the Class description with greater specificity or further division into
25 subclasses or limitation to particular issues.

26 14. This action has been brought and may be properly maintained as a class action
27 under the provisions of California Code of Civil Procedure section 382 because there is a well-
28 defined community of interest in the litigation and the proposed Class is easily ascertainable.

Numerosity and Ascertainability

15 15. The members of the Plaintiff Class are sufficiently numerous that individual
16 joinder of all of them as Plaintiffs is impracticable. While the exact number of the Plaintiff
17 Class Members is unknown to Plaintiff at this time, Plaintiff is informed and believes, and
18

1 based thereon alleges, that are at least 25 proposed Plaintiff Class Members, who, at all relevant
2 times, were employed in the State of California. All Plaintiff Class Members are readily
3 ascertainable by review of records required to be maintained by TEK under California law and
4 applicable regulations, and who were not subject to arbitration/class action waiver agreements.

5 **Commonality**

6 16. There are questions of law and fact common to the Plaintiff Class that
7 predominate over any questions affecting only individual Plaintiff Class Members. These
8 common questions of law and fact include, without limitation:

9 a. Whether Defendants violated Labor Code sections 510, 1194, and the
10 applicable IWC Wage Order and owe Plaintiff Class Members restitution under the UCL for
11 failing to compensate for all hours worked during intra-day travel between installation locations
12 during the proposed Class Period.

13 b. Whether Defendants violated Labor Code section 2802 and the
14 applicable provisions of the IWC Wage Order and owe Plaintiff Class Members restitution
15 under the UCL for failing to reimburse mileage and other travel and tool expenses incurred by
16 Class Members during the proposed Class Period.

17 **Adequacy of Representation and Typicality:**

18 17. Plaintiff has agreed to serve as representatives of all similarly-situated
19 employees to raise common claims. Plaintiff understands that he owes a fiduciary obligation to
20 obtain competent counsel and take actions to promote, advance and prevail on the claims being
21 made, not just individually, but for the collective group of employees as a whole. Plaintiff has
22 been informed of her duties as a proposed class representative and has agreed to fairly and
23 adequately represent and protect the interests of the members of the Plaintiff Class. Plaintiff has
24 suffered harm and loss of money in a similar manner as the proposed Plaintiff Class with the
25 only variation being the amount of loss and damage suffered by individual employees as a
26 result of Defendants' common, uniform, and systematic practice. Plaintiff is informed and
27 believes that the law firms of Cohelan Khoury & Singer and Mesriani Law Group, APLC are
28 comprised of competent and experienced attorneys who regularly litigate large employment

1 class actions. The claims of Plaintiff are typical of the claims of the proposed Plaintiff Class.
2 Plaintiff has suffered the exact harm as result of uniform and systematic policies, conduct, and
3 practices of the Defendants. Plaintiff and all members of the proposed Plaintiff Class sustained
4 injuries and damages arising out of and caused by the Defendants' common course of conduct
5 in violation of laws, regulations that have the force and effect of law, and statutes as alleged.

6 **Superiority of Class Action/Manageability**

7 18. A class action is superior to other available means for the fair and efficient
8 adjudication of this controversy. Individual joinder of all Plaintiff Class Members is not
9 practicable, and questions of law and fact common to the Plaintiff Class predominate over
10 questions affecting only individual Plaintiff Class Members. Each Plaintiff Class Member has
11 been damaged and is entitled to recovery by reason of Defendants' illegal policy and/or
12 practice of failing to pay for all hours worked and to reimburse necessary travel and tool
13 expenditures. A Class action will allow those similarly situated to litigate their claims in the
14 most efficient and economical manner for the parties and the judicial system. Plaintiff is
15 unaware of any difficulties that are likely to be encountered in the management of this action
16 that would preclude its maintenance as a class action. Further, this class action is manageable
17 because all determinations can be made from a representative sampling or review of
18 Defendants' corporate pay records, employee records, and wage statement records to show
19 violations of law and the amounts owed to each employee in the proposed Plaintiff Class. To
20 the extent there are any individualized inquiries, such inquiries can be minimized and managed
21 by resort to statistical analysis and representative evidence and testimony.

22 **FIRST CAUSE OF ACTION**

23 **UNFAIR COMPETITION PURSUANT TO BUSINESS AND PROFESSIONS CODE §§**
24 **17200-17204 PREDICATED ON THE VIOLATION CALIFORNIA LABOR CODE**
25 **SECTIONS 510,1194, 1194.2, 1197.1, 2802 and applicable PROVISIONS OF IWC**
26 **WAGE ORDER 4-2001**
(On Behalf of Plaintiff Christopher Ornelas and the Plaintiff Class against each
Defendant)

27 19. Plaintiff ORNELAS incorporates the preceding paragraphs of this Complaint
28 expressly herein by this reference as if all prior paragraphs were set forth in full.

1 20. Labor Code section 510 provides in pertinent part: “Eight hours of labor
2 constitutes a day’s work. Any work in excess of 8 hours in one workday and any work in
3 excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of
4 work in any one workweek shall be compensated at the rate of no less than one and one-half
5 times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall
6 be compensated at the rate of no less than twice the regular rate of pay for an employee. In
7 addition, any work in excess of eight hours on any seventh day of a workweek shall be
8 compensated at the rate of no less than twice the regular rate of pay of an employee.”

9 21. Labor Code section 1194(a) states: “Notwithstanding any agreement to work for
10 a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
11 compensation applicable to the employee is entitled to recover in a civil action the unpaid
12 balance of the full amount of this minimum wage or overtime compensation, including interest
13 thereon, reasonable attorney’s fees, and costs of suit.”

