

1 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT**

2 This Class Action and PAGA Settlement Agreement and Release of Claims is entered
3 into by and between Plaintiffs Marcelino Garcia and Jeremiah Silveira, individually and on
4 behalf of all others similarly situated, and Defendant J-M Manufacturing Company, Inc., and is
5 approved by their respective counsel of record, subject to the terms and conditions hereof and
6 the Court’s approval.

7 **A. Definitions**

8 1. “Action” or “Lawsuit” means and refers to the cases entitled *Marcelino Garcia*
9 *v. J-M Manufacturing Company, Inc.*, San Joaquin County Superior Court Case No. STK-UOE-
10 2021-4926; and *Jeremiah Silveira v. J-M Manufacturing Company*, San Joaquin County
11 Superior Court, Case No. STK-CV-UOE-2022-86, which the parties will seek to consolidate
12 into one action pending in the San Joaquin Superior Court.

13 2. “Aggrieved Employees” include all persons who are or were previously
14 employed by Defendant in California classified as a non-exempt or hourly employee at any time
15 from May 26, 2020, through June 27, 2022.

16 3. “Agreement,” “Settlement Agreement,” “Settlement,” or “Stipulation” shall
17 mean this Class Action Settlement Agreement and Release of Claims, including any attached
18 Exhibits.

19 4. “Class Claims” or “Released Class Claims” will include all claims that were pled
20 in the operative First Amended Complaint or that could have been pled based on the facts
21 alleged therein, including claims for unpaid wages (including failure to pay full, regular, and
22 overtime wages and minimum wages and/or failure to pay such wages at the correct rate(s) of
23 pay), meal and rest break violations, failure to timely pay final wages, failure to provide suitable
24 seating, failure to provide accurate itemized wage statements, failure to reimburse necessary
25 business expenses, and unfair and unlawful business practices.

26 5. “Class Counsel” refers to Mehrdad Bokhour of Bokhour Law Group, P.C.,
27 Joshua Falakassa of Falakassa Law, P.C., and Leonard Emma of Emma Law, P.C.
28

6. “Class Data” means a complete list that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator on one spreadsheet and shall include the Settlement Class Members’ full names; last known addresses; telephone numbers; Social Security Numbers; and dates of employment and/or number of Workweeks Worked as non-exempt or hourly employees of Defendant during the Class Period and the PAGA Period for each Settlement Class Member.

7. “Class Period” and “Class Release Period” shall mean September 13, 2020, through June 27, 2022.

8. “Class Representatives” or “Plaintiffs” means and refers to Marcelino Garcia and Jeremiah Silveira.

9. “Complaint” refers to the First Amended Complaint filed in the San Joaquin County Superior Court action entitled *Garcia, et al. v. J-M Manufacturing Company, Inc.*, Case No. STK-UOE-2021-4926, and that will include all non-duplicative claims pled in *Jeremiah Silveira v. J-M Manufacturing Company*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2022-86, will add Jeremiah Silveira as a named class representative, Emma Law, P.C. as Class Counsel, and will add a claim for failure to reimburse business expense claim. The Complaint includes Mr. Silveira’s individual wage-hour claims but does not include his other individual claims not covered by this Agreement.

10. “Court” means the California Superior Court, County of San Joaquin or any Court of competent jurisdiction.

11. “Defendant” means and refers to J-M Manufacturing Company, Inc.

12. “Defendant’s Counsel” or “Defense Counsel” means and refers to Kristen J. Nesbit and Shaun J. Voigt of Fisher & Phillips LLP.

13. “Effective Date” means ten (10) calendar days following the date the Court enters an order granting final approval of the Settlement, assuming no appeal is filed; or if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final judicial approval of the Settlement.

1 14. “Final” means that the Settlement has been granted “Final Approval” by the
2 Court and the “Effective Date” has occurred.

3 15. “Final Approval” refers to the order of the Court granting final approval of this
4 Settlement Agreement and entering a judgment approving this Settlement on substantially the
5 same terms provided herein or as may be modified by subsequent agreement of the Parties or
6 order of the Court.

7 16. “Final Settlement Class” means, collectively, all Participating Class Members
8 and all Aggrieved Employees.

9 17. “Individual Settlement Amount” shall have the meaning ascribed to it in
10 Paragraph 48(d)below.

11 18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph
12 48(c) below.

13 19. “Notice” means the notice of settlement of class action and PAGA Settlement
14 that will be sent to the Settlement Class Members.

15 20. “Notice Response Deadline” is 45 calendar days from the date the Notice is
16 mailed to the Settlement Class Members.

17 21. “Objecting Settlement Class Member” means a Settlement Class Member, other
18 than Plaintiffs, who submits a valid and timely objection to the terms of this Agreement with
19 respect to the Class Claims pursuant to Paragraph 70(a) below.

20 22. “PAGA” shall refer to the California Labor Code Private Attorneys General Act
21 of 2004, California Labor Code Sections 2698-2699.5.

22 23. “PAGA Claims” or “Released PAGA Claims” shall include any and all claims
23 for civil penalties pursuant to PAGA based on the allegations stated in the PAGA Notices and
24 that were pled in the operative First Amended Complaint or that could have been pled based on
25 the facts alleged therein, including claims for unpaid wages (including failure to pay full,
26 regular, and overtime wages and minimum wages and/or failure to pay such wages at the correct
27 rate(s) of pay), meal and rest break violations, failure to timely pay wages during employment,
28 failure to timely pay final wages, failure to provide suitable seating, failure to provide accurate

1 itemized wage statements, failure to reimburse necessary business expenses, and unfair and
2 unlawful business practices.

3 24. “PAGA Notices” shall refer to the notices sent by Plaintiff Garcia, by and
4 through counsel, on or about May 26, 2021 and May 18, 2022, and the notice sent by Plaintiff
5 Silveira on or about September 23, 2021, to the LWDA and to Defendant, alleging that
6 Defendant engaged in violations of the California Labor Code and California Wage Orders.

7 25. “PAGA Period” and “PAGA Release Period” shall mean September 13, 2020,
8 through June 27, 2022.

