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Attorneys for Plaintiff and the Class

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

ADEWUNMI OJO, as an individual and on  
behalf of all others similarly situated,

Plaintiffs,

vs.

PINNACLE LIGHT INDUSTRIAL, LLC;  
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2021-01201515-CU-OE-CXC

**DECLARATION OF KRISTEN M. AGNEW  
IN SUPPORT OF PLAINTIFF'S MOTION  
TO APPROVE THE AMENDED JOINT  
STIPULATION OF SETTLEMENT AND  
RELEASE UNDER THE PRIVATE  
ATTORNEYS GENERAL ACT**

Date: November 17, 2023

Time: 1:30 p.m.

Dept.: CX103

Complaint Filed: May 19, 2021

Trial Date: None

1 I, Kristen M. Agnew, declare as follows:

2 1. I am an attorney at law, duly licensed to practice before all Courts in the State of  
3 California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiff  
4 Adewunmi Ojo (“Plaintiff”). I have personal knowledge of the facts set forth below and if called  
5 to testify I could and would do so competently.

6 **OPERATIVE ALLEGATIONS**

7 2. As set forth in the PAGA Notice, and operative Second Amended Representative  
8 Action Complaint, Plaintiff alleges that Defendant Pinnacle Light Industrial, LLC (“Defendant”)  
9 violated California Labor Code sections 204 and 2802.

10 3. More specifically, Plaintiff alleges that Defendant regularly failed to reimburse  
11 and indemnify employees for expenses incurred in the performance of their duties, including, but  
12 not limited to, expenses associated with travel mileage. Plaintiff contends that Defendant  
13 required employees to use their personal vehicles to travel in the course of performing their  
14 duties. Plaintiff further contends that Defendant failed to properly reimburse for their vehicle  
15 expenses such as mileage, gas, and wear and tear to their vehicles.

16 4. Additionally, Plaintiff alleges that Defendant paid wages more than seven days  
17 after the close of the payroll period, in violation of Labor Code section 204.

18 **THE HISTORY OF THE SETTLEMENT NEGOTIATIONS**

19 5. On or about September 16, 2022, the Parties executed a Joint Stipulation of  
20 Settlement and Release Under the Private Attorneys General Act, California Labor Code § 2698,  
21 et seq. (“Settlement Agreement”). The Settlement Agreement is attached as Exhibit A to the  
22 Declaration of Kristen M. Agnew, filed on October 21, 2022 [ROA # 59].

23 6. Prior to entering into the settlement, the Parties met and conferred regarding the  
24 underlying merits of the case and engaged in arm’s length negotiations. In connection with the  
25 Parties’ negotiations, Defendant produced, among other things, electronic documents and data  
26 related to the mileage reimbursement records for Plaintiff and the potential aggrieved employees,  
27 Defendant’s mileage reimbursement policy, as well as data relating to the number of potential  
28 aggrieved employees and the number of pay periods worked by the potential aggrieved

1 employees during the period of May 13, 2020 through September 11, 2021. In total, the potential  
2 aggrieved employees worked 835 pay periods during which the employees received the payment  
3 of wages and/or expense reimbursements (including for mileage) during the period of May 13,  
4 2020 through September 11, 2021.

5 7. The Parties also extensively discussed underlying merits of the case. With respect  
6 to the alleged Labor Code section 2802 violation, Plaintiff contends that Defendant reimbursed  
7 mileage expenses at the standard IRS reimbursement rate for up to 225 miles in a pay period.  
8 However, when employees drove more than 225 miles in a pay period, Plaintiff contends that  
9 Defendant reimbursed the additional mileage at a reduced rate. Defendant maintains that it  
10 reimbursed most mileage requests at the standard IRS reimbursement rate. Defendant produced  
11 mileage reimbursement data for employees during the period of May 13, 2020 to September 11,  
12 2021. The data shows that there are approximately 835 pay periods in which individuals sought  
13 mileage reimbursements. In 260 out of the 835 pay periods, the records suggest that the  
14 employees drove fewer than 225 miles. Thus, based on Defendant's records there are only  
15 approximately 575 pay periods in which employees may have been reimbursed at a rate below  
16 the standard IRS rate. Additionally, Defendant contends that, in some instances, it compensated  
17 all mileage requests at the standard IRS rate. Thus, the number of potential violations is less than  
18 575.

19 8. Defendant further argued that, as of September 11, 2021, it reimbursed all  
20 mileage at the standard IRS reimbursement rate. I confirmed this change in practice through a  
21 review of Plaintiff's mileage records and reimbursement requests.

22 9. With respect to the alleged Section 204 violation, Plaintiff alleges that Defendant  
23 had a policy of paying wages to employees on or after the eighth day following the close of the  
24 pay period, in violation of Labor Code section 204. Although Defendant disputes that its policy  
25 was ever unlawful, Defendant maintains that, in an abundance of caution and for business  
26 reasons, it changed its payroll practices to pay employees within six days of the close of the pay  
27 period, effective June 27, 2021. Defendant produced a copy of the weekly payroll reschedule to  
28 establish this modification in policy.

1           10.     Given Defendant’s change to its payroll practices relative to the entirety of  
2 Plaintiff’s allegations, Defendant argued that, even if Plaintiff prevailed on the merits, any award  
3 of potential civil PAGA penalties would be limited to the period of May 13, 2020 through  
4 September 11, 2021.

5           11.     Using the data provided by Defendant, and in light of Defendant’s change in  
6 policy, the Parties negotiated the terms of the Settlement Agreement with the understanding that  
7 there was a maximum of 875 Pivotal Pay Periods — pay periods in which the alleged aggrieved  
8 employees received the payment of wages and/or expense reimbursements — at issue through  
9 October 31, 2021.

10                   **THE COURT APPROVED THE SETTLEMENT AGREEMENT**

11           12.     On June 14, 2023, the Court granted Plaintiff’s Motion to Approve PAGA  
12 Settlement. [ROA # 99.]

13           13.     On June 16, 2023, my office submitted a copy of the Court’s Order approving the  
14 PAGA Settlement to the LWDA. Attached hereto as **Exhibit 3** is a true and correct copy of the  
15 submission confirmation.

16           14.     On June 16, 2023, I emailed the settlement administrator a copy of the June 14,  
17 2023 Order, Settlement Agreement and Notice of Settlement to Aggrieved Employees. As  
18 required by the Settlement Agreement, Defendant provided the administrator with the number of  
19 pay periods in which Aggrieved Employees received the payment of wages and/or expense  
20 reimbursements (“Pivotal Pay Periods”) during the period of May 13, 2020 through July 31,  
21 2022 (“PAGA Period”).

22           15.     On August 14, 2023, the administrator provided the Parties with a summary of the  
23 data transmitted by Defendant and the final calculations for disbursement. The summary  
24 reflected that there are 1,825 Pivotal Pay Periods during the PAGA Period.

25           16.     As indicated above, the Parties negotiated the settlement with the shared  
26 understanding that there was a maximum of 875 Pivotal Pay Periods at issue in the Action. With  
27 the addition of 950 Pivotal Pay Periods, the escalator clause was triggered and required a  
28 108.57% increase to the Maximum Settlement Amount — *e.g.* an increase from \$60,000 to

1 \$125,142.86.

2 **THE PROPOSED REVISIONS TO THE SETTLEMENT**

3 17. The Parties intended for the calculation of the Pivotal Pay Periods to be limited to  
4 the period of May 13, 2020, through October 31, 2021. To address this mistake in the original  
5 Settlement Agreement, the Parties negotiated and executed an Amended Joint Stipulation of  
6 Settlement and Release Under the Private Attorneys General Act (“Amended Agreement” or  
7 “Amended Settlement Agreement”). A true and correct copy of the Amended Settlement  
8 Agreement is attached hereto as **Exhibit 1**. A detailed comparison of the Settlement Agreement  
9 and the Amended Settlement Agreement is attached hereto as **Exhibit 2**.

10 18. **No Change in Maximum Settlement Amount.** Under the terms of the Amended  
11 Settlement Agreement, the Maximum Settlement Amount remains Sixty Thousand Dollars  
12 (\$60,000.00). *See* Amended Settlement at § B-9. Thus, the value of the settlement as compared  
13 to the pay periods in dispute remains unchanged. To resolve the claims in this case, Defendant  
14 will pay approximately \$68.57 per Pivotal Pay Period during the period of May 13, 2020,  
15 through October 31, 2021.

16 19. **Modification to Definition of Aggrieved Employees.** As defined in the  
17 Settlement Agreement and the Order Granting Plaintiff’s Motion to Approve Plaintiff’s PAGA  
18 Settlement and Judgment [ROA # 99], the settlement encompasses the following group of  
19 employees, “all current and former California non-exempt employees of Defendant who were  
20 paid wages by Defendant at any time during the PAGA Period [the period of May 13, 2020  
21 through July 31, 2022]” (collectively, “Aggrieved Employees”).