14 22. IWC Wage Order 4-2001 section 2(K) defines all “hours worked” as: “the time
15 during which an employee is subject to the control of an employer, and includes all the time the
16 employee is suffered or permitted to work, whether or not required to do so.”

17 23. IWC Wage Order 4-2001 requires that all hours worked be compensated by
18 payment of at least the applicable California Minimum Wage.

19 24. California Labor Code section 2802 provides: “(a) An employer shall indemnify
20 his or her employee for all necessary expenditures or losses incurred by the employee in direct
21 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
22 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
23 believed them to be unlawful. (b) All awards made by a court or by the Division of Labor
24 Standards Enforcement for reimbursement of necessary expenditures under this section shall
25 carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date
26 on which the employee incurred the necessary expenditure or loss. (c) For purposes of this
27 section, the term ‘necessary expenditures or losses shall include all reasonable costs, including,
28 but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this

1 section.” Labor Code section 2804 provides that an employee may not waive his or her right to
2 these reimbursements under Labor Code section 2802.

3 25. IWC Wage Order 4-2001, section 8 provides in pertinent part: No employer
4 shall make any deduction from the wage or require any reimbursement from an employee for
5 any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage,
6 breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the
7 employee.

8 26. IWC Wage Order 4-2001, section 9 provides in pertinent part: “When uniforms
9 are required by the employer to be worn by the employee as a condition of employment, such
10 uniforms shall be provided and maintained by the employer. The term —uniforml includes
11 wearing apparel and accessories of distinctive design or color. NOTE: This section shall not
12 apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

13 (B) When tools or equipment are required by the employer or are necessary to the performance
14 of a job, such tools and equipment shall be provided and maintained by the employer, except
15 that an employee whose wages are at least two (2) times the minimum wage provided herein
16 may be required to provide and maintain hand tools and equipment customarily required by the
17 trade or craft.”

18 27. California Business and Professions Code § 17200, *et seq.*, commonly referred
19 as the Unfair Competition Law or “UCL,” prohibits “any unlawful, unfair or fraudulent
20 business act or practice.” Unlawful business acts are those acts which are in violation of any
21 federal, state, or municipal statutes or codes, as well as state and federal regulations. As
22 elaborated above Defendants’ failure to properly pay their employees’ wages/expenses violates
23 many provisions of the California Labor Code and applicable regulations of hours and wages as
24 promulgated by the IWC.

25 28. Each of the identified statutes and regulations provide lawful basis to pursue
26 restitution from Defendants under the UCL. See, *Cortez v. Purolator Air Filtration Products*
27 *Co.*, 23 Cal.4th 163 (2000) [holding that Labor Code violations serve as sufficient statutory
28 predicate to recover restitution for unpaid wages.] Same, *Gattuso v. Harte-Hanks Shoppers*,

1 *Inc.*, 42 Cal. 4th 554 (2007).

2 29. Plaintiff and members of the Unpaid Wages Subclass were “employees” of
3 Defendants and were to be paid as hourly non-exempt security system installers for all “hours
4 worked” and subject to Defendants’ control. Even though travel from place-to-place was a
5 requirement of employment, TEK and Doe Defendants failed to pay for intra-day travel time
6 and had a policy that refused to compensate for such time on either payment of a minimum
7 wage, regular wage and/or overtime rates for applicable shifts. This amounted to a violation of
8 Labor Code section 510, 1194, as well as various provisions of IWC Wage Order 4-2001, and
9 resulted in underpayment of wages. Plaintiff seeks restitution of such wages as against
10 Defendants, in an amount according to proof.

11 30. Similarly, Plaintiff and members of the Expense Reimbursement Subclass were
12 subjected to a uniform and systematic policy that intra-day mileage was not reimbursed to
13 installers and certain tool acquisition and replacement costs were born by the installers, also
14 without any policy by Defendants to reimburse for such reasonable and necessary expenditures.
15 Accordingly, this conduct violates Labor Code section 2802 and IWC Wage Order 4-2001,
16 sections 8-9 and results in Defendants liability for restitution of such expenses to the Plaintiff
17 and the impacted members of the Plaintiff Class in an amount according to proof.

18 31. Plaintiff and members of the Plaintiff Class are entitled to recover the amount of
19 wages and benefits they lost as a result, plus interest as restitution, in an amount according to
20 proof.

21 32. Under Labor Code sections 1194 and 2802, Plaintiff and members of the
22 Plaintiff Class are entitled to recover reasonable attorney’s fees and costs. Alternatively,
23 Plaintiff will seek attorney’s fees to the extent permitted and provided for providing a public
24 benefit pursuant to Code of Civil Procedure section 1021.5 in an amount according to proof and
25 subject to Court approval.

26 33. To the extent, if any, that there exists a purported lawful and enforceable
27 alternative dispute resolution “agreement” binding upon Plaintiff, Plaintiff limits recovery
28 sought in this cause of action to declaratory, injunctive, or other preliminary or permanent

injunctive relief to the extent permitted by *McGill v. Citibank, N.A.* (2017) 2 Cal.5th 945, 956, and will seek attorney's fees to the extent permitted by California Code of Civil Procedure section 1021.5, based on public benefit obtained, lodestar and subject to Court approval.