9 26. “Participating Class Member” means any and all Settlement Class Members who
10 are deemed to participate and receive an Individual Settlement Amount for the Class Claims and
11 who do not opt-out of the settlement of the Class Claims by submitting timely valid Requests
12 for Exclusion.

13 27. “Parties” or “Settling Parties” mean Plaintiffs, the Settlement Class Members,
14 the Aggrieved Employees, and Defendant, collectively.

15 28. “Preliminary Approval Date” means the date the Court preliminarily approves
16 the Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

17 29. “Preliminary Approval Order” means the judicial Order to be entered by the
18 Court, upon the application or motion of the Plaintiffs, preliminarily approving this Settlement
19 and providing for the issuance of the Notice to the Settlement Class Members, an opportunity to
20 opt out of settlement of the Class Claims , an opportunity to submit timely objections to the
21 terms of this Settlement related to the Class Claims, and setting a hearing on the fairness of the
22 terms of Settlement, including approval of attorneys’ fees and costs.

23 30. “QSF” means the Qualified Settlement Fund set up by the Settlement
24 Administrator for the benefit of the Final Settlement Class, and from which the settlement
25 payments shall be made, and which is intended to be a fund that qualifies under Internal
26 Revenue Code Section 468.

1 31. “Release” shall mean the release and discharge of the Class Claims by Plaintiffs
2 and all of the Participating Class Members and the release and discharge of the PAGA Claims
3 by Plaintiffs and all of the Aggrieved Employees.

4 32. “Released Parties” shall refer to Defendant, its divisions, subsidiaries, affiliates,
5 parents, trusts, past and present, and each of them, as well as its and their directors, officers,
6 shareholders, partners, members, representatives, executors, trustees, administrators,
7 beneficiaries, assignees, successors, business managers, agents, contractors, insurers, attorneys,
8 and employees, past and present, and each of them and their marital community. Released
9 Parties specifically excludes ABS Pipe, Inc.

10 33. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 70(a)
11 below.

12 34. “Service Payment” or “Service Award” means the amount approved by the Court
13 to be paid to the Class Representatives in addition to their Individual Settlement Amount as a
14 Participating Class Member.

15 35. “Settlement Administration Costs” means the costs payable from the Settlement
16 Amount to the Settlement Administrator for administering this Settlement, including, but not
17 limited to, printing, distributing, and tracking documents for this Settlement, translating the
18 class notice into Spanish, tax reporting, due diligence, reporting and remittance obligations,
19 distributing the Settlement Amount, and providing necessary reports and declarations, as
20 requested by the Parties. The Settlement Administration Costs shall be paid from the
21 Settlement Amount.

22 36. Settlement Administrator” means and refers to a settlement administrator
23 mutually agreed to by the Parties, that will provide the Notice to the Class Members and
24 distribute the settlement amounts as described in this Agreement.

25 37. “Settlement Amount” or “Gross Settlement Amount” shall have the meaning
26 ascribed to it in Paragraph 48(a) below.

27 38. “Settlement Class Member” or “Class Member” refers to individual members of
28 the Settlement Class.

1 39. “Settlement Class” and “Settlement Class Members” refers to all persons who
2 are or were previously employed by Defendant in California classified as a non-exempt
3 employee during the Class Period.

4 40. “Workweeks Worked” for each Settlement Class Member and Aggrieved
5 Employee means any workweek during the Class Period and/or the PAGA Period, as
6 applicable, in which the Settlement Class Member and/or Aggrieved Employee was employed
7 by Defendant as a non-exempt employee in California and worked at least one shift during the
8 workweek. Workweeks Worked will be calculated based on Defendant’s business records.

9 **B. General Terms**

10 41. On or about May 27, 2021, Plaintiff Marcelino Garcia a class and PAGA
11 representative action complaint in the Court against Defendant, including allegations of: (1)
12 failure to pay minimum wages, (2) failure to pay overtime wages, (3) meal period violations, (4)
13 rest period violations, (5) waiting time penalties, (6) wage statement violations, (7), failure to
14 provide suitable seating, (8) unfair competition, and (9) PAGA penalties based on the foregoing
15 Labor Code violations. On or about January 6, 2022, Plaintiff Jeremiah Silveira filed a class
16 action complaint in the San Joaquin County Superior Court against Defendant, similar claims
17 and Labor Code violations. On or about April 30, 2022, Plaintiffs will file a First Amended
18 Consolidated Class and PAGA Representative Action Complaint that will seek to add Jeremiah
19 Silveira as a named class representative and Emma Law, P.C. as Class Counsel.

20 42. Defendant denies Plaintiffs’ claims and allegations and contend that the Action is
21 not suitable for class certification and/or representative treatment.

22 43. The Class Representatives believe they can proceed with their representative and
23 class claims, that the Action is meritorious, and that class certification is appropriate.

24 44. The Parties have conducted a thorough investigation into the facts of the Action.
25 This includes conducting extensive exchange of informal discovery, including Defendant’s
26 written policies and practices and the production of payroll and timekeeping records for
27 Settlement Class Members and Aggrieved Employees. Class Counsel is both knowledgeable
28 about and has done extensive research with respect to the applicable law and potential defenses

1 to the claims of the Settlement Class Members and Aggrieved Employees. Class Counsel has
2 diligently pursued an investigation of the Class Members' claims against Defendant. Based on
3 the foregoing data and on their own independent investigation and evaluation, Class Counsel is
4 of the opinion that the settlement with Defendant for the consideration and on the terms set forth
5 in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the
6 Settlement Class Members and Aggrieved Employees in light of all known facts and
7 circumstances, including the risk of significant delay and uncertainty associated with litigation,
8 various defenses asserted by Defendant, and numerous potential appellate issues.

9 45. On March 21, 2022, the Parties participated in mediation before Marc Feder,
10 Esq., a highly experienced class action mediator. After a full-day mediation and the issuance of
11 a mediator's proposal, the Parties reached a settlement.

12 46. The Parties agree that neither the Parties' Settlement, this Agreement, nor the
13 acts to be performed or judgments to be entered pursuant to the terms of the Settlement and
14 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
15 any statute or law or liability on the claims or allegations in the Action.