22 20. The Amended Settlement Agreement narrows the definition of “Aggrieved  
23 Employees” to “current and former employees of Defendant in the State of California who were  
24 paid wages at any time from May 13, 2020 *through October 31, 2021*.” *See* Amended  
25 Settlement at § B-2.

26 21. As defined in the original Settlement Agreement, Defendant’s records reflect that  
27 there are thirty-six (36) Aggrieved Employees. As narrowed in the Amended Settlement  
28 Agreement, there are twenty-four (24) Aggrieved Employees.

1           **22. Modification to Calculation of Individual Settlement Payments.** The original  
2 Settlement Agreement contemplated that the Individual Settlement Payment to Aggrieved  
3 Employees would be based on the number of Pivotal Pay Periods —*e.g.* pay periods in which an  
4 employee received the payment of wages and/or expense reimbursements—during the period of  
5 May 13, 2020, through July 31, 2022. However, the Parties intended for the Individual  
6 Settlement Payments to be calculated using the number of Pivotal Pay Periods during the period  
7 of May 13, 2020, ***through October 31, 2021***. The Amended Settlement Agreement reflects this  
8 modification. *See* Amended Settlement at § D-5. Under the terms of the Amended Settlement, all  
9 Aggrieved Employees will be credited with at least one Pivotal Pay Period during the period of  
10 May 13, 2020, through October 31, 2021.

11           **23. Modification to Escalator Provision.** The original Settlement Agreement  
12 incorrectly states that the Maximum Settlement Amount was premised on “Defendant’s  
13 representation that certain Aggrieved Employees received the payment of wages and/or expense  
14 reimbursements (including for mileage, some of which were paid at a rate lower than the  
15 applicable IRS standard rate), in a maximum of 875 pay periods during the PAGA Period” (May  
16 13, 2020, through July 31, 2022). However, as indicated above, the Parties negotiated the terms  
17 of the settlement with the mutual understanding that there are a maximum 875 Pivotal Pay  
18 Periods during the period of May 13, 2020 ***through October 31, 2021***. The Amended Settlement  
19 Agreement reflects this modification. *See* Amended Settlement at § D-2.

20           **24. Reduced Enhancement Payment to Plaintiff.** Section B-7 of the original  
21 Settlement Agreement called for Plaintiff to receive an Enhancement Payment up to three  
22 thousand dollars. Consistent with the Order Granting Plaintiff’s Motion to Approve Plaintiff’s  
23 PAGA Settlement and Judgment [ROA # 99], the Amended Settlement Agreement reduced the  
24 Enhancement Payment to two thousand dollars.

25           **25. Notice to Aggrieved Employees.** The settlement calls for an explanatory letter to  
26 be mailed to Aggrieved Employees. The Parties modified the proposed letter to incorporate the  
27 revised definition of “Aggrieved Employees.” The revised notice also contains the definition of  
28 “Pivotal Pay Periods.”

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Kristen M. Agnew

# EXHIBIT 1

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Kristen M. Agnew (State Bar No. 247656)  
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Attorneys for Plaintiff and the Aggrieved Employees

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

ADEWUNMI OJO, as an individual  
and on behalf of all others similarly  
situated,

Plaintiffs,

vs.

PINNACLE LIGHT INDUSTRIAL,  
LLC; and DOES 1 through 50,  
inclusive,

Defendants.

Case No.: 30-2021-01201515-CU-OE-CXC

[Assigned for all purposes to the Hon. Lon  
F. Hurwitz, Department CX103]

**AMENDED JOINT STIPULATION OF  
SETTLEMENT AND RELEASE  
UNDER THE PRIVATE ATTORNEYS  
GENERAL ACT, CALIFORNIA  
LABOR CODE § 2698, ET SEQ.**

1 This Amended Joint Stipulation of Settlement and Release (“Agreement” or  
2 “Settlement”) under the Private Attorneys General Act, California Labor Code section 2698 *et*  
3 *seq.* (“PAGA”), is made by and between Adewunmi Ojo (“Ojo” or “Plaintiff”), individually  
4 and as representative on behalf of Aggrieved Employees, as further defined herein, and the  
5 State of California, and Pinnacle Light Industrial, LLC (“Pinnacle” or “Defendant”). Ojo and  
6 Pinnacle are collectively referred to herein as the “Parties” and may be individually referred to  
7 as a “Party.”

8 **A. FACTUAL BACKGROUND AND RECITALS**

9 1. This Settlement is made and entered into by and between Plaintiff and Defendant,  
10 and is subject to the terms and conditions hereof, and to the Court’s approval. The Parties  
11 expressly acknowledge that this Agreement is entered into solely for the purpose of  
12 compromising significantly disputed claims and that nothing herein is an admission of liability  
13 or wrongdoing by Defendant. Defendant denies that it is liable to Plaintiff or the Aggrieved  
14 Employees, and denies that it has violated any law.

15 2. On May 13, 2021, Plaintiff filed a notice with the California Labor and Workforce  
16 Development Agency (“LWDA”), alleging that Defendant violated Labor Code sections 204  
17 and 2802 (“PAGA Notice”). As set forth in the PAGA Notice, Plaintiff alleged that Defendant  
18 failed to pay wages within seven days of the close of the pay period, in violation of Labor Code  
19 section 204. Plaintiff further alleged that Defendant failed to reimburse employees for all  
20 mileage related expenses, in violation of Labor Code section 2802.

21 3. On May 19, 2021, Plaintiff filed a putative class action lawsuit against Defendant,  
22 entitled *Adewunmi Ojo, as an individual and on behalf of all others similarly situated v.*  
23 *Pinnacle Light Industrial, LLC*, in Orange County Superior Court Case No. 30-2021-01201515-  
24 CU-OE-CXC. As alleged in the complaint, Plaintiff asserted claims for: (1) Violation of Labor  
25 Code section 2802; and (2) Violation of Business and Professions Code section 17200, *et seq.*,  
based on Defendant’s alleged failure to reimburse employees for business expenses

26 4. On July 16, 2021, Plaintiff amended his complaint to add a cause of action for  
27 violation of the California Private Attorneys General Act (“PAGA”), Labor Code § 2898, *et*

1 *seq.* Ojo premised his PAGA claim on Defendant's alleged failure to reimburse business  
2 expenses and to comply with Labor Code section 204. Plaintiff sought civil penalties and an  
3 award of reasonable attorneys' fees and costs as permitted by the PAGA, Labor Code § 2698,  
4 *et seq.*

5 5. On or about August 16, 2021, Defendant filed an Answer to Plaintiff's Unverified  
6 First Amended Class and Representative Action Complaint.

7 6. During Plaintiff's employment with Defendant, Plaintiff (and one or more of all  
8 of the Aggrieved Employees) executed an arbitration agreement that contained a class action  
9 waiver. In light of the narrow claims at issue, the Parties agreed to redirect their resources to  
10 exploring the possibility of an early resolution on as broad a scale as possible consistent with  
11 applicable law.

12 7. Over the course of several months, the Parties conducted arm's length  
13 negotiations that resulted in the current settlement. In connection with the Parties' negotiations,  
14 Defendant produced, among other things, electronic documents and data related to the mileage  
15 reimbursement records for Plaintiff and the Aggrieved Employees, Defendant's mileage  
16 reimbursement policy, as well as data relating to the number of potential Aggrieved Employees  
17 and the number of pay periods worked by Aggrieved Employees during the applicable PAGA  
18 Period. Defendant has confirmed that it altered its payroll practices relative to the entirety of  
19 Plaintiff's allegations on or before of September 11, 2021, and that not all Aggrieved  
20 Employees were impacted by either or both allegedly improper pay practice on each pay period  
21 during the PAGA Period.

22 8. The Parties recognize the risk, expense, and delay in continuing the Action, and  
23 therefore believe the Settlement to be fair, reasonable, and adequate. Accordingly, the Parties  
24 desire to settle, compromise, and discharge all disputes and claims arising from or related to the  
25 Action.

26 9. The Parties are unaware of any class or other representative action in any other  
27 court that asserts claims similar to those alleged in the Action.

**B. DEFINITIONS**

1. “Action” means *Adewunmi Ojo, as an individual and on behalf of all others similarly situated v. Pinnacle Light Industrial, LLC*, in Orange County Superior Court Case No. 30-2021-01201515-CU-OE-CXC.

2. “Aggrieved Employees” is defined, consistent with Plaintiff’s Second Amended Complaint, as all current and former employees of Defendant in the State of California who were paid wages at any time from May 13, 2020, through October 31, 2021.

3. “Plaintiff’s Counsel” means Diversity Law Group, P.C. and Polaris Law Group LLP.

4. “Complaint” means the Second Amended Representative Action Complaint filed by Plaintiff in the Action, effectively withdrawing any claims other than those brought under PAGA.