SECOND CAUSE OF ACTION

PAGA CIVIL PENALTIES FOR FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

[LABOR CODE §§ 218, 510, 1194, 1197, 1197.1, 1198, and 1199(c)]

(On Behalf of Plaintiff Christopher Nieto and Other Aggrieved Employees against each Defendant)

34. Plaintiff NIETO incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full.

35. Plaintiff NIETO has complied with all exhaustion and notice requirements as set for in Labor Code sections 2698, *et seq.* to proceed as a representative of the State of California to collect civil penalties to the extent permitted by law for Plaintiff NIETO and each of the aggrieved employees.

36. Labor Code section 1197 provides: "The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity."

37. Labor Code section 1197.1 provides: "Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203. For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid.

38. Labor Code section 1198 provides: "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is

1 unlawful.”

2 39. During the PAGA Period, Plaintiff NIETO and other aggrieved employees not
3 paid wages for all hours they worked for Defendants, including minimum, regular, and
4 overtime wages for time spent taking inventory. Plaintiff NIETO estimates that during the
5 course of his employment with Defendants, he spent approximately 10 hours taking inventory,
6 time for which he did not receive compensation. Recent updates to the inventory process have
7 improved the situation over the last few months, but the allotment of time for inventory still
8 falls short of actual time necessary to document and report inventory.

9 40. As a direct and proximate result of Defendants’ unlawful conduct, as alleged
10 herein, Plaintiff NIETO and other aggrieved employees have been deprived, and continue to be
11 deprived, of minimum, regular, and overtime wages for time worked or spent under
12 Defendants’ control.

13 41. Accordingly, Defendants violated Labor Code sections 510, 1194, 1194.2, 1197,
14 1197.1, 1198, and 1199(c) in addition to IWC Wage Order 4-2001. Labor Code section 2699.5
15 lists Labor Code sections 510, 1194, 1197, 1197.1, 1198, and 1199 as statutes for which default
16 civil penalties may be recovered under Labor Code section 2699(f)(2). The nature, extent, and
17 amount of civil penalties for which Defendants are liable is presently unknown but can be
18 calculated based on pay period and work week data for ascertainable and identifiable
19 “aggrieved employees” who worked as hourly paid non-exempt “security system installers.”

20 42. Civil penalties may be recovered pursuant to Labor Code section 2699(f)(2)
21 which states in pertinent part: “(a) Any employer or other person acting on behalf of an
22 employer who violates, or causes to be violated, a section of this chapter or any provision
23 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
24 subject to a civil penalty in an amount according to proof.

25 43. To the extent Plaintiff NIETO and other potentially aggrieved employees have
26 been impacted, Plaintiff NIETO is entitled to recover civil penalties on behalf of the LWDA
27 and also to seek reasonable attorneys’ fees and costs in accordance with Labor Code section
28 2699(g) and/or California Code of Civil Procedure section 1021.5, subject to court approval.

THIRD CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR FAILURE TO REIMBURSE EXPENSES
[LABOR CODE §§ 2802 and 2804]
(On Behalf of Plaintiff Christopher Nieto and Other Aggrieved Employees against each Defendant)**

44. Plaintiff NIETO incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full.

45. Plaintiff NIETO has complied with all exhaustion and notice requirements as set for in Labor Code sections 2698, *et seq.* to proceed as a representative of the State of California to collect civil penalties to the extent permitted by law for Plaintiff NIETO and each of the aggrieved employees.

46. During the PAGA Period, Defendants required Plaintiff NIETO to use his own garage space to maintain TEK's equipment inventory, without any reimbursement for the use of the 20 by 25 foot storage space. Plaintiff NIETO estimates that the same amount of space at a commercial storage facility would cost over \$100 per month. On information and belief, Defendants required other aggrieved employees to do the same.

47. During the PAGA Period, Defendants also did not reimburse Plaintiff NIETO for expenses he incurred performing work-related duties, including expenses for tools, personal cell phone usage, laptops used in the field, mileage and gas, as well as rent on his garage space used to store Defendants' inventory boxes. On information and belief, Defendants did not reimburse other aggrieved employees for these expenses.

48. During the PAGA Period, Plaintiff NIETO estimates he spent at least \$1,000 on tools necessary to perform his work duties for Defendants. Plaintiff NIETO further alleges that he spent an additional \$500 on tools for work in the field and for wear and tear on drill bits. Plaintiff NIETO estimates his tool expenditures at \$120 per month.

49. During the PAGA Period, Plaintiff NIETO alleges he was required to use his personal cell phone for work-related duties. He estimates his monthly cell phone costs at \$80 per month. Plaintiff NIETO also alleges he was not reimbursed for mileage nor for gas expenses incurred while driving his personal vehicle to and from work locations. Plaintiff

1 NIETO estimates he spent roughly \$25 per day on gas to travel to and from work sites. For a 5-
2 day workweek, that totals approximately \$125 per week spent on gas (\$625 per month).
3 Plaintiff NIETO typically worked 6 days per week during the majority of 2020, thus incurring
4 approximately \$725 in expenses for gas during the year 2020.

5 50. During the PAGA Period, Plaintiff NIETO further alleges that a laptop was
6 required in the field to complete his work tasks. The use of internet port forwarding and
7 cameras was necessary, and the expense to obtain basic equipment is over \$800 plus software
8 and maintenance costs. Plaintiff NIETO estimates he spent approximately \$1,200 related to his
9 laptop and necessary software. Lastly, Plaintiff NIETO was ultimately required to rent a
10 storage unit to house Defendants' inventory boxes, the cost of which was not reimbursed by
11 Defendants.