16 47. Stipulation for Class Certification and Representative Treatment. For settlement
17 purposes only, Defendant will stipulate that the Settlement Class Members described herein
18 who do not Request Exclusion from the Settlement Class may be conditionally certified as a
19 settlement class and that the Aggrieved Employees are appropriate for representative treatment
20 for purposes of settlement. This stipulation to certification and representative treatment is in no
21 way an admission that class action certification and/or representative treatment is proper and
22 shall not be admissible in this or in any other action except for the sole purposes of enforcing
23 this Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties'
24 stipulation to class certification and representative treatment as part of the Settlement shall
25 become null and void *ab initio* and shall have no bearing on and shall not be admissible in
26 connection with the issue of whether or not class certification and/or representative treatment
27 would be appropriate in a non-settlement context. Defendant expressly reserves its rights and
28 declares that it will continue to oppose class certification, representative treatment, and the

substantive merits of the case should the Court fail to issue Final Approval. Plaintiffs expressly reserve their rights and declare that they will continue to pursue class certification and representative treatment and a trial should the Court fail to issue Final Approval.

C. Terms of Settlement

48. The financial terms of the Settlement are as follows:

(a) Gross Settlement Amount: The Parties agree to settle this Action for Seven Hundred Fifty Thousand Dollars (\$750,000) (“the Settlement Amount”). The Settlement Amount is the maximum amount that will be paid by Defendant, and includes Individual Settlement Amounts, attorneys’ fees of Class Counsel, costs and expenses, the Service Payment to the Class Representatives, all Settlement Administration Costs, and payment to the Labor Workforce Development Agency (LWDA) for PAGA penalties. Defendant shall separately pay the employers’ share of applicable payroll taxes.

(b) The Settlement is based on Defendant’s representation that there are approximately 48,000 Workweeks Worked included in the Class Period. In the event that the actual number of workweeks worked by all Settlement Class Members during this period increases by 10% or more, then Defendant shall increase the QSF on a proportional basis in excess of 10 percent (i.e., if there were an eleven percent (11%) increase in the number of workweeks, then Defendant will increase the QSF by one percent (1%)).

(c) Net Settlement Amount: The “Net Settlement Amount” is defined as the Settlement Amount less attorneys’ fees and litigation costs as approved and awarded by the Court, the Service Payment to the Class Representatives as approved and awarded by the Court, the Settlement Administration Costs, as approved and awarded by the Court, and the Fifty Thousand Dollars (\$50,000.00) allocated to payment for PAGA penalties as described in paragraph 42 below. In the event that the Court reduces the attorneys’ fees and litigation costs or, Service Awards, Settlement Administration Costs, or either increases or decreases the amount allocated to PAGA penalties, the Net Settlement Sum shall be increased or decreased accordingly.

(d) Individual Settlement Amounts for the Settlement Class: The Settlement Administrator will use the Class Data provided by Defendant to calculate each Participating Class Member's and Aggrieved Employee's Individual Settlement Amounts based on the following formula:

i. PAGA Amount: \$50,000 of the Gross Settlement Amount has been designated to the PAGA claims. Twenty-five percent (25%) of the \$50,000, or \$12,500, shall be paid out to Aggrieved Employees. Each Aggrieved Employee shall receive a portion of the \$12,500 proportionate to the number of Workweeks Worked by the Aggrieved Employees during the PAGA Period compared to the total number of Workweeks Worked by all Aggrieved Employees during the PAGA Period. Aggrieved Employees shall have their settlement amount for the Released PAGA claims paid one hundred percent (100%) as civil penalties for which no taxes will be withheld and for which a Form 1099 will be issued by the Settlement Administrator.

ii. Class Amount: The Net Settlement Amount shall be allocated to each Participating Class Member based on his or her proportionate Workweeks Worked during the Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the numerator which is the Participating Class Member's total Workweeks Worked during the Class Period, and the denominator of which is the total Workweeks Worked by all Participating Class Members during the Class Period. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Amounts for each Participating Class Member so that the amount actually distributed to Participating Class Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

(e) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts will be allocated for tax purposes based on the allegations in the Action as follows: twenty (20%) percent will be paid as wages subject to withholding of all applicable local, state, and federal taxes; and eighty percent (80%) will be paid as interest and as civil penalties (pursuant to, e.g., California Labor Code sections 203, 226) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an

Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the civil penalties and interest allocations.

(f) Service Payment to Class Representatives: The amount awarded to the Class Representatives as a Service Payment will be set by the Court in its discretion, not to exceed \$10,000 each, if both Class Representatives do not opt-out of the Settlement as to the Class Claims, and do not take any action, directly or indirectly, to undercut this settlement. Defendant agrees not to oppose this request. The Service Payment to Class Representatives will be paid out of the Gross Settlement Amount. The Class Representatives will be issued IRS Form 1099 in connection with this payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiffs less than the requested amount shall not be a basis for Plaintiffs or Class Counsel to void this Stipulation. Should the Court approve a lesser amount for the Service Payment, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved Employees. In the event of any appeal of the amount of the service awards (if any) approved by the Court, if, after the exhaustion of any such appellate review, additional amounts not awarded to Class Representatives shall be added to the Net Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved Employees.

(g) Attorneys' Fees and Costs: Defendant agrees to not oppose a request by Class Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement Amount, plus reasonable litigation costs not to exceed \$15,000 ("Attorney's Fees and Cost Award"). For purposes of this Settlement, Defendant agrees not to oppose any contention by Class Counsel that attorneys' fees should be based on the common fund theory. The Attorney's Fee and Cost Award shall be paid from the Gross Settlement Amount, and except for this award, Defendant shall have no further obligation to pay any attorneys' fees, costs or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. Any Court order awarding less than the amount sought by Class

Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the Settlement. In the event of any appeal of the amount of the awards of attorneys' fees and costs (if any) approved by the Court, final funding and administration of the portion of the attorneys' fees and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review, additional amounts not awarded to as attorneys' fees and costs shall be added to the Net Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved Employees. The Settlement Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class Counsel and any other attorney representing or claiming to represent the Class Members shall be the sole responsibility of Class Counsel.