5. “Defendant” or “Pinnacle” means Pinnacle Light Industrial, LLC.

6. “Effective Date” means the date on which the Superior Court or any Party hereto serves notice of entry of the Superior Court’s Order and Judgment approving and entering the Amended PAGA Settlement set forth herein.

7. “Enhancement Payment” means the amount that the Court authorizes to be paid to Plaintiff, in addition to his Individual Settlement Payment, in recognition of his efforts and risks in assisting with the prosecution of the Action. Subject to the Court granting approval of the Settlement, the Parties agree that Plaintiff shall be paid up to two thousand dollars and zero cents (\$2,000.00) from the Maximum Settlement Amount. It is understood by Plaintiff that the Court has final discretion in any Enhancement Payment.

8. “Individual Settlement Payment” means the amount payable from the Net PAGA Payment to each Aggrieved Employee.

9. “Maximum Settlement Amount” means the maximum settlement amount of sixty thousand dollars and zero cents (\$60,000.00) to be paid by Defendant as a result of this Agreement. The Maximum Settlement Amount includes all Individual Settlement Payments to Aggrieved Employees, payment to the LWDA, the Enhancement Payment to Plaintiff,

1 Settlement Administration Costs, and Attorneys Fees and Costs.

2 10. "PAGA Penalties Fund" means the balance of the Maximum Settlement Amount  
3 remaining after deduction of the approved Enhancement Payment to Plaintiff, Attorneys' Fees  
4 and Costs, and Settlement Administration Costs.

5 11. "PAGA Period" means May 13, 2020 through July 31, 2022.

6 12. "Parties" means Plaintiff and Defendant, together.

7 13. "Plaintiff" means Plaintiff Adewunmi Ojo.

8 14. "Released Claims" means all claims for civil penalties under the California Labor  
9 Code Private Attorneys General Act, including costs and attorneys' fees related thereto,  
10 predicated on the alleged violation of Labor Code sections 204 and/or 2802, based on the facts  
11 as alleged in the PAGA Notice and the Second Amended Representative Action Complaint,  
12 whether known or unknown, and including any claims under the California Labor Code and/or  
13 applicable Industrial Welfare Commission Wage Orders, as well any resulting claim for  
14 attorneys' fees and costs that accrued during the period of May 13, 2020, through July 31, 2022.

15 15. "Released Parties" means Defendant and its present and former parent  
16 companies, affiliates, predecessors, successors, assigns, shareholders, owners, officers,  
17 directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries,  
18 beneficiaries, subrogees, executors, partners, parents, subsidiaries, and privies.

19 16. "Settlement Administration Costs" means the fees and expenses reasonably  
20 incurred by the Settlement Administrator as a result of the procedures and processes expressly  
21 required for completion of the settlement and by this Agreement, which are estimated at one  
22 thousand seven hundred fifty dollars and zero cents (\$1,750). Any portion of the Settlement  
23 Administration Costs not used or approved by the Court shall be added to the PAGA Penalties  
24 Fund.

25 17. "Settlement Administrator" means Phoenix Settlement Administrators.

### 26 **C. AMENDMENTS TO COMPLAINT**

27 1. Dismissal of Class Action Allegations. In connection with this Settlement, the  
28 Parties shall file a joint request for the dismissal without prejudice of the class allegations set

1 forth in the First Amended Class and Representative Action Complaint filed by Plaintiff. This  
2 Settlement shall not become effective unless and until the Court dismisses the class allegations  
3 without prejudice.

4 2. Second Amended Complaint. In connection with this Settlement, Plaintiff shall  
5 file a Second Amended Representative Action Complaint in Orange County Superior Court in  
6 the form attached hereto as Exhibit B. The Parties agree that Defendant shall maintain any and  
7 all affirmative defenses but shall not be required to file an Answer or other responsive pleading  
8 to the Second Amended Representative Action Complaint and that such agreement precludes  
9 Plaintiff from any right to: (a) obtain a default judgment against Defendant on the basis that  
10 Defendant did not respond to the Second Amended Representative Action Complaint; (b) argue  
11 that Defendant waived any right to a demurrer or other challenge to the pleadings; and (c) argue  
12 that Defendant waived any affirmative defense. If the Settlement does not obtain approval,  
13 Plaintiff will withdraw the Second Amended Representative Action Complaint and it will be  
14 void ab initio.

#### 15 **D. PAYMENT OF CONSIDERATION**

16 1. Settlement Consideration. Defendant shall pay the sum of the Maximum  
17 Settlement Amount as specified in this Agreement, which shall be used to pay: (1) Individual  
18 Settlement Payments; (2) Attorneys' Fees and Costs; (3) Enhancement Payment; (4) Settlement  
19 Administration Costs; and (5) payment to the LWDA. The Parties agree that this is a non-  
20 reversionary Settlement and that no portion of the Maximum Settlement Amount shall revert to  
21 Defendant. Payment shall be made to the Settlement Administrator for disbursement in  
22 accordance with the Superior Court's order and judgment approving the Amended PAGA  
Settlement.

23 2. Escalator Clause. The Maximum Settlement Amount was calculated with, and is  
24 premised on, Defendant's representation that certain Aggrieved Employees received the  
25 payment of wages and/or expense reimbursements (including for mileage, some of which were  
26 paid at a rate lower than the applicable IRS standard rate), in a maximum of 875 pay periods  
27 during the period from May 13, 2020, through October 31, 2021 ("Pivotal Pay Periods"). If the

1 data submitted by Defendant to the Settlement Administrator shows that there are more than  
2 875 Pivotal Pay Periods, the amount of the Maximum Settlement Amount shall increase in  
3 proportion to the increase in the total number of Pivotal Pay Periods. Defendant shall also be  
4 responsible for the settlement administration costs of this additional payment, which shall not  
5 be taken out of the additional payment, but will be paid for separately.

6 3. Funding of the Maximum Settlement Amount. Within fifteen (15) calendar days  
7 of the Effective Date, Defendant shall deposit the Maximum Settlement Amount with the  
8 Settlement Administrator who shall place that sum into a Qualified Settlement Fund ("QSF").  
9 The QSF shall be an interest-bearing account established by the Settlement Administrator at a  
10 federally-insured bank that is mutually acceptable to the Parties and the Settlement  
11 Administrator. The funds in the QSF shall be invested either in short-term U.S. Treasury  
12 securities with maturity dates of less than 90 days at the time of deposit, or in an SEC-registered  
13 money market fund investing exclusively in U.S. Treasury securities with average maturities of  
14 less than 90 days and rated AAA by Standard & Poor's. The Parties agree that the QSF is  
15 intended to be a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code  
16 and Treas. Reg. § 1.468B-1, 26 C.F.R. § 1.468B-1, *et seq.*, and will be administered by the  
17 Settlement Administrator as such. With respect to the QSF, the Settlement Administrator shall:  
18 (1) open and administer the Settlement Account in such a manner as to qualify and maintain  
19 the qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the  
20 Internal Revenue Code and Treas. Reg. § 1.468B-1; (2) satisfy all federal, state, and local  
21 income and other tax reporting, return, and filing requirements with respect to the QSF, and any  
22 interest or other income earned by the QSF, and (3) satisfy out of the QSF all (i) taxes (including  
23 any estimated taxes, interest, or penalties) with respect to the interest or other interest earned  
24 by the QSF, and (ii) fees, expenses and costs incurred in connection with the opening and  
25 administration of the QSF and the performance of its duties and functions as described in this  
26 Agreement. The aforementioned taxes, fees, costs, and expenses shall be treated as, and shall  
27 be, included in the costs of administering the QSF and as Claims Administration Expenses. The  
28 Parties and the Settlement Administrator shall treat the QSF as coming into existence as a

1 Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-  
2 1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by  
3 26 C.F.R. § 1.468B-1(j)(e)(ii). The Parties agree to cooperate with the Settlement Administrator  
4 and one another to the extent reasonably necessary to carry out the provisions of this Section.

5 4. Allocation of the PAGA Penalties Fund. The PAGA Penalties Fund shall be used  
6 to satisfy Individual Settlement Payments to Aggrieved Employees and payment to the LWDA  
7 in accordance with the terms of this Agreement. The PAGA Penalties Fund is the maximum  
8 amount that will be available for distribution to the LWDA and Aggrieved Employees in full  
9 satisfaction of all Released Claims. Pursuant to PAGA, seventy-five percent (75%) of the  
10 PAGA Penalties Fund will be paid to the LWDA, and the remaining twenty-five percent (25%)  
11 will be paid to all Aggrieved Employees ("Net PAGA Payment"). Plaintiff and Plaintiff's  
12 Counsel shall be responsible for notifying the LWDA of the Settlement to the extent required  
13 by law, including providing proof of such notice as required or upon request.