12 51. Finally, Plaintiff NIETO and other aggrieved employees were required to enter
13 into the homes of Defendants' customers during the 2020 COVID-19 pandemic, but
14 Defendants did not provide personal protective equipment ("PPE"), such as gloves and masks,
15 to reasonably ensure his health and safety while carrying out his work duties. Plaintiff NIETO
16 had to purchase these items himself and was not reimbursed for these expenses. During the
17 onset of the pandemic, Plaintiff and other aggrieved employees had to pay for masks, footwear,
18 gloves, hand cleansers, and other PPE materials to safely perform work. Plaintiff NIETO
19 estimates that he paid over \$500 to \$1,000 to obtain necessary PPE, all without any
20 reimbursement by Defendants.

21 52. Consequently, during the PAGA Period, Defendants failed to reimburse Plaintiff
22 NIETO and other aggrieved employees for all expenses incurred while working for Defendants,
23 including but not limited to, tools, personal cell phone usage, laptops used in the field, mileage
24 and gas, protective equipment, PPE materials, and rent on garage space necessary to store
25 Defendants' inventory boxes.

26 53. As a direct and proximate result of Defendants' unlawful conduct, as alleged
27 herein, Plaintiff NIETO and other aggrieved employees have been deprived, and continue to be
28 deprived, of reimbursements for work-related expenses they incurred in service of Defendants.

1 54. Accordingly, Defendants violated Labor Code section 2802. Labor Code section
2 2699.5 lists Labor Code section 2802 as a statute for which default civil penalties may be
3 recovered under Labor Code section 2699(f)(2). The nature, extent, and amount of civil
4 penalties for which Defendants are liable is presently unknown but can be calculated based on
5 pay period and work week data for ascertainable and identifiable “aggrieved employees” who
6 worked as hourly paid non-exempt “security system installers.”

7 55. Civil penalties may be recovered pursuant to Labor Code section 2699(f)(2)
8 which states in pertinent part: “(a) Any employer or other person acting on behalf of an
9 employer who violates, or causes to be violated, a section of this chapter or any provision
10 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
11 subject to a civil penalty in an amount according to proof.

12 56. To the extent Plaintiff NIETO and other potentially aggrieved employees have
13 been impacted, Plaintiff NIETO is entitled to recover civil penalties on behalf of the LWDA
14 and also to seek reasonable attorneys’ fees and costs in accordance with Labor Code section
15 2699(g) and/or California Code of Civil Procedure section 1021.5, subject to court approval.

16 **FOURTH CAUSE OF ACTION**

17 **PAGA CIVIL PENALTIES FOR FAILURE TO PROVIDE ACCURATE WAGE**
18 **STATEMENTS**

19 **[LABOR CODE §§ 226 and 226.3]**

20 **(On Behalf of Plaintiff Christopher Nieto and Other Aggrieved Employees against each**
21 **Defendant)**

22 57. Plaintiff NIETO incorporates the preceding paragraphs of this Complaint
23 expressly herein by this reference as if all prior paragraphs were set forth in full.

24 58. Plaintiff NIETO has complied with all exhaustion and notice requirements as set
25 for in Labor Code sections 2698, *et seq.* to proceed as a representative of the State of California
26 to collect civil penalties to the extent permitted by law for Plaintiff NIETO and each of the
27 aggrieved employees.

28 59. Labor Code Section 226(a) provides, in pertinent part: “An employer,
semimonthly or at the time of each payment of wages, shall furnish to his or her employee...an
accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked

1 by the employee... (5) net wages earned...and (9) all applicable hourly rates in effect during
2 the pay period and the corresponding number of hours worked at each hourly rate by the
3 employee.”

4 60. During the PAGA Period, because Defendants failed to record all time actually
5 worked by Plaintiff NIETO and other aggrieved employees, including for time spent taking
6 inventory, wage statements issued by Defendants failed to reflect the actual total hours worked,
7 gross and net wages earned, and the number of hours worked at each corresponding rate of pay.

8 61. As a direct and proximate result of Defendants’ unlawful conduct, as alleged
9 herein, Plaintiff NIETO and other aggrieved employees have been deprived, and continue to be
10 deprived, of accurate, itemized wage statements.

11 62. Accordingly, Defendants violated Labor Code section 226. Labor Code section
12 2699.5 lists Labor Code section 226 as a statute for which default civil penalties may be
13 recovered under Labor Code section 2699(f)(2). Additionally, Labor Code section 226.3
14 provides for civil penalties for violations of Labor Code section 226(a). The nature, extent, and
15 amount of civil penalties for which Defendants are liable is presently unknown but can be
16 calculated based on pay period and work week data for ascertainable and identifiable
17 “aggrieved employees” who worked as hourly paid non-exempt “security system installers.”

18 63. Civil penalties may be recovered pursuant to Labor Code section 2699(f)(2)
19 which states in pertinent part: “(a) Any employer or other person acting on behalf of an
20 employer who violates, or causes to be violated, a section of this chapter or any provision
21 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
22 subject to a civil penalty in an amount according to proof.

23 64. Civil penalties may also be recovered pursuant to Labor Code section 226.3,
24 which states in pertinent part: “Any employer who violates subdivision (a) of Section 226 shall
25 be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per
26 violation in an initial or which the employer fails to provide the employee a wage deduction
27 statement or fails to keep the records required in subdivision (a) of Section 226. The civil
28 penalties provided for in this section are in addition to any other penalty provided by law.”

65. To the extent Plaintiff NIETO and other potentially aggrieved employees have been impacted, Plaintiff NIETO is entitled to recover civil penalties on behalf of the LWDA and also to seek reasonable attorneys' fees and costs in accordance with Labor Code section 2699(g) and/or California Code of Civil Procedure section 1021.5, subject to court approval.