(h) Settlement Administration Costs: The fees and other charges of the Settlement Administrator will be paid from the Gross Settlement Amount, not to exceed \$10,000 subject to Court approval, unless approved by all Parties and the Court.

(i) PAGA Penalties: The Parties agree that \$50,000 is allocated to PAGA Penalties and is to be paid from the Gross Settlement Amount, subject to Court approval. Of this amount, \$37,500 (75%) shall be paid to the LWDA in satisfaction of Plaintiffs' claims for civil penalties under the Private Attorney General Act of 2004 ("PAGA") and \$12,500 (25%) will be included in the Individual Settlement Amounts, payable to the Aggrieved Employees as set forth in Paragraph 48(d).

(j) Tax Liability: Class Counsel, Defendant and Defendant's Counsel make no representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder, and Plaintiffs and the Settlement Class Members are not relying on any statement or representation by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiffs and Final Settlement Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Settlement Amounts described herein. Income tax withholding will also be made pursuant to applicable federal, state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed

1 at times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and
2 consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other
3 applicable tax law, are changed after the date of this Agreement, the processes set forth in this
4 Section may be modified in a manner to bring Defendant into compliance with any such
5 changes.

6 (k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT
7 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH
8 PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
9 “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF
10 THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
11 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER
12 ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
13 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
14 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
15 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
16 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
17 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
18 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
19 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
20 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
21 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
22 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
23 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
24 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
25 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR
26 ADVISOR’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
27 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
28 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING

1 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

2 49. “Non-Reversionary” Settlement. This is a “non-reversionary” settlement. Under
3 no circumstances will any portion of the Settlement Amount revert to Defendant. Final
4 Settlement Class Members will not have to make a claim in order to receive an Individual
5 Settlement Amount. Distributions, in the form of Individual Settlement Amounts, will be made
6 directly to each Final Settlement Class Member. The Settlement Administrator shall be
7 responsible for accurately and timely reporting any remittance obligations with respect to
8 unclaimed funds as a result of a Final Settlement Class Member not cashing an Individual
9 Settlement Amount by the check cashing deadline, as set forth herein.

10 50. Class Counsel and Plaintiffs believe that the Settlement is fair and reasonable,
11 and adequate, and will so represent same to the Court.

12 **D. Release by Plaintiffs and the Final Settlement Class**

13 51. Upon the Effective Date of this Settlement, Plaintiffs and each Participating
14 Class Member, for themselves and for their respective spouses, domestic partners, marital
15 community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees,
16 legatees, executors, administrators, trustees, conservators, guardians, assigns, and
17 representatives, will forever completely release and discharge the Released Parties from the
18 Released Class Claims for the Class Release Period.

19 52. Each Participating Class Member will be deemed to have made the foregoing
20 Release as if by manually signing it.

21 53. Upon the Effective Date of this Settlement, Plaintiffs, the LWDA, and each
22 Aggrieved Employee, for themselves and for their respective spouses, domestic partners,
23 marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees,
24 legatees, executors, administrators, trustees, conservators, guardians, assigns, and
25 representatives, will forever completely release and discharge the Released Parties from the
26 Released PAGA Claims for the PAGA Release Period.

27 54. Each Aggrieved Employee and the LWDA will be deemed to have made the
28 foregoing Release as if by manually signing it.

1 55. Plaintiffs and Defendant intend that the Settlement described in this Agreement
2 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
3 arbitration, demand, or other action of any kind, by each and all of the Participating Class
4 Members to obtain a recovery based on, arising out of, and/or related to any and all of the
5 Released Class Claims. The Settlement Class Members shall be so notified in the Notice. This
6 paragraph does not apply to any Settlement Class Member who timely and validly opts out of
7 the Settlement.

8 56. Plaintiffs and Defendant intend that the Settlement described in this Agreement
9 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
10 arbitration, demand, or other action of any kind, by each and all of the Aggrieved Employees
11 and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the
12 Released PAGA Claims. The Aggrieved Employees and the LWDA shall be so notified in the
13 Notice.

14 57. Class Representatives, on behalf of themselves and the Participating Settlement
15 Class Members, acknowledge and agree that the claims for unpaid wages and unreimbursed
16 expenses in the Action, misclassification claims and untimely payment of wages in the Action,
17 are disputed, and that the payments set forth herein constitute payment of all sums allegedly due
18 to them. Class Representatives, on behalf of themselves and the Participating Settlement Class
19 Members, acknowledge and agree that California Labor Code Section 206.5 is not applicable to
20 the Parties hereto. Section 206.5 provides in pertinent part as follows:

21 An employer shall not require the execution of any release of any claim or right
22 on account of wages due, or to become due, or made as an advance on wages to
23 be earned, unless payment of those wages has been made.

24 **E. Release by Class Representatives**

25 58. As a material inducement to Defendant to enter into this Settlement Agreement,
26 in addition to the Class Representatives' release of the Released Class Claims and Released
27 PAGA Claims, as discussed in Paragraphs 51 and 53 above, with the exception of Silveira's
28 individual claims for Retaliation for Reporting Unlawful Activity (Labor Code § 1102.5) and

Wrongful Termination in Violation of Public Policy not covered by this agreement, Class Representatives do hereby, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, forever completely release and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including for back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this Stipulation, whether known or unknown, suspected or unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon, or relating to Class Representatives' employment with Defendant or the remuneration for or termination of such employment (collectively, the "Class Representatives' Claims").