14 5. Calculation of Individual Settlement Payment. The Net PAGA Payment shall be  
15 used to satisfy Individual Settlement Payments to Aggrieved Employees in accordance with the  
16 terms of this Agreement. The Settlement Administrator shall allocate the Individual  
17 Settlement Payments by first dividing the Net PAGA Payment by the number of Pivotal Pay  
18 Periods in which Aggrieved Employees received the payment of wages and/or expense  
19 reimbursements (including for mileage, some of which were paid at a rate lower than the  
20 applicable IRS standard rate) during the period from May 13, 2020, through October 31, 2021  
21 That value will then be multiplied by the number of Pivotal Pay Periods in which each  
22 respective Aggrieved employee received the payment of wages and/or expense  
23 reimbursements (including for mileage, some of which were paid at a rate lower than the  
24 applicable IRS standard rate) during the period from May 13, 2020, through October 31, 2021.  
25 Aggrieved Employees are entitled to 100% of the Net PAGA Payment. Defendant maintains  
26 no reversionary right to any portion of the Net PAGA Payment.  
27  
28

1           6.   Tax Treatment of Individual Settlement Payment. All Individual Settlement  
2 Payments shall be allocated one hundred percent (100%) as penalties. The amount of payments  
3 shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

4           7.   No Credit Toward Benefit Plans. Payments to Aggrieved Employees as  
5 referenced herein will not be utilized to calculate any additional benefits under any benefit plans  
6 to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing  
7 plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO  
8 plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement  
9 Agreement will not affect any rights, contributions, or amounts to which any Aggrieved  
10 Employee may be entitled under any benefit plans.

11           8.   Enhancement Payment. Defendant agrees not to oppose or impede any  
12 application or motion by Plaintiff for an Enhancement Payment of up to two thousand dollars  
13 and zero cents (\$2,000.00) to Plaintiff. The Enhancement Payment shall be paid from the  
14 Maximum Settlement Amount, and shall be paid in addition to Plaintiff's Individual Settlement  
15 Payment as an Aggrieved Employee. It is understood by Plaintiff that the Court has final  
16 discretion in any Enhancement Payment. The Settlement Administrator shall issue an IRS  
17 Form 1099 to Plaintiff reflecting the Enhancement Payment. Plaintiff shall be solely and  
18 legally responsible to pay any and all applicable taxes on his Enhancement Payment and shall  
19 hold Defendant harmless from any claim, assessment, or liability for taxes, penalties, or  
20 interest arising as a result of the Enhancement Payment. Any portion of the Enhancement  
21 Payment not awarded to Plaintiff shall be added to the PAGA Penalties Fund and shall be  
22 distributed to Aggrieved Employees and LWDA as provided in this Agreement.

23           9.   Attorneys' Fees and Costs: In full satisfaction of all claims Plaintiff may have  
24 for attorneys' fees, litigation costs, and expenses arising out of the Action, Defendant agrees  
25 that Plaintiff's Counsel shall be paid a maximum amount of twenty thousand dollars and zero  
26 cents (\$20,000.00) in attorneys' fees and up to five thousand dollars and zero cents (\$5,000.00)  
27 in litigation costs and expenses ("Attorneys' Fees and Costs"), which shall be paid from the  
28 Maximum Settlement Amount. The Settlement Administrator shall issue an IRS Form 1099

1 to Plaintiff's Counsel reflecting the awarded attorneys' fees, costs, and expenses. The Parties  
2 understand that the Court makes the final determination on the award of Attorneys' Fees and  
3 Costs, and that any portion of these amounts not awarded as Attorneys' Fees and Costs shall  
4 be added to the PAGA Penalties Fund and distributed to Aggrieved Employees and LWDA  
5 as provided in this Agreement.

6 10. Settlement Administration Costs. The Settlement Administrator shall be paid for  
7 the reasonable costs of administration of the Settlement from the Maximum Settlement  
8 Amount, currently estimated at one thousand seven hundred fifty dollars and zero cents  
9 (\$1,750). These costs, which shall be paid from the Maximum Settlement Amount, shall  
10 include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the  
11 issuance of Form 1099 IRS forms, establishing a Qualified Settlement Fund, administering and  
12 distributing the Maximum Settlement Amount, and providing necessary reports and  
13 declarations. Any portion of the Settlement Administration Costs not allowed shall be added to  
14 the PAGA Penalties Fund and shall be distributed to Aggrieved Employees and the LWDA as  
15 provided in this Agreement.

#### 16 **E. ADMINISTRATION OF SETTLEMENT**

17 1. Approval of Amended PAGA Settlement. Plaintiff's Counsel shall request the  
18 entry of an Order in the form attached as Exhibit C from the Court granting final approval,  
19 which shall include findings and orders: (i) approving the settlement, (ii) adjudging the terms  
20 to be fair, reasonable, and adequate and binding on the State of California, (iii) reciting the  
21 release terms, (iv) directing that the settlement's terms and provisions be carried out; (v)  
22 entering final judgment in accordance with this Agreement and without further fees or costs to  
23 any party, except as expressly set forth in this Agreement; and (vi) retaining jurisdiction to  
24 oversee administration and enforcement of the terms of this Agreement and the Court's orders.  
25 Plaintiff's motion shall be unopposed by Defendant, unless Plaintiff's approval motion seeks  
26 relief inconsistent with or not specified by this Agreement. In such event, Defendant reserves  
27 the right to address any assertions that are not contained in this Agreement. Plaintiff will request  
28 a hearing on the request for entry of the attached Order to the extent required by the applicable

1 local rules and on the earliest date available to the Court and the Parties.

2 a. Settlement Administration. The Parties agree to cooperate in the  
3 administration of the Settlement and to make all reasonable efforts to control and minimize the  
4 costs and expenses incurred in the administration of the Settlement. The Settlement  
5 Administrator shall provide the following services: Establish and maintain a Qualified  
6 Settlement Fund account;

7 b. Calculate the Individual Settlement Payments to be paid to Aggrieved  
8 Employees in accordance with the terms and provisions of this Agreement;

9 c. Print and issue Individual Settlement Payment checks;

10 d. Verify the last known address for each Aggrieved Employee through a  
11 generally utilized, national address update database prior to mailing the Individual Settlement  
12 Payment check;

13 e. Issue and transmit payment to the California Labor and Workforce  
14 Development Agency for its portion of the Settlement amount;

15 f. Disburse any awards of costs and attorneys' fees and the Enhancement  
16 Payment;

17 g. Prepare and issue 1099 Forms; and

18 h. Perform such other tasks necessary to effectuate the terms of this  
19 Agreement or as the Parties mutually agree or the Court orders the Parties to perform.

20 2. Delivery of the Aggrieved Employee List and Data. Within fifteen (15) calendar  
21 days after the Effective Date, Defendant shall provide the Settlement Administrator with a  
22 Microsoft Office Excel spreadsheet and shall include each Aggrieved Employee's: full name;  
23 employee number; most recent mailing address; social security number; and the number of  
24 Pivotal Pay Periods in which the employee received payment of wages during the period from  
25 May 13, 2020, through October 31, 2021.

26 3. Timing of Distribution. Within ten (10) calendar days after the payment of the  
27 entire Maximum Settlement Amount, the Settlement Administrator will issue payments to: (a)  
28 Aggrieved Employees; (b) the California Labor and Workforce Development Agency; (c)

1 Plaintiff; and (d) Plaintiff's Counsel. The Settlement Administrator will issue the appropriate  
2 tax forms for all payments issued under this Settlement by the due date to provide such tax  
3 forms for the 2023 calendar year.

4 4. Mailing of Individual Settlement Payments to Aggrieved Employees: The  
5 Settlement Administrator will issue each Aggrieved Employee a check for his or her share of  
6 the PAGA Penalties Fund, along with an explanatory letter attached hereto as Exhibit A. Checks  
7 will remain negotiable for 180 days. Any checks returned as non-deliverable on or before the  
8 check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding  
9 address affixed thereto. Funds represented by settlement checks that remained un-cashed for  
10 more than 180 days after issuance shall be paid out pursuant to California Code of Civil  
11 Procedure section 384 to the following *cy pres* recipient: Legal Aid at Work. Neither the Parties  
12 nor their respective counsel have a relationship with the designated *cy pres*.

#### 13 **F. RELEASE OF CLAIMS**

14 5. Release of Claims by Aggrieved Employees. Upon the payment of the Maximum  
15 Settlement Amount by Defendant, Plaintiff and all Aggrieved Employees, hereby do and shall  
16 be deemed to have fully, finally and forever released, settled, compromised, relinquished and  
17 discharged, to the fullest extent possible, any and all of the Released Parties of and from any  
18 and all Released Claims. With respect to the Released Claims only, the Aggrieved Employees  
19 waive any and all rights and benefits under California Civil Code Section 1542, which reads:  
20 **"A general release does not extend to claims that the creditor or releasing party does not**  
21 **know or suspect to exist in his or her favor at the time of executing the release and that, if**  
22 **known by him or her, would have materially affected his or her settlement with the debtor**  
23 **or released party."**

24 6. No Right to Opt-Out. The Parties agree there is no statutory right for any  
25 Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement.  
26 As such, no notice of the settlement, providing the opportunity to opt out or object, is required.