FIFTH CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR FAILURE TO TIMELY PAY WAGES DUE DURING
AND UPON TERMINATION OF EMPLOYMENT
[LABOR CODE §§ 201, 202, 203, and 204
(On Behalf of Plaintiff Christopher Nieto and Other Aggrieved Employees against each Defendant)]**

66. Plaintiff NIETO incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full.

67. Plaintiff NIETO has complied with all exhaustion and notice requirements as set for in Labor Code sections 2698, *et seq.* to proceed as a representative of the State of California to collect civil penalties to the extent permitted by law for Plaintiff NIETO and each of the aggrieved employees.

68. Labor Code Section 204 requires employers pay all wages earned by employees twice monthly, on days designated in advance by the employer.

69. "The "Minimum Wages" Section of the applicable Wage Order further states "every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period."

70. Labor Code Section 201 requires employers to make immediate payment of all wages earned by an employee who is discharged, and Labor Code Section 202 requires that such payment be made to employees who voluntarily quit within 72 hours.

71. Labor Code Section 203 provides: "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

72. Because Defendants failed to pay all minimum, regular, and overtime wages

owed to Plaintiff NIETO and other aggrieved employees during the PAGA Period, Defendants failed to pay all wages due during employment to these employees and upon termination of employment to all of these employees whose employment ended during the PAGA Period.

73. As a direct and proximate result of Defendants' unlawful conduct, as alleged herein, Plaintiff NIETO and other aggrieved employees have been deprived, and continue to be deprived, of minimum, regular, and overtime wages for time worked or spent under Defendants' control and waiting time penalties.

74. Accordingly, Defendants violated Labor Code sections 201-204. Labor Code section 2699.5 lists Labor Code sections 201-204 as statutes for which default civil penalties may be recovered under Labor Code section 2699(f)(2). The nature, extent, and amount of civil penalties for which Defendants are liable is presently unknown but can be calculated based on pay period and work week data for ascertainable and identifiable "aggrieved employees" who worked as hourly paid non-exempt "security system installers."

75. Civil penalties may be recovered pursuant to Labor Code section 2699(f)(2) which states in pertinent part: "(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in an amount according to proof.

76. To the extent Plaintiff NIETO and other potentially aggrieved employees have been impacted, Plaintiff NIETO is entitled to recover civil penalties on behalf of the LWDA and also to seek reasonable attorneys' fees and costs in accordance with Labor Code section 2699(g) and/or California Code of Civil Procedure section 1021.5, subject to court approval.

SIXTH CAUSE OF ACTION

PAGA CIVIL PENALTIES FOR FAILURE TO MAINTAIN ACCURATE RECORDS

[LABOR CODE §§ 1174 and 1174.5]

(On Behalf of Plaintiff Christopher Nieto and Other Aggrieved Employees against each Defendant)

77. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full.

1 78. Plaintiff Christopher Nieto has complied with all exhaustion and notice
2 requirements as set for in Labor Code sections 2698, *et seq.* to proceed as a representative of
3 the State of California to collect civil penalties to the extent permitted by law for Plaintiff and
4 each of the aggrieved employees.

5 79. Labor Code section 1174(d) provides, in pertinent part: “Every person
6 employing labor in this state shall [k]eep, at a central location in the state or at the plants or
7 establishments at which employees are employed, payroll records showing the hours worked
8 daily by and the wages paid to...employees employed at the respective plants or
9 establishments. These records shall be kept in accordance with rules established for this
10 purpose by the commission, but in any case shall be kept on file for not less than three years.”

11 80. During the PAGA Period, Defendants failed to record all accurate hours worked
12 by Plaintiff NIETO and other aggrieved employees and failed to record all accurate wages that
13 should have been paid based on these hours worked.

14 81. As a direct and proximate result of Defendants’ unlawful conduct, as alleged
15 herein, Plaintiff NIETO and other aggrieved employees have been deprived, and continue to be
16 deprived, of accurate timekeeping and payroll records.

17 82. Accordingly, Defendants violated Labor Code section 1174(d). Labor Code
18 section 2699.5 lists Labor Code section 1174(d) as a statute for which default civil penalties
19 may be recovered under Labor Code section 2699(f)(2). Additionally, Labor Code section
20 1174.5 provides for civil penalties for violation of Labor Code section 1174(d). The nature,
21 extent, and amount of civil penalties for which Defendants are liable is presently unknown but
22 can be calculated based on pay period and work week data for ascertainable and identifiable
23 “aggrieved employees” who worked as hourly paid non-exempt “security system installers.”

24 83. Civil penalties may be recovered pursuant to Labor Code section 2699(f)(2)
25 which states in pertinent part: “(a) Any employer or other person acting on behalf of an
26 employer who violates, or causes to be violated, a section of this chapter or any provision
27 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
28 subject to a civil penalty in an amount according to proof.

84. Civil penalties may also be recovered pursuant to Labor Code section 1174.5 which imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records.