59. Without limiting the generality of the foregoing, Class Representatives also expressly release all claims or rights against Released Parties arising out of or relating to alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith and fair dealing (express or implied); any tort, including but not limited to, negligence, fraud, misrepresentation and violation of California Labor Code section 970, negligent infliction of emotional distress, intentional infliction of emotional distress, defamation, "retaliation" claims and claims for violation of public policy, any claim for improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and alleged "off the clock" work under federal and state law, including, but not limited to, California Labor Code Sections 204 and 558, waiting time penalties pursuant to California Labor Section 203, damages or penalties pursuant to California Labor Code Section 226, meal period and rest break payments and penalties pursuant to California Labor Code Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California

1 Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections
2 210, failure to indemnify for business expenses pursuant to Labor Code section 2802, failure to
3 provide one day of rest in seven pursuant to California Labor Code Sections 551 and 552, unfair
4 competition and unfair business practices pursuant to Business and Professions Code Section
5 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California
6 Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs,
7 including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the
8 Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged
9 violation or breach of any other state or federal statute, rule and or regulation; including all
10 applicable Industrial Welfare Commission Wage Orders, and all similar causes of action,
11 including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs
12 or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional
13 distress, intentional infliction of emotional distress, and defamation; any "wrongful discharge,"
14 "constructive discharge," and "retaliation" claims; any claims relating to any breach of public
15 policy; any legal restrictions on Defendant's right to discharge employees; and any federal,
16 state, or other governmental statute, regulation, or ordinance, including, without limitation: (1)
17 Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin
18 discrimination or harassment, including retaliation for reporting discrimination or harassment);
19 (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California
20 Labor Code 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 et seq.
21 (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 et
22 seq. (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government
23 Code § 12900 et seq. (discrimination or harassment in employment and/or housing, including
24 discrimination or harassment based on race, religious creed, color, national origin, ancestry,
25 disability, marital status, sex (including pregnancy), or age, including retaliation for reporting
26 discrimination or harassment); (7) California Family Rights Act, Cal. Government Code §
27 12945.1 et seq. (family/medical leave); (8) California Labor Code, including Section 1720 et
28 seq., or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race,

1 color, religion, sex, and national origin discrimination or harassment); (10) Executive Order
2 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973
3 (handicap discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement
4 Income Security Act, 29 U.S.C. § 1000 et seq. (employee benefits); (14) the California Civil
5 Code; (15) the California Labor Code; (16) the California Constitution; (17) the National Labor
6 Relations Act; and (18) any other federal, state, or local statute or legislation.

7 60. Class Representatives expressly waive and relinquish all rights and benefits
8 afforded by Section 1542 of the Civil Code of the State of California and do so understanding
9 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil
10 Code of the State of California states:

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

17 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
18 full and complete release and discharge of all parties, Class Representatives and Class Counsel
19 expressly acknowledge that this Settlement Agreement is intended to include in its effect,
20 without limitation, all claims that Class Representatives knew of, as well as all claims that they
21 do not know or suspect to exist in their favor against the Released Parties, or any of them, for
22 the time period from the beginning of time to the execution of this Settlement Agreement, and
23 that this Settlement Agreement contemplates the extinguishment of any such Class
24 Representatives' claims.

25 **F. Interim Stay of Proceedings**

26 61. Pending completion of all of the prerequisites necessary to effectuate this
27 Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the
28 Action except such as are necessary to effectuate the Settlement, including amending the
operative complaint.

1 **G. Notice Process**

2 62. Appointment of Settlement Administrator. The Parties have agreed to the
3 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
4 including mailing the Notice, using standard devices to obtain forwarding addresses,
5 independently reviewing and verifying documentation associated with any claims or opt-out
6 requests, resolving any disputes regarding the calculation or application of the formula for
7 determining the Individual Settlement Amounts, drafting and mailing the settlement checks to
8 Final Settlement Class Members, issuing W-2 and 1099 Tax Forms, reporting to taxing
9 authorities, due diligence, reporting and remittance obligations, and performing such other tasks
10 as set forth herein or as the Parties mutually agree or that the Court orders.

11 63. Disputes Regarding Settlement Administration. Any and all disputes relating to
12 administration of the Settlement by the Settlement Administrator (except for disputes regarding
13 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
14 over the terms and conditions of this Settlement Agreement, until Plaintiffs and Defendant
15 notify the Court that all payments and obligations contemplated by this Settlement Agreement
16 have been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties
17 will confer in good faith to resolve the dispute without the necessity of Court intervention. The
18 Settlement Administrator shall also be responsible for issuing to Plaintiffs, Final Settlement
19 Class Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be required by
20 law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also
21 be responsible for setting up all necessary tax accounts and forwarding all payroll taxes and
22 penalties to the appropriate government authorities.

23 64. Class Data. Within fifteen (15) days after entry of the Preliminary Approval
24 Order, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement
25 Administrator will run a check of the Class Members' addresses against those on file with the
26 U.S. Postal Service's National Change of Address List. The Class Data provided to the
27 Settlement Administrator will not be provided to Class Counsel and it will remain confidential,
28 it shall be used solely to administer the Settlement, and it will not be used or disclosed to

1 anyone, except as required by applicable tax authorities, pursuant to Defendant's express
2 written consent, or by order of the Court. The Claims Administrator will be required to sign
3 and provide to Defendant a Certification Regarding Confidential Discovery Materials and to be
4 bound by a Stipulated Protective Order as entered by the Court.

5 65. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
6 Administrator to the Settlement Class Members, by first class mail, in English and Spanish,
7 within ten (10) calendar days following the Settlement Administrator's receipt of the Class
8 Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain
9 forwarding addresses of Settlement Class Members if any envelopes are returned.

10 66. Returned Notices. The Settlement Administrator will take steps to ensure that
11 the Notice is received by all Settlement Class Members, including utilization of the National
12 Change of Address Database maintained by the United States Postal Service to review the
13 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any
14 Settlement Class Member for whom an updated address is located within ten (10) calendar days
15 following both the Settlement Administrator learning of the failed mailing and its receipt of the
16 updated address. The Notice shall be identical to the original Notice, except that it shall notify
17 the Settlement Class Member that the exclusion (opt-out) request or objection must be returned
18 by the later of the Notice Response Deadline or fifteen (15) days after the remailing of the
19 Notice.

20 67. Presumption Regarding Receipt of Notice. It will be conclusively presumed that
21 if an envelope has not been returned within thirty (30) days of the mailing that the Settlement
22 Class Member received the Notice.