27 7. General Release and Waiver of Claims by Plaintiff. As a condition to obtaining  
28 the Enhancement Payment provided for herein, and as part of the consideration for that

1 payment, Plaintiff (on behalf of himself and his spouse, heirs, executors, administrators,  
2 trustees, and/or permitted assigns) also agrees to a general release of any and all claims or causes  
3 of action against Defendant and Released Parties—which shall include without limitation any  
4 and all claims which in any way relate to his employment with Defendant, as well as his  
5 termination from that employment (if any), under California or federal law, in tort, common  
6 law, statute, contract, or equity, whether pled in the Complaint or not, including, but not limited  
7 to any claims under the Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991,  
8 the Americans With Disabilities Act, the Genetic Information Nondiscrimination Act, the Age  
9 Discrimination in Employment Act, the Families First Coronavirus Response Act, the Fair  
10 Labor Standards Act, the California Fair Employment and Housing Act, the California Labor  
11 Code, the California Fair Employment and Housing Act, or any California Industrial Welfare  
12 Commission wage order, based on any act, omission, event, occurrence, or nonoccurrence by  
13 Defendant or Released Parties to the date of Plaintiff's execution of the Agreement, except for  
14 any law that prohibit waiver or release of such claims without Court or agency approval.  
15 Plaintiff further expressly waives and relinquishes, to the fullest extent permitted by law, the  
16 provisions, rights and benefits of Section 1542 of the California Civil Code, which provides:  
17 **“A general release does not extend to claims that the creditor or releasing party does not**  
18 **know or suspect to exist in his or her favor at the time of executing the release and that, if**  
19 **known by him or her, would have materially affected his or her settlement with the debtor**  
20 **or released party.”** Having been informed of this provision and his rights under it, Plaintiff  
21 waives and relinquishes the provisions of California Civil Code section 1542 with respect to  
22 this Agreement and his release of any and all of his individual claims and causes of action as  
23 provided herein.<sup>1</sup>

24 <sup>1</sup> By entering into this Agreement, Plaintiff further understands and agrees that he: (a)  
25 has read this Agreement carefully and completely; (b) understands and knowingly and  
26 voluntarily agrees to the terms, conditions, and waivers set forth in this Agreement;  
27 (c) is hereby advised in writing to consult with an attorney of his/her choice prior to  
28 executing this Agreement and has had ample opportunity and sufficient time to seek  
such advice; (d) agrees that the Payment provided in this Agreement is in addition to  
any consideration to which he/she may already be entitled; (e) agrees that claims for age  
discrimination that arise after the executive of this Agreement are not waived by this  
Agreement; (f) may take up to twenty-one (21) days to consider whether he/she desires

1 **G. MISCELLANEOUS**

2 1. Tax Liability. Defendant, Defendant's counsel, the Settlement Administrator, and  
3 Plaintiff's Counsel make no representation as to the tax treatment or legal effect of the payments  
4 called for hereunder, and Plaintiff and Aggrieved Employees are not relying on any statement,  
5 representation, or calculation by Defendant, Defendant's counsel, Plaintiff's Counsel, or by the  
6 Settlement Administrator in this regard. Plaintiff and Aggrieved Employees understand and  
7 agree that they will be solely responsible for the payment of any and all taxes and penalties  
8 assessed on their respective payments described herein and will defend, indemnify, and hold  
9 Defendant, Defendant's counsel, Plaintiff's Counsel and the Settlement Administrator free and  
10 harmless from and against any claims resulting from treatment of such payments as non-taxable  
11 penalties/damages.

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

26 \_\_\_\_\_  
27 to execute this Agreement; and (g) has a period of seven (7) days after executing this  
28 Agreement to revoke this Agreement. Any such revocation must be in writing and  
delivered to (and received by) counsel for Defendant on or before the seventh day.

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

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

15 4. Nullification of Settlement Agreement. In the event that: (i) the Court does not  
16 approve the Settlement as provided herein; or (ii) the Settlement does not become final for any  
17 other reason, then this Settlement Agreement, and any documents generated to bring it into  
18 effect, will be null and void, and the Parties will be returned to their original respective  
19 positions. Notwithstanding the above, in such event, the Parties will meet and confer to address  
20 any concerns raised by the Court to determine whether and to what extent the Action may be  
21 resolved in a manner consistent with the Parties' intent and consistent with the Court's  
22 concerns.

23 5. Continued Jurisdiction. After entry of the judgment, the Court will have  
24 continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement  
25 of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Court  
26 Approval matters as may be appropriate under court rules or as set forth in this Settlement.  
27

1           6.    Entire Agreement. This Settlement Agreement constitutes the entirety of the  
2 Parties' settlement terms. No other prior or contemporaneous written or oral agreements may  
3 be deemed binding on the Parties.

4           7.    Amendment or Modification. This Settlement Agreement may be amended or  
5 modified only by a written instrument, signed by either the Parties or their successors-in-interest  
6 or counsel for all Parties.

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

17           9.    Binding on Successors and Assigns. This Settlement Agreement will be binding  
18 upon, and inure to the benefit of, the successors or assigns of the Parties hereto.

19           10.   California Law Governs. All terms of this Settlement Agreement and Exhibit A  
20 will be governed by and interpreted according to the laws of the State of California.

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

26           12.   Acknowledgement that the Settlement is Fair and Reasonable. The Parties  
27 believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action  
28 and have arrived at this Settlement after arm's-length negotiations. The Parties further

1 acknowledge that they are each represented by competent counsel and that they have had an  
2 opportunity to consult with their counsel regarding the fairness and reasonableness of this  
3 Settlement.

4 13. Invalidity of Any Provision. Before declaring any provision of this Settlement  
5 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest  
6 extent possible consistent with applicable precedents so as to define all provisions of this  
7 Settlement Agreement valid and enforceable. If any provision of this Settlement Agreement is  
8 or becomes invalid or unenforceable in any respect, the validity and enforceability of the  
9 remaining provisions contained herein shall not be affected.

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

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

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

23 17. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
24 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not  
25 be construed more strictly against one party than another merely by virtue of the fact that it may  
26 have been prepared by counsel for one of the Parties. The Parties further acknowledge and  
27 agree that, because of the arms-length negotiations between the Parties, all Parties have  
28 contributed to the preparation of this Settlement Agreement.

1           18. Representation by Counsel. The Parties acknowledge that they have been  
2 represented by counsel throughout all negotiations that preceded the execution of this  
3 Settlement Agreement, and that this Settlement Agreement has been executed with the consent  
4 and advice of counsel, and reviewed in full.

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

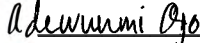
10          20. Denial of Liability. The Parties expressly recognize that the making of this  
11 agreement does not in any way constitute an admission or concession of wrongdoing on the  
12 part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof,  
13 nor any statements, discussions or communications, nor any materials prepared, exchanged,  
14 issued or used during the course of this Action, is intended by the Parties to, nor will any of the  
15 foregoing constitute, be introduced, be used or be admissible in any way in any other judicial,  
16 arbitral, administrative, investigative, or other forum or proceeding, as evidence of any violation  
17 of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any  
18 obligation or duty at law or in equity. Notwithstanding the foregoing, this agreement may be  
19 used in any proceeding in the Court that has as its purpose the interpretation, implementation,  
20 or enforcement of the Settlement or any orders or judgments of the Court entered into in  
21 connection therewith.

22           **IN WITNESS WHEREOF**, the undersigned Settling Parties and their duly authorized  
23 representatives accept and agree to the terms of this Agreement and hereby execute it  
24 voluntarily and with a full understanding of its consequences.

1 DATED: 9/19/2023  
2 \_\_\_\_\_

**PLAINTIFF ADEWUNMI OJO**

DocuSigned by:

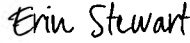


Plaintiff Adewunmi Ojo

6 DATED: 10/3/2023  
7 \_\_\_\_\_

**DEFENDANT PINNACLE LIGHT  
INDUSTRIAL, LLC**

DocuSigned by:



By: Erin Stewart

**APPROVED AS TO FORM:**

12 DATED: 9/19/2023  
13 \_\_\_\_\_

**DIVERSITY LAW GROUP, P.C.**

  
14 Kristen M. Agnew

Attorneys for Plaintiff and the Aggrieved  
Employees

16 DATED: 10/3/2023  
17 \_\_\_\_\_

**WICK PHILLIPS GOULD & MARTIN LLP**



Marcia Jackson

Attorneys for Defendant

Pinnacle Light Industrial, LLC

**EXHIBIT A**

&lt;&lt;DATE&gt;&gt;

<<FIRST NAME>> <<LAST NAME>>  
<<ADDRESS>>

Re: *Adewunmi Ojo v. Pinnacle Light Industrial, LLC*,  
Orange County Superior Court Case No. 30-2021-01201515-CU-OE-CXC

Dear <<FIRST NAME>> <<LAST NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Adewunmi Ojo v. Pinnacle Light Industrial, LLC*, Case No. 30-2021-01201515-CU-OE-CXC (Orange County Superior Court) (the "Action").