85. To the extent Plaintiff NIETO and other potentially aggrieved employees have been impacted, Plaintiff NIETO is entitled to recover civil penalties on behalf of the LWDA and also to seek reasonable attorneys' fees and costs in accordance with Labor Code section 2699(g) and/or California Code of Civil Procedure section 1021.5, subject to court approval.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For certification of this action as a class action pursuant to C.C.P. § 382;
2. For designation of CHRISTOPHER ORNELAS as the Class Representative, and appointment of Cohelan Khoury & Singer as Counsel for the Plaintiff Class;
3. On the First Cause of Action: (a) For restitution of all unpaid wages and unreimbursed business expenses in an amount according to proof; and (b) for a declaratory judgment that the practices complained of herein are unlawful under appropriate state law pursuant to California Business & Professions Code sections 17200, *et seq.*;
4. On the Second Cause of Action: For recovery of civil penalties pursuant to Labor Code section 2699(f)(2) for each pay period during the PAGA Period on the basis that Plaintiff Nieto and other aggrieved employees were not paid minimum, regular, and/or overtime wages or rates of pay as required by Labor Code sections 510, 1194, 1194.2, 1197, and 1197.1, *et seq.*, subject to the Court's discretion and to be distributed in a manner consistent with Labor Code section 2699(i) wherein 75% is to be distributed to the LWDA and 25% to the aggrieved employees, subject to Court approval;
5. On the Third Cause of Action: For recovery of civil penalties pursuant to Labor Code section 2699(f)(2) for each pay period during the PAGA Period on the basis that Plaintiff Nieto and other aggrieved employees were not reimbursed for their business-related expenses as required by Labor Code section 2802, subject to the Court's discretion and to be distributed in a manner consistent with Labor Code section 2699(i) wherein 75% is to be distributed to the

1 LWDA and 25% to the aggrieved employees, subject to Court approval;

2 6. On the Fourth Cause of Action: For recovery of civil penalties related to
3 Defendants' failure to provide accurate and itemized wage statements for each pay period in the
4 PAGA Period pursuant to Labor Code section 2699(f)(2) as premised upon Labor Code section
5 226, and/or civil penalties as required by Labor Code section 226.3, subject to the Court's
6 discretion and to be distributed in a manner consistent with Labor Code section 2699(i) wherein
7 75% is to be distributed to the LWDA and 25% to the aggrieved employees, subject to Court
8 approval;

9 7. On the Fifth Cause of Action: For recovery of civil penalties pursuant to Labor
10 Code section 2699(f)(2) premised on Labor Code sections 210 and 203, for each aggrieved
11 employee who was not timely paid their wages for hours worked for each workweek or pay
12 period during the PAGA Period, and for those terminated or separated from employment, who
13 were not paid their final pay in at least 72 hours from the date of termination/separation, as
14 shown by Defendants' employment records, in an amount according to proof based on the
15 number of pay periods for all aggrieved employees during the PAGA Period. Said penal ties
16 are subject to the Court's discretion and are to be distributed in a manner consistent with Labor
17 Code section 2699(i) wherein 75% is to be distributed to the LWDA and 25% to the aggrieved
18 employees, subject to Court approval;

19 8. On the Sixth Cause of Action: For recovery of civil penalties related to
20 Defendants' failure to maintain accurate records for each pay period in the PAGA Period
21 pursuant to Labor Code section 2699(f)(2) as premised upon Labor Code section 1174, and/or
22 civil penalties as required by Labor Code section 1174.5, subject to the Court's discretion and
23 to be distributed in a manner consistent with Labor Code section 2699(i) wherein 75% is to be
24 distributed to the LWDA and 25% to the aggrieved employees, subject to Court approval;

25 9. Attorneys' fees and costs of suit, including necessary litigation costs, expert fees
26 and/or fees for an accounting pursuant to California Labor Code sections 2699(g), 1194 and
27 2802, as well as California Code of Civil Procedure section 1021.5, or other applicable state
28 law;

1 10. For such other legal and/or equitable relief as this Court deems necessary, just,
2 and proper.

3 **COHELAN KHOURY & SINGER**
4 **MESRIANI LAW GROUP, APLC**

5 Dated: July 23, 2021

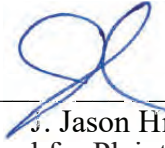
6 By:  _____
7 J. Jason Hill, Esq.
8 Counsel for Plaintiffs CHRISTOPHER
9 ORNELAS and CHRISTOPHER NIETO
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EXHIBIT 1

COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

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ROSEMARY KHOURY

(† Also admitted in Illinois)

March 12, 2021

NOTICE VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency

VIA CERTIFIED U.S. MAIL WITH RETURN RECEIPT

Teksystems, Inc.
7337 Race Road
Hanover, MD 21076

Teksystems, Inc.
c/o CSC Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Re: Notice pursuant to California Labor Code sections 2698, *et seq.*, the Private Attorneys General Act (“PAGA”), sent by Christopher Nieto on behalf of himself and all other aggrieved employees of Teksystems, Inc. in the State of California

Dear PAGA Administrator and Teksystems, Inc.:

Mr. Christopher Nieto (“Mr. Nieto” or “Claimant”) submits notice of Labor Code and Industrial Welfare Commission Wage Order violations by Teksystems, Inc. (“Teksystems” or “Employer”). Mr. Nieto seeks to represent himself and other aggrieved employees in a Private Attorneys General Act (“PAGA”) action against Teksystems pursuant to Labor Code sections 2698, *et seq.* For purposes of this notice, “aggrieved employees” includes all of Employer’s non-exempt California employees paid, at least in part, with commissions, and subject to the same or similar policies described below.

FACTUAL STATEMENT

Mr. Nieto, a California resident, worked for Teksystems in California as a security systems installer from approximately 2015 to the present, though there was a period where he left Teksystems and later returned to employment that will be shown by his employment records.