23 68. Disputes Regarding Class Data. Settlement Class Members are deemed to
24 participate in the Settlement, unless they opt-out. The Notice will inform Settlement Class
25 Members of his/her estimated Individual Settlement Amount and the number of Weeks Worked
26 during the Class Period and during the PAGA Period. Settlement Class Members may dispute
27 their Weeks Worked if they feel they were employed more workweeks in the Class Period in
28 California than Defendant's records show by timely submitting evidence to the Settlement

1 Administrator. Defendant's records will be presumed determinative absent reliable evidence to
2 rebut Defendant's records, but the Settlement Administrator will evaluate the evidence
3 submitted by the Settlement Class Member and provide the evidence submitted to Class
4 Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to
5 determine the Class Member's actual number of Workweeks Worked and estimated Individual
6 Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to
7 submit the dispute to the Settlement Administrator to render a final decision. Settlement Class
8 Members will have until the Notice Response Deadline to dispute Workweeks Worked, object
9 or opt out, unless extended by the Court. In the event that the Settlement Administrator
10 increases the number of Workweeks Worked for any Settlement Class Member, then the
11 Settlement Administrator will recalculate the Participating Class Members' Individual
12 Settlement Amounts; accordingly, in no event will Defendant be required to increase the Gross
13 Settlement Amount.

14 69. Declaration of Due Diligence. The Settlement Administrator shall provide
15 counsel for the Parties, at least twenty-five (25) days prior to the final approval hearing, a
16 declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

17 70. Settlement Class Members' Rights. Each Settlement Class Member will be fully
18 advised of the Settlement, the ability to object to the provisions in the Settlement related to the
19 Class Claims, and the ability to opt-out or request exclusion from the Class Claims provisions of
20 the Settlement. The Notice will inform the Settlement Class Members of the Court-established
21 deadlines for filing objections or requesting exclusion from the Class Claims provisions of the
22 Settlement in accordance with the following guidelines:

23 (a) Requests for Exclusion from Participating Settlement Class. Any
24 Settlement Class Member, other than Plaintiff, may request to be excluded from the
25 Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement
26 Administrator, postmarked on or before the Notice Response Deadline. The Request for
27 Exclusion should state in words to this effect:
28

1 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN
2 THE GARCIA ET AL. V. J-M MANUFACTURING LAWSUIT. I
3 UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE
4 SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM
THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.

5 Any Request for Exclusion must include the full name, address, telephone number, last
6 four digits of the social security number or date of birth, and signature of the Settlement Class
7 Member requesting exclusion. The Request for Exclusion must be returned by mail to the
8 Settlement Administrator at the specified address. Any such Request must be made in
9 accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only
10 if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing.
11 Any Settlement Class Member who timely requests exclusion in compliance with these
12 requirements: (i) will not have any rights under this Agreement with respect to the Class
13 Claims, including the right to object, appeal or comment on the Settlement; (ii) will not be
14 entitled to receive any payments under this Agreement with respect to Class Claims; and (iii)
15 will not be bound by this Agreement, or the Judgment with respect to the Class Claims.

16 (b) Binding Effect on Final Settlement Class Members. Except for those
17 Settlement Class Members who exclude themselves in compliance with the procedures set forth
18 above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members
19 for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this
20 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise
21 provided herein, will be deemed to have waived all objections and oppositions to the fairness,
22 reasonableness, and adequacy of the Settlement.

23 (c) Objections to Settlement of Class Claims. Any Settlement Class
24 Member, other than Plaintiffs, may object to the terms of this Agreement with respect to the
25 Class Claims and may appear at the Final Approval Hearing and object whether or not they
26 have filed a written objection as outlined herein. To object, a Settlement Class Member shall
27 inform the Settlement Administrator, in writing, of his or her objection, which must be
28 postmarked by the Notice Response Deadline at the address set forth in the Notice. Such

1 objection shall include the full name, address, telephone number, dates of employment with
2 Defendant of the Objecting Settlement Class Member, the case name and number, the basis for
3 the objection, including any legal support and each specific reason in support of the objection,
4 as well as any documentation or evidence in support thereof, and, if the Objecting Settlement
5 Class Member is represented by counsel, the name and address of his or her counsel. If any
6 Objecting Settlement Class Member wishes to speak at the Final Approval Hearing with respect
7 to the Class Claims, that Objecting Settlement Class Member's written submission should
8 include a request to be heard, and the Court will determine whether Objecting Settlement Class
9 Members will be permitted to speak. The Settlement Administrator shall provide objections, if
10 any, to Class Counsel and Defense Counsel within three (3) days of receipt, and the Settlement
11 Administrator shall attach the same to its declaration of due diligence it files with the Court
12 prior to the Final Approval Hearing. Any Participating Class Member who files an objection
13 remains eligible to receive monetary compensation from the Settlement. Plaintiffs and
14 Defendant shall not be responsible for any fees, costs, or expenses incurred by any Class
15 Member and/or his or her counsel related to any objections to the Settlement. Submitting an
16 objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is
17 preserved by becoming a party of record by timely and properly intervening or filing a motion
18 to vacate the judgment under Code of Civil Procedure § 663. Settlement Class Members and
19 Aggrieved Employees may not object to or opt-out of the Settlement with respect to the PAGA
20 Claims.

21 (d) Failure to Object. Any Settlement Class Member who desires to object
22 with respect to the Class Claims but fails to timely submit a written objection waives any right
23 to object, will be foreclosed from making any objection to this Settlement. Any Settlement
24 Class Member who does not timely and properly become a party of record by intervening or
25 filing a motion to vacate the judgment waives any and all rights to appeal from the Judgment,
26 including all rights to any post-judgment proceeding and appellate proceeding, such as a motion
27 to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure
28 section 473, and extraordinary writs.

1 (e) Responses to Objections. Counsel for the Parties may file a response to
2 any objections submitted by Objecting Settlement Class Members at least five (5) court days
3 before the date of the Final Approval Hearing.

4 71. Settlement Class Members will have until the Notice Response Deadline to
5 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The
6 Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what
7 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
8 request of Class Counsel or Defense Counsel.