Adewunmi Ojo ("Named Plaintiff") filed the Action against Pinnacle Light Industrial, LLC, ("Defendant" or the "Company") pursuant to the California Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.* ("PAGA"). Named Plaintiff brought the Action on behalf of the State of California and all employees who received the payment of wages and/or mileage reimbursement under one or more former Company policies during the period of May 13, 2020 through October 31, 2021. You have been identified as one of the individuals on whose behalf the case was brought.

The Named Plaintiff in the Action claimed that Defendant owed penalties under PAGA for alleged violations of the California Labor Code. More specifically, the Named Plaintiff alleged that Defendant failed to pay wages within seven days of the close of the pay period, in violation of Labor Code section 204. The Named Plaintiff further alleged that Defendant failed to reimburse employees for all or part of their mileage-related expenses, in violation of Labor Code section 2802. Defendant maintains that all employees were timely paid wages and reimbursements, and Defendant further denies that it owes any penalties.

The Court has not ruled on the merits of the lawsuit, but it has approved the settlement amount the parties agreed to. That settlement provides for a cash payment by Defendant in the amount of \$60,000 ("Maximum Settlement Amount"). After deducting the service award to Plaintiff (\$2,000), attorneys' fees (\$20,000), actual litigation costs (up to \$5,000) and the Settlement Administrator's costs (\$1,750) from the Maximum Settlement Amount, the remaining balance represents the PAGA Penalties Fund.

The Court has approved a PAGA Penalties Fund in the amount of \$ TBD. By statute, seventy-five percent of the PAGA Penalties Fund (\$TBD) goes to the State of California's Labor and Workforce Development Agency. The remaining twenty-five percent (\$TBD) will be paid to the individuals who were allegedly affected by the Labor Code violations at issue in the case.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. Your portion was calculated based on the number of pay "Pivotal Pay Periods" you worked during the relevant time period. As defined by the Settlement, "Pivotal Pay Periods" means any pay period in which you received the payment of wages and/or expense reimbursements (including for mileage, some of which were paid at a rate lower than the applicable IRS standard rate) during the period from May 13, 2020, through October 31, 2021.

You are not a party to this lawsuit, but you and the government are bound by the judgment in this matter as to civil penalties. As such, you will be giving up or "releasing" Defendant from all PAGA claims predicated on the alleged violation of Labor Code sections 204 and 2802 that accrued during the period of May 13, 2020, through July 31, 2022.

As set forth above, in agreeing to this settlement, Defendant does not admit that it is liable in any way to its current or former employees.

Should you have any questions regarding the settlement, the contact information for the Settlement Administrator is included below:

Contact information for Settlement Administrator:

Sincerely,

[NAME AND TITLE OF SIGNATORY]

ss

# EXHIBIT 2

1. Larry W. Lee (State Bar No. 228175)  
2. Kristen M. Agnew (State Bar No. 247656)  
3. Nicholas Rosenthal (State Bar No. 268297)  
4. Max Gavron (State Bar No. 291697)  
5. **DIVERSITY LAW GROUP, P.C.**  
6. 515 S. Figueroa St., Suite 1250  
7. Los Angeles, California 90071  
8. (213) 488-6555  
9. (213) 488-6554 facsimile  
10.  
11. William L. Marder, Esq. (State Bar No. 170131)  
12. **Polaris Law Group LLP**  
13. 501 San Benito Street, Suite 200  
14. Hollister, CA 95023  
15. Tel: (831) 531-4214  
16. Fax: (831) 634-0333  
17.  
18. Attorneys for Plaintiff and the Aggrieved Employees

19. **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
20. **FOR THE COUNTY OF ORANGE**

21. ADEWUNMI OJO, as an individual  
22. and on behalf of all others similarly  
23. situated,

24. Plaintiffs,

25. vs.

26. PINNACLE LIGHT INDUSTRIAL,  
27. LLC; and DOES 1 through 50,  
28. inclusive,

Defendants.

Case No.: 30-2021-01201515-CU-OE-  
CXC

[Assigned for all purposes to the Hon.  
Glenda Sanders, Department CX101]

**AMENDED JOINT STIPULATION OF  
SETTLEMENT AND RELEASE  
UNDER THE PRIVATE ATTORNEYS  
GENERAL ACT, CALIFORNIA  
LABOR CODE § 2698, ET SEQ.**

**AMENDED JOINT STIPULATION OF SETTLEMENT AND RELEASE UNDER THE PRIVATE ATTORNEYS  
GENERAL ACT, CALIFORNIA LABOR CODE § 2698, ET SEQ.**

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1 This Amended Joint Stipulation of Settlement and Release (“Agreement” or  
2 “Settlement”) under the Private Attorneys General Act, California Labor Code section 2698 *et*  
3 *seq.* (“PAGA”), is made by and between Adewunmi Ojo (“Ojo” or “Plaintiff”), individually  
4 and as representative on behalf of Aggrieved Employees, as further defined herein, and the  
5 State of California, and Pinnacle Light Industrial, LLC (“Pinnacle” or “Defendant”). Ojo and  
6 Pinnacle are collectively referred to herein as the “Parties” and may be individually referred to  
7 as a “Party.”

8 **A. FACTUAL BACKGROUND AND RECITALS**

9 1. This Settlement is made and entered into by and between Plaintiff and Defendant,  
10 and is subject to the terms and conditions hereof, and to the Court’s approval. The Parties  
11 expressly acknowledge that this Agreement is entered into solely for the purpose of  
12 compromising significantly disputed claims and that nothing herein is an admission of liability  
13 or wrongdoing by Defendant. Defendant denies that it is liable to Plaintiff or the Aggrieved  
14 Employees, and denies that it has violated any law.

15 2. On May 13, 2021, Plaintiff filed a notice with the California Labor and Workforce  
16 Development Agency (“LWDA”), alleging that Defendant violated Labor Code sections 204  
17 and 2802 (“PAGA Notice”). As set forth in the PAGA Notice, Plaintiff alleged that Defendant  
18 failed to pay wages within seven days of the close of the pay period, in violation of Labor Code  
19 section 204. Plaintiff further alleged that Defendant failed to reimburse employees for all  
20 mileage related expenses, in violation of Labor Code section 2802.

21 3. On May 19, 2021, Plaintiff filed a putative class action lawsuit against Defendant,  
22 entitled *Adewunmi Ojo, as an individual and on behalf of all others similarly situated v.*  
23 *Pinnacle Light Industrial, LLC*, in Orange County Superior Court Case No. 30-2021-01201515-  
24 CU-OE-CXC. As alleged in the complaint, Plaintiff asserted claims for: (1) Violation of Labor  
25 Code section 2802; and (2) Violation of Business and Professions Code section 17200, *et seq.*,  
26 based on Defendant’s alleged failure to reimburse employees for business expenses

27 4. On July 16, 2021, Plaintiff amended his complaint to add a cause of action for  
28 violation of the California Private Attorneys General Act (“PAGA”), Labor Code § 2898, *et*

1 *seq.* Ojo premised his PAGA claim on Defendant's alleged failure to reimburse business  
2 expenses and to comply with Labor Code section 204. Plaintiff sought civil penalties and an  
3 award of reasonable attorneys' fees and costs as permitted by the PAGA, Labor Code § 2698,  
4 *et seq.*

5 5. On or about August 16, 2021, Defendant filed an Answer to Plaintiff's Unverified  
6 First Amended Class and Representative Action Complaint.

7 6. During Plaintiff's employment with Defendant, Plaintiff (and one or more of all  
8 of the Aggrieved Employees) executed an arbitration agreement that contained a class action  
9 waiver. In light of the narrow claims at issue, the Parties agreed to redirect their resources to  
10 exploring the possibility of an early resolution on as broad a scale as possible consistent with  
11 applicable law.

12 7. Over the course of several months, the Parties conducted arm's length  
13 negotiations that resulted in the current settlement. In connection with the Parties' negotiations,  
14 Defendant produced, among other things, electronic documents and data related to the mileage  
15 reimbursement records for Plaintiff and the Aggrieved Employees, Defendant's mileage  
16 reimbursement policy, as well as data relating to the number of potential Aggrieved Employees  
17 and the number of pay periods worked by Aggrieved Employees during the applicable PAGA  
18 Period.<sup>+</sup> Defendant has confirmed that it altered its payroll practices relative to the entirety of  
19 Plaintiff's allegations on or before ~~of~~ September 11, 2021, and that not all Aggrieved  
20 Employees were impacted by either or both allegedly improper pay practice on each pay period  
21 during the PAGA Period.