Mr. Nieto was not paid for all hours worked for the Employer, including minimum, regular, and overtimes wages related to time spent taking inventory. Claimant estimates that during the course of his employment with the Employer, he spent approximately 10 hours taking inventory, time which he did not receive compensation. Recent updates to the inventory process have improved the situation over the last few months, but the allotment of time for inventory still falls short of actual time necessary to document and report same.

Claimant was also required, for a time, to use his own garage space, free of charge, to maintain Teksystem's equipment inventory, without any reimbursement of the use of the 20x25 foot storage space. Claimant estimates that the same amount of space at a commercial storage facility would cost over \$100 per month.

The Employer also did not reimburse Mr. Nieto for expenses incurred for work-related duties, including tools, personal cell phone usage, laptops used in the field, mileage and gas, as well as rent on his garage space used to store the Employer's inventory boxes.

Claimant estimates he spent at least \$1,000 on tools necessary to perform his work duties for the Employer. Claimant further alleges that he spent an additional \$500 on tools for work in the field and for wear and tear on drill bits. Claimant estimates his tool expenditures at \$120 per month.

Claimant alleges he was required to use his personal cell phone for work-related duties. He estimates his monthly cell phone costs at \$80 per month. Claimant also alleges he was not reimbursed for mileage nor for gas incurred while driving his personal vehicle to and from work locations. Claimant estimates he spent roughly \$25 per day on gas to travel to and from work sites. For a 5-day workweek, that totals approximately \$125.00 per week spent on gas (\$625 per month). Claimant typically worked 6 days per week during the majority of 2020, thus incurring approximately \$725.00 for gas during the year 2020.

Claimant further alleges that a laptop was required in the field to complete his work tasks. The use of internet port forwarding and cameras was necessary, and the expense to obtain basic equipment is over \$800 plus software and maintenance costs. Claimant estimates he spent approximately \$1,200 related to his laptop and necessary software. Lastly, Claimant was ultimately required to rent a storage unit to house the Employer's inventory boxes, the cost of which was not reimbursed by the Employer.

Finally, Claimant and other aggrieved employees were required to enter into the homes of the Employer's customers during the 2020 COVID-19 pandemic, but the Employer did not provide personal protective equipment ("PPE"), such as gloves and masks, to reasonably ensure his health and safety while carrying out his work duties. Claimant had to purchase these items himself and was not reimbursed for these expenses. During the onset of Covid, Claimant and others had to pay a premium to obtain masks, footwear, gloves, hand cleansers, and other PPE materials to safely perform work. Claimant estimates that he paid over \$500 to \$1,000 to obtain necessary PPE, all without any reimbursement by the Employer.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code sections 218, 510, 1194, 1197, 1197.1, 1198, and 1199(c) and the "Minimum Wages" and "Hours and Days of Work" Sections of the Applicable Wage Order)

Labor Code section 510 provides in pertinent part: "Eight hours of labor constitutes a day's work. Any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate

of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

Labor Code section 1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

Labor Code section 1198 provides: “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code section 1199, which is a statute listed for which PAGA default civil penalties are recoverable pursuant to Labor Code sections 2699.5 and 2699(f)(2), provides that:

Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100) or by imprisonment for not less than 30 days, or by both, who does any of the following:

- (a) Requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission.
- (b) Pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission.
- (c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.

Labor Code section 1197 states: “The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity.”

Labor Code section 1197.1 states: “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203. For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for

which the employee is underpaid regardless of whether the initial violation is intentionally committed.”

Pursuant to the “Hours & Days of Work” Section of the applicable Wage Order, an employer may not pay non-exempt employees less than the applicable overtime rate for all overtime hours worked.

Pursuant to the “Minimum Wages” and “Hours & Days of Work” Sections of the applicable Wage Order, an employer may not pay employees less than the applicable minimum wage for all hours worked and provides that an employer may not pay non-exempt employees less than the applicable overtime rate for all overtime hours worked.

The Employer violates Labor Code sections 218, 510, 1194, 1197, and 1198, and the “Minimum Wages” and “Hours and Days of Work” Sections of the Applicable Wage Order because it does not pay Claimant and other aggrieved employees all minimum, regular, and overtime wages for all hours worked. The Employer fails to pay for all hours worked, including hours worked by Claimant and other aggrieved employees while conducting inventory.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of himself and other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

FAILURE TO REIMBURSE EXPENSES (Labor Code sections 2802 and 2804)

California Labor Code section 2802(a) states: “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

Labor Code section 2802(b) states: “All awards made by a Court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” The exact amount of interest is in an amount to be proven at time of trial.

Furthermore, Labor Code section 2802(c) states: “For the purposes of this section, the term ‘necessary expenditures or losses shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee in enforcing the rights granted by this section.”

“Any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” Cal. Labor Code § 2804.

The Employer failed to fulfill these obligations when it failed to reimburse Claimant and other aggrieved employees for all expenses incurred while working for the Employer, including but not limited to, tools, personal cell phone usage, laptops used in the field, mileage and gas, protective equipment, PPE materials, and rent on garage space necessary to store the Employer's inventory boxes.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of himself and other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Order.

FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS
(Labor Code sections 246(i), 226(a), 226.3, 1198, and 2699, and the
"Records" Section of the Applicable Wage Order)

Labor Code section 226(a) states in pertinent part: "An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer. . .; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee... and if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment."

The wage statements of employees who are compensated on a piece-rate basis during a pay period shall also comply with the requirements of Labor Code section 226.2(a)(2)(A)-(B):

(2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable:

(A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.