9 72. Funding of the Settlement Amount. Defendant shall make a one-time deposit
10 into the QSF of the Settlement Amount, as described in Paragraph 44(a) that is necessary to
11 make all payments required under this Settlement, within ten (10) days after the Effective Date,
12 plus Defendant shall separately pay its share of employer payroll taxes as calculated and
13 directed by the Settlement Administrator.

14 73. Distribution of Funds. No later than ten (10) calendar days after deposit of the
15 payment into the QSF, the Settlement Administrator will mail the payments to the Participating
16 Class Members, the payment for the attorneys' fees and costs to Class Counsel, any Service
17 Payment to the Class Representatives, the payment to the LWDA for PAGA penalties, and will
18 pay itself the Settlement Administration Costs.

19 74. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall
20 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
21 checks. If any Final Settlement Class Member's check is not cashed within that period, the
22 check will be void and a stop-payment will be issued. All unclaimed funds shall be sent to the
23 California Unclaimed Property Fund in the name of the class member. The release will be
24 binding upon all Final Settlement Class Members who do not cash their checks within the 180-
25 day period. In the event that any settlement check is returned to the Settlement Administrator
26 within 180 days of mailing, the Settlement Administrator will, within five (5) business days of
27 receipt of the returned settlement check, perform a skip trace to locate the individual. If a new
28 address is located by these means, the Administrator will have ten (10) business days to re-issue

1 the check and will notify Defense Counsel and Class Counsel that a re-issued check has been
2 sent. Neither Defendant, Defense Counsel, Class Counsel, Plaintiffs, nor the Settlement
3 Administrator will have any liability for lost or stolen settlement checks, forged signatures on
4 settlement checks, or unauthorized negotiation of settlement checks. Without limiting the
5 foregoing, in the event a Final Settlement Class Member notifies the Settlement Administrator
6 that he or she believes that a settlement check has been lost or stolen, the Settlement
7 Administrator shall immediately stop payment on such check. If the check in question has not
8 been negotiated prior to the stop payment order, the Settlement Administrator will issue a
9 replacement check.

10 75. No person shall have any claim against Defendant (or its designee), Defendant's
11 Counsel, Plaintiffs, Class Counsel, or the Settlement Administrator based on mailings,
12 distributions, payments or reports made in accordance with or pursuant to this Agreement. This
13 provision does not, however, prevent a Party from seeking enforcement of this Agreement.

14 76. Without prejudice to any other remedies, the Settlement Administrator shall
15 agree to be responsible for any breach of its obligations (whether committed by the Settlement
16 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless
17 from and against all liabilities, claims, causes of action, costs and expenses (including legal fees
18 and expenses) arising out of any breach committed by the Settlement Administrator or its
19 agents.

20 **H. Duties of the Parties Prior to the Court's Approval**

21 77. Upon completion of confirmatory discovery, Plaintiffs will move the Court for
22 Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
23 accomplishing the following:

24 (a) Scheduling the Final Approval Hearing on the issue of whether this
25 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
26 and a hearing on fees, costs and the Service Payment;

27 (b) Approving as to form and content the proposed Notice;

28 (c) Directing the mailing of the Notice by first class mail to the Settlement

Class Members;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class for purposes of this Settlement.

78. Reallocation of Settlement Proceeds. In the event the Court fails, on its first hearing, to approve this Agreement because the amount of the PAGA penalties is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within this Agreement, in order to try to achieve Final Approval of the Agreement upon any subsequent Court hearings.

I. Duties of the Parties Following Court's Final Approval

79. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

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

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representative, and the payment to the Settlement Administrator for costs of administering the settlement; and

(c) Entering judgment approving settlement, thereby permanently barring all Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties and permanently barring all Aggrieved Employees and the LWDA from prosecuting any Released PAGA Claims against any of the Released Parties.

J. Voiding the Agreement

80. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Settlement Agreement which effects a fundamental change of the Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of either Party.

81. If ten percent (10%) or more of the Settlement Class Members timely submit a Request for Exclusion, Defendant shall have the option of terminating or modifying this

1 Agreement without prejudice to its pre-settlement positions and defenses in the Action. If
2 Defendant exercises such option, under this paragraph it shall be relieved of any obligation to
3 pay the Settlement Amount or any other obligations from the Settlement by giving notice to
4 Plaintiffs' Counsel and the Settlement Administrator within ten (10) days of the Notice
5 Response Deadline. If Defendant exercises its option under this paragraph, Defendant shall be
6 solely responsible for all Settlement Administration Costs incurred.

7 82. If the Settlement is voided or fails for any reason, Plaintiffs and Defendant will
8 have no further obligations under the Settlement, including any obligation by Defendant to pay
9 the Settlement Amount, or any amounts that otherwise would have been owed under this
10 Settlement.

11 83. If the Settlement is voided or fails for any reason, any costs incurred by the
12 Settlement Administrator shall be borne equally by Defendant and Plaintiffs, unless otherwise
13 specified in this Agreement.

14 **K. Other Terms**

15 84. Publicity. Class Representatives agree that they have not and will not publish the
16 Settlement. By way of this Settlement, Class Representatives direct their respective counsel not
17 to issue any press releases or press statements regarding the Settlement, identify Defendant or
18 Defense Counsel by name in any media including Class Counsel's website, or have any
19 communications with the press or media about the Settlement. However, nothing in the
20 provision shall be construed from as preventing the Parties from taking following actions: (a)
21 Class Counsel shall be allowed to refer to the Settlement in other litigations to support their
22 adequacy as attorneys for a putative class or PAGA group or to justify an award of attorneys'
23 fees; (b) the Parties shall have the right to disclose the Settlement as may be required under
24 federal or state tax and/or securities laws or under Generally Accepted Accounting Principles;
25 (c) the Parties shall have the right to disclose the Settlement to third parties without identifying
26 the case name, case number, or names of any of the Parties or Released Parties; (d) the Parties
27 may refer to the Settlement, describe its terms, and file the settlement agreement with the Court,
28 the LWDA, and the Settlement Administrator in connection with any proceedings which are

1 reasonably necessary to obtain approval of the Settlement; and (e) the Parties or their
2 representatives may communicate with accountants or legal advisors regarding the Settlement.
3 Except for the previously listed exceptions, in response to any inquiries about the Settlement,
4 the Parties may state that “the matter has been resolved.”