22 8. The Parties recognize the risk, expense, and delay in continuing the Action, and  
23 therefore believe the Settlement to be fair, reasonable, and adequate. Accordingly, the Parties  
24 desire to settle, compromise, and discharge all disputes and claims arising from or related to the  
25 Action.

26 9. The Parties are unaware of any class or other representative action in any other  
27 court that asserts claims similar to those alleged in the Action.

1  
2 **B. DEFINITIONS**

3 1. "Action" means *Adewunmi Ojo, as an individual and on behalf of all others*  
4 *similarly situated v. Pinnacle Light Industrial, LLC*, in Orange County Superior Court Case No.  
5 30-2021-01201515-CU-OE-CXC.

6 2. "Aggrieved Employees" is defined, consistent with Plaintiff's Second Amended  
7 Complaint, as all current and former employees of Defendant in the State of California who  
8 were paid wages at any time from May 13, 2020, through ~~July~~October 31, ~~2022~~2021.

9 3. "Plaintiff's Counsel" means Diversity Law Group, P.C. and Polaris Law Group  
10 LLP.

11 4. "Complaint" means the Second Amended Representative Action Complaint filed  
12 by Plaintiff in the Action, effectively withdrawing any claims other than those brought under  
13 PAGA.

14 5. "Defendant" or "Pinnacle" means Pinnacle Light Industrial, LLC.

15 6. "Effective Date" means the date on which the Superior Court or any Party hereto  
16 serves notice of entry of the Superior Court's Order and Judgment approving and entering the  
17 ~~Amended~~ PAGA Settlement set forth herein.

18 7. "Enhancement Payment" means the amount that the Court authorizes to be paid  
19 to Plaintiff, in addition to his Individual Settlement Payment, in recognition of his efforts and  
20 risks in assisting with the prosecution of the Action. Subject to the Court granting approval of  
21 the Settlement, the Parties agree that Plaintiff shall be paid up to ~~three~~two thousand dollars and  
22 zero cents (\$~~32~~,000.00) from the Maximum Settlement Amount. It is understood by Plaintiff  
23 that the Court has final discretion in any Enhancement Payment.

24 8. "Individual Settlement Payment" means the amount payable from the Net PAGA  
25 Payment to each Aggrieved Employee.

26 9. "Maximum Settlement Amount" means the maximum settlement amount of sixty  
27 thousand dollars and zero cents (\$60,000.00) to be paid by Defendant as a result of this  
28 Agreement. The Maximum Settlement Amount includes all Individual Settlement Payments to

1 Aggrieved Employees, payment to the LWDA, the Enhancement Payment to Plaintiff,  
2 Settlement Administration Costs, and Attorneys Fees and Costs.

3 10. "PAGA Penalties Fund" means the balance of the Maximum Settlement Amount  
4 remaining after deduction of the approved Enhancement Payment to Plaintiff, Attorneys' Fees  
5 and Costs, and Settlement Administration Costs.

6 11. "PAGA Period" means May 13, 2020 through July 31, 2022.

7 12. "Parties" means Plaintiff and Defendant, together.

8 13. "Plaintiff" means Plaintiff Adewunmi Ojo.

9 14. "Released Claims" means all claims for civil penalties under the California Labor  
10 Code Private Attorneys General Act, including costs and attorneys' fees related thereto,  
11 predicated on the alleged violation of Labor Code sections 204 and/or 2802, based on the facts  
12 as alleged in the PAGA Notice and the Second Amended Representative Action Complaint,  
13 whether known or unknown, and including any claims under the California Labor Code and/or  
14 applicable Industrial Welfare Commission Wage Orders, as well any resulting claim for  
15 attorneys' fees and costs that accrued during the period of May 13, 2020, through July 31, 2022.

16 15. "Released Parties" means Defendant and its present and former parent  
17 companies, affiliates, predecessors, successors, assigns, shareholders, owners, officers,  
18 directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries,  
19 beneficiaries, subrogees, executors, partners, parents, subsidiaries, and privies.

20 16. "Settlement Administration Costs" means the fees and expenses reasonably  
21 incurred by the Settlement Administrator as a result of the procedures and processes expressly  
22 required for completion of the settlement and by this Agreement, which are estimated at one  
23 thousand seven hundred fifty dollars and zero cents (\$1,750). Any portion of the Settlement  
24 Administration Costs not used or approved by the Court shall be added to the PAGA Penalties  
25 Fund.

26 17. "Settlement Administrator" means Phoenix Settlement Administrators.

### 27 C. AMENDMENTS TO COMPLAINT

28 1. Dismissal of Class Action Allegations. In connection with this Settlement, the

1 Parties shall file a joint request for the dismissal without prejudice of the class allegations set  
2 forth in the First Amended Class and Representative Action Complaint filed by Plaintiff. This  
3 Settlement shall not become effective unless and until the Court dismisses the class allegations  
4 without prejudice.

5 2. Second Amended Complaint. In connection with this Settlement, Plaintiff shall  
6 file a Second Amended Representative Action Complaint in Orange County Superior Court in  
7 the form attached hereto as Exhibit B. The Parties agree that Defendant shall maintain any and  
8 all affirmative defenses but shall not be required to file an Answer or other responsive pleading  
9 to the Second Amended Representative Action Complaint and that such agreement precludes  
10 Plaintiff from any right to: (a) obtain a default judgment against Defendant on the basis that  
11 Defendant did not respond to the Second Amended Representative Action Complaint; (b) argue  
12 that Defendant waived any right to a demurrer or other challenge to the pleadings; and (c) argue  
13 that Defendant waived any affirmative defense. If the Settlement does not obtain approval,  
14 Plaintiff will withdraw the Second Amended Representative Action Complaint and it will be  
15 void ab initio.

#### 16 **D. PAYMENT OF CONSIDERATION**

17 1. Settlement Consideration. Defendant shall pay the sum of the Maximum  
18 Settlement Amount as specified in this Agreement, which shall be used to pay: (1) Individual  
19 Settlement Payments; (2) Attorneys' Fees and Costs; (3) Enhancement Payment; (4) Settlement  
20 Administration Costs; and (5) payment to the LWDA. The Parties agree that this is a non-  
21 reversionary Settlement and that no portion of the Maximum Settlement Amount shall revert to  
22 Defendant. Payment shall be made to the Settlement Administrator for disbursement in  
23 accordance with the Superior Court's order and judgment approving the Amended PAGA  
Settlement.

24 2. Escalator Clause. The Maximum Settlement Amount was calculated with, and is  
25 premised on, Defendant's representation that certain Aggrieved Employees received the  
26 payment of wages and/or expense reimbursements (including for mileage, some of which were  
27 paid at a rate lower than the applicable IRS standard rate), in a maximum of 875 pay periods

1 during the ~~PAGA Period~~period from May 13, 2020, through October 31, 2021 (“Pivotal Pay  
2 Periods”). If the data submitted by Defendant to the Settlement Administrator shows that there  
3 are more than 875 Pivotal Pay Periods ~~in which those same Aggrieved Employees received~~  
4 ~~payment of wages and/or expense reimbursements (including for mileage, some of which were~~  
5 ~~paid at a rate lower than the applicable IRS standard rate), during the PAGA Period~~, the amount  
6 of the Maximum Settlement Amount shall increase in proportion to the increase in the total  
7 number of ~~pay periods~~Pivotal Pay Periods. Defendant shall also be responsible for the  
8 settlement administration costs of this additional payment, which shall not be taken out of the  
9 additional payment, but will be paid for separately.

10 3. Funding of the Maximum Settlement Amount. Within fifteen (15) calendar days  
11 of the Effective Date, Defendant shall deposit the Maximum Settlement Amount with the  
12 Settlement Administrator who shall place that sum into a Qualified Settlement Fund (“QSF”).  
13 The QSF shall be an interest-bearing account established by the Settlement Administrator at a  
14 federally-insured bank that is mutually acceptable to the Parties and the Settlement  
15 Administrator. The funds in the QSF shall be invested either in short-term U.S. Treasury  
16 securities with maturity dates of less than 90 days at the time of deposit, or in an SEC-registered  
17 money market fund investing exclusively in U.S. Treasury securities with average maturities of  
18 less than 90 days and rated AAA by Standard & Poor’s. The Parties agree that the QSF is  
19 intended to be a “Qualified Settlement Fund” under Section 468B of the Internal Revenue Code  
20 and Treas. Reg. § 1.468B-1, 26 C.F.R. § 1.468B-1, *et seq.*, and will be administered by the  
21 Settlement Administrator as such. With respect to the QSF, the Settlement Administrator shall:  
22 (1) open and administer the Settlement Account in such a manner as to qualify and maintain  
23 the qualification of the QSF as a “Qualified Settlement Fund” under Section 468B of the  
24 Internal Revenue Code and Treas. Reg. § 1.468B-1; (2) satisfy all federal, state, and local  
25 income and other tax reporting, return, and filing requirements with respect to the QSF, and any  
26 interest or other income earned by the QSF, and (3) satisfy out of the QSF all (i) taxes (including  
27 any estimated taxes, interest, or penalties) with respect to the interest or other interest earned  
28 by the QSF, and (ii) fees, expenses and costs incurred in connection with the opening and

1 administration of the QSF and the performance of its duties and functions as described in this  
2 Agreement. The aforementioned taxes, fees, costs, and expenses shall be treated as, and shall  
3 be, included in the costs of administering the QSF and as Claims Administration Expenses. The  
4 Parties and the Settlement Administrator shall treat the QSF as coming into existence as a  
5 Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-  
6 1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by  
7 26 C.F.R. § 1.468B-1(j)(e)(ii). The Parties agree to cooperate with the Settlement Administrator  
8 and one another to the extent reasonably necessary to carry out the provisions of this Section.