(B) Except for employers paying compensation for other nonproductive time in accordance with paragraph (7), the total hours of other nonproductive time, as determined under paragraph (5), the rate of compensation, and the gross wages paid for that time during the pay period.

Furthermore, Labor Code section 226(e)(2)(A) states: “An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.”

Labor Code section 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code section 226(a) in an initial citation and \$1,000.00 per employee for each violation in a subsequent citation. In addition, Labor Code section 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and Claimant is entitled to an award of costs and reasonable attorney’s fees.

The Employer failed to provide Claimant with an accurate, timely itemized wage statement complying with the requirements of the Labor Code and applicable IWC Wage Order. Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of himself and other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

**FAILURE TO TIMELY PAY WAGES DUE DURING AND UPON TERMINATION OF
EMPLOYMENT**

(Labor Code sections 201, 202, 203, 204, 256, 1198, and 2699)

Labor Code section 201 states: “If an Employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section 202 states: “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code section 203(a) states, in relevant part: “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents themselves to avoid payment to them, or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment.”

Labor Code section 204(a) states, in pertinent part: “All wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” The “Minimum Wages” Section of the applicable Wage Order further states “every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period.”

Labor Code section 256 states: “The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days of pay as waiting time under the terms of Section 203.”

As detailed above, the Employer fails to pay Claimant and other aggrieved employees all wages that were due and owing to them including regular, minimum, and overtime wages within the required time during their employment and upon their separation of employment, in violation of the Labor Code and the applicable IWC Wage Order because of the violations alleged herein. Additionally, the Employer fails to timely pay aggrieved employees all wages due upon separation of employment. As a result, the Employer violated the above sections of the Labor Code.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of himself and other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

**CIVIL PENALTIES FOR VIOLATION OF
THE LABOR CODE AND IWC WAGE ORDERS**
(Labor Code sections 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of Part 2, Chapter 1, of the Labor Code or any provision regulating hours and days of work in any IWC Wage Order to a civil penalty in the amount of \$50 for any initial violation for each pay period in which an employee is underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation in addition to an amount sufficient to recover underpaid wages, which shall be paid to each affected employee.

Labor Code section 558.1(a) states: “Any Employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the Employer for such violation.” Labor Code section 558.1 expressly defines “employer or other person acting on behalf of an employer” to include a “natural person who is an owner, director, officer, or managing agent of the employer.”

Accordingly, Claimant will pursue *civil penalties* pursuant to the PAGA or other lawful remedies for himself and other aggrieved employees, including recovery of attorney’s fees, costs, and civil penalties to the extent allowed by law. However, pursuant to the recent California Supreme Court decision in *ZB, N.A. v. Superior Court* (2019) 8 Cal. 5th 175, 252 Cal. Rptr. 3d 228, 448 P.3d 239, Claimant does not seek underpaid wages as part of any anticipated PAGA action.

DUTIES OF EMPLOYER

(Labor Code sections 1174, 1174.5, 1175, and 1198, and the Applicable Wage Order)

Labor Code section 1174 describes certain duties of every employer in this state. Subsection (d) of this labor code section requires that payroll records show the hours worked daily by employees and the corresponding wages to be paid for the hours worked. The Employer violated this requirement by its failure to list the correct rate of pay. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records. This civil penalty is addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d). Furthermore, Claimant and all other aggrieved employees are entitled to collect 25% of the penalty imposed pursuant to Section 2699.

The Employer fails to accurately record all accurate hours worked by Claimant and other aggrieved employees and fails to record all accurate wages to be paid.

Claimant will pursue all remedies on behalf of himself and other aggrieved employees, including recovery of attorney's fees, costs, damages and penalties to the extent allowed by law.

ATTORNEY'S FEES, COSTS, INTEREST AND PENALTIES

(Labor Code sections 226(e) and 2699(g)(1))

Labor Code sections 226(e) and 2699(g)(1) give employees the right to recover in a civil action, penalties, including interest thereon, reasonable attorney's fees, and costs of suit.

Pursuant to Labor Code sections 2699, *et seq.*, aggrieved employees are entitled to collect 25% of the penalty assessed. Accordingly, the Employer is liable for these items.

Labor Code section 226(e)(1) provides "[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees."

Labor Code section 2699(g)(1) provides "[e]xcept as provided in paragraph (2), an aggrieved employee may recover the civil penalty described in subdivision (f) in a civil action pursuant to the procedures specified in Section 2699.3 filed on behalf of himself or herself and other current or former employees against whom one or more of the alleged violations was committed. Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs, including any filing fee paid pursuant to subparagraph (B) of paragraph (1) of subdivision (a) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 2699.3. Nothing in this part shall operate to limit an employee's right to pursue or recover other remedies available under state or federal law, either separately or concurrently with an action taken under this part."

California Labor and Workforce Development Agency
Teksystems, Inc.
Re: Christopher Nieto
March 12, 2021
Page | 9

Claimant has already incurred costs and attorney's fees and will continue to incur costs as a result of the Employer's unlawful actions.

CONCLUSION

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Claimant becomes aware of additional claims, he reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action.

Claimant requests the Labor and Workforce Development Agency ("LWDA") initiate enforcement for the violations described above. If the LWDA does not pursue enforcement, Claimant will pursue claims for civil penalties and will seek all remedies available for violations of the Labor Code and the applicable Industrial Welfare Commission Wage Orders, including all available penalties set forth in Labor Code section 2699(f).

Sincerely,
COHELAN KHOURY & SINGER



J. Jason Hill, Esq.

cc:
Via Email only
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EXHIBIT 4