5 85. Full and Complete Defense. This Agreement may be pleaded by any Released
6 Party as a full and complete defense to and may be used as the basis for an injunction against,
7 any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted,
8 asserting any Released Claim.

9 86. Waiver. The waiver by one Party of any breach of this Agreement by another
10 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

11 87. Parties’ Authority. The signatories hereto represent that they are fully authorized
12 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions
13 hereof.

14 88. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
15 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
16 such documents and to take such other action as may reasonably be necessary to implement the
17 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
18 best efforts, including all efforts contemplated by this Settlement Agreement and any other
19 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
20 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
21 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
22 Defendant and Defendant’s Counsel, take all necessary steps to secure the Court’s preliminary
23 and final approval of the settlement, and the final entry of judgment.

24 89. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
25 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
26 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
27 cause of action or rights released and discharged by this Settlement Agreement.
28

1 90. No Admission. Defendant denies any and all liability to Plaintiffs and/or any
2 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
3 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
4 compromise the matters at issue in the Complaint to avoid further substantial expense and the
5 inconvenience and distraction of protracted and burdensome litigation. Defendant also has
6 taken into account the uncertainty and risks inherent in litigation, and without conceding any
7 infirmity in the defenses that they have asserted or could assert against Plaintiffs, have
8 determined that it is desirable and beneficial that Plaintiffs' claims be settled in the manner and
9 upon the terms and conditions set forth in this Agreement.

10 91. Inadmissibility of Agreement. Whether or not the Court issues the Final
11 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,
12 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing
13 on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has
14 entered into this Settlement Agreement with the intention of avoiding further disputes and
15 litigation with the attendant inconvenience and expenses. This Settlement Agreement is a
16 settlement document, and it, along with all related documents such as the notices, and motions
17 for preliminary and final approval, shall, pursuant to California Evidence Code section 1152
18 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an
19 action or proceeding to approve the settlement, and/or interpret or enforce this Settlement
20 Agreement. The stipulation for class certification as part of this Settlement Agreement is for
21 settlement purposes only and if, for any reason the settlement is not approved, the stipulation
22 will be of no force or effect.

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

27 To the Settlement Class Members and Aggrieved Employees:
28

Mehrdad Bokhour
mehrdad@bokhourlaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (310) 975-1493; Fax: (310) 675-0861

Joshua Falakassa
josh@falakassalaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (818) 456-6168; Fax: (888) 505-0868

To Defendant:

Kristen J. Nesbit
knesbit@fisherphillips.com
Shaun J. Voigt
svoigt@fisherphillips.com
444 South Flower Street, Suite 1500
Los Angeles, California 90071
Tel: (213) 330-4500; Fax: (213) 330-4501

93. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or her or its counsel participated in the drafting of this Settlement Agreement. Plaintiffs and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

94. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

95. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

1 96. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
2 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
3 provide written notice to the other Party and allow an opportunity to cure the alleged
4 deficiencies, and Plaintiffs and Defendant agree to seek the help of the mediator identified in
5 this Agreement to resolve any dispute they are unable to resolve informally. During this period,
6 the Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any
7 legal action or other proceeding instituted by any person or entity other than Plaintiffs or
8 Defendant.

9 97. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of
10 dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure
11 Section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action
12 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents and obligations
13 of this Agreement.

14 98. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b),
15 this Agreement is intended by the Parties to be, and shall be, enforceable, binding and
16 admissible in a court of law.

17 99. Choice of Law. This Settlement Agreement shall be governed by and construed,
18 enforced and administered in accordance with the laws of the State of California, without regard
19 to its conflicts-of-law rules.

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

25 101. Binding On Assigns. This Settlement Agreement shall be binding upon and inure
26 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
27 successors, and assigns.
28

102. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

103. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

Dated: June __, 2022

CLASS REPRESENTATIVES:

Marcelino Garcia

Jeremiah Silveira

Dated: June __, 2022

DEFENDANT:

J-M MANUFACTURING COMPANY, INC.

By _____
Title _____

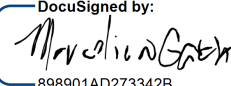
102. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

103. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

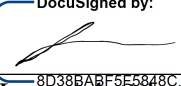
Dated: June __, 2022
6/6/2022

CLASS REPRESENTATIVES:

DocuSigned by:

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Marcelino Garcia

6/6/2022

DocuSigned by:

8D38B8BF5E5848C...

Jeremiah Silva

Dated: June __, 2022

DEFENDANT:

J-M MANUFACTURING COMPANY, INC.

By _____
Title _____

APPROVED AS TO FORM:

CLASS COUNSEL

Dated: June ___, 2022

6/6/2022

FALAKASSA LAW, P.C.

DocuSigned by:
Joshua Falakassa
15A628B2C5A149C...
Joshua Falakassa
Attorneys for Plaintiffs

Dated: June ___, 2022

6/6/2022

BOKHOUR LAW GROUP, P.C.

DocuSigned by:
Mehrdad Bokhour
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Mehrdad Bokhour
Attorneys for Plaintiffs

Dated: June ___, 2022

EMMA LAW, P.C.

Leonard Emma
Attorneys for Plaintiffs

Dated: June ___, 2022

DEFENDANT'S COUNSEL:

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J-M Manufacturing Company, Inc.

1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL**

3 Dated: June ___, 2022

4 **FALAKASSA LAW, P.C.**

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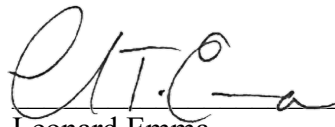
9 Dated: June ___, 2022

10 **BOKHOUR LAW GROUP, P.C.**

11 _____
12 Mehrdad Bokhour
13 Attorneys for Plaintiffs

14 Dated: June 6, 2022

15 **EMMA LAW, P.C.**

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20 Dated: June ___, 2022

21 **DEFENDANT'S COUNSEL:**

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