9 4. Allocation of the PAGA Penalties Fund. The PAGA Penalties Fund shall be used  
10 to satisfy Individual Settlement Payments to Aggrieved Employees and payment to the LWDA  
11 in accordance with the terms of this Agreement. The PAGA Penalties Fund is the maximum  
12 amount that will be available for distribution to the LWDA and Aggrieved Employees in full  
13 satisfaction of all Released Claims. Pursuant to PAGA, seventy-five percent (75%) of the  
14 PAGA Penalties Fund will be paid to the LWDA, and the remaining twenty-five percent (25%)  
15 will be paid to all Aggrieved Employees ("Net PAGA Payment"). Plaintiff and Plaintiff's  
16 Counsel shall be responsible for notifying the LWDA of the Settlement to the extent required  
17 by law, including providing proof of such notice as required or upon request.

18 5. Calculation of Individual Settlement Payment. The Net PAGA Payment shall be  
19 used to satisfy Individual Settlement Payments to Aggrieved Employees in accordance with the  
20 terms of this Agreement. The Settlement Administrator shall allocate the Individual  
21 Settlement Payments by first dividing the Net PAGA Payment by the number of Pivotal Pay  
22 Periods in which Aggrieved Employees received the payment of wages ~~during and/or expense~~  
23 ~~reimbursements (including for mileage, some of which were paid at a rate lower than the PAGA~~  
24 ~~Period-applicable IRS standard rate) during the period from May 13, 2020, through October~~  
25 ~~31, 2021~~ That value will then be multiplied by the number of ~~pay-periods~~ Pivotal Pay Periods  
26 in which each respective Aggrieved employee received the payment of wages ~~and/or expense~~  
27 ~~reimbursements (including for mileage, some of which were paid at a rate lower than the~~  
28 ~~applicable IRS standard rate) during the PAGA-Period period from May 13, 2020, through~~

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1 October 31, 2021. Aggrieved Employees are entitled to 100% of the Net PAGA Payment.  
2 Defendant maintains no reversionary right to any portion of the Net PAGA Payment.

3 6. Tax Treatment of Individual Settlement Payment. All Individual Settlement  
4 Payments shall be allocated one hundred percent (100%) as penalties. The amount of payments  
5 shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

6 7. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as  
7 referenced herein will not be utilized to calculate any additional benefits under any benefit plans  
8 to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing  
9 plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO  
10 plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement  
11 Agreement will not affect any rights, contributions, or amounts to which any Aggrieved  
12 Employee may be entitled under any benefit plans.

13 8. Enhancement Payment. Defendant agrees not to oppose or impede any  
14 application or motion by Plaintiff for an Enhancement Payment of up to ~~three~~two thousand  
15 dollars and zero cents (\$~~32~~2,000.00) to Plaintiff. The Enhancement Payment shall be paid from  
16 the Maximum Settlement Amount, and shall be paid in addition to Plaintiff's Individual  
17 Settlement Payment as an Aggrieved Employee. It is understood by Plaintiff that the Court has  
18 final discretion in any Enhancement Payment. The Settlement Administrator shall issue an IRS  
19 Form 1099 to Plaintiff reflecting the Enhancement Payment. Plaintiff shall be solely and  
20 legally responsible to pay any and all applicable taxes on his Enhancement Payment and shall  
21 hold Defendant harmless from any claim, assessment, or liability for taxes, penalties, or  
22 interest arising as a result of the Enhancement Payment. Any portion of the Enhancement  
23 Payment not awarded to Plaintiff shall be added to the PAGA Penalties Fund and shall be  
24 distributed to Aggrieved Employees and LWDA as provided in this Agreement.

25 9. Attorneys' Fees and Costs: In full satisfaction of all claims Plaintiff may have  
26 for attorneys' fees, litigation costs, and expenses arising out of the Action, Defendant agrees  
27 that Plaintiff's Counsel shall be paid a maximum amount of twenty thousand dollars and zero  
28 cents (\$20,000.00) in attorneys' fees and up to five thousand dollars and zero cents (\$5,000.00)

1 in litigation costs and expenses ("Attorneys' Fees and Costs"), which shall be paid from the  
2 Maximum Settlement Amount. The Settlement Administrator shall issue an IRS Form 1099  
3 to Plaintiff's Counsel reflecting the awarded attorneys' fees, costs, and expenses. The Parties  
4 understand that the Court makes the final determination on the award of Attorneys' Fees and  
5 Costs, and that any portion of these amounts not awarded as Attorneys' Fees and Costs shall  
6 be added to the PAGA Penalties Fund and distributed to Aggrieved Employees and LWDA  
7 as provided in this Agreement.

8 10. Settlement Administration Costs. The Settlement Administrator shall be paid for  
9 the reasonable costs of administration of the Settlement from the Maximum Settlement  
10 Amount, currently estimated at one thousand seven hundred fifty dollars and zero cents  
11 (\$1,750). These costs, which shall be paid from the Maximum Settlement Amount, shall  
12 include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the  
13 issuance of Form 1099 IRS forms, establishing a Qualified Settlement Fund, administering and  
14 distributing the Maximum Settlement Amount, and providing necessary reports and  
15 declarations. Any portion of the Settlement Administration Costs not allowed shall be added to  
16 the PAGA Penalties Fund and shall be distributed to Aggrieved Employees and the LWDA as  
17 provided in this Agreement.

18 **E. ADMINISTRATION OF SETTLEMENT**

19 1. Approval of Amended PAGA Settlement. Plaintiff's Counsel shall request the  
20 entry of an Order in the form attached as Exhibit C from the Court granting final approval,  
21 which shall include findings and orders: (i) approving the settlement, (ii) adjudging the terms  
22 to be fair, reasonable, and adequate and binding on the State of California, (iii) reciting the  
23 release terms, (iv) directing that the settlement's terms and provisions be carried out; (v)  
24 entering final judgment in accordance with this Agreement and without further fees or costs to  
25 any party, except as expressly set forth in this Agreement; and (vi) retaining jurisdiction to  
26 oversee administration and enforcement of the terms of this Agreement and the Court's orders.  
27 Plaintiff's motion shall be unopposed by Defendant, unless Plaintiff's approval motion seeks  
28 relief inconsistent with or not specified by this Agreement. In such event, Defendant reserves

1 the right to address any assertions that are not contained in this Agreement. Plaintiff will request  
2 a hearing on the request for entry of the attached Order to the extent required by the applicable  
3 local rules and on the earliest date available to the Court and the Parties.

4 a. Settlement Administration. The Parties agree to cooperate in the  
5 administration of the Settlement and to make all reasonable efforts to control and minimize the  
6 costs and expenses incurred in the administration of the Settlement. The Settlement  
7 Administrator shall provide the following services: Establish and maintain a Qualified  
8 Settlement Fund account;

9 b. Calculate the Individual Settlement Payments to be paid to Aggrieved  
10 Employees in accordance with the terms and provisions of this Agreement;

11 c. Print and issue Individual Settlement Payment checks;

12 d. Verify the last known address for each Aggrieved Employee through a  
13 generally utilized, national address update database prior to mailing the Individual Settlement  
14 Payment check;

15 e. Issue and transmit payment to the California Labor and Workforce  
16 Development Agency for its portion of the Settlement amount;

17 f. Disburse any awards of costs and attorneys' fees and the Enhancement  
18 Payment;

19 g. Prepare and issue 1099 Forms; and

20 h. Perform such other tasks necessary to effectuate the terms of this  
21 Agreement or as the Parties mutually agree or the Court orders the Parties to perform.

1           2.     Delivery of the Aggrieved Employee List and Data. Within fifteen (15) calendar  
2 days after the Effective Date, Defendant shall provide the Settlement Administrator with a  
3 Microsoft Office Excel spreadsheet and shall include each Aggrieved Employee's: full name;  
4 employee number; most recent mailing address; social security number; and the number of ~~pay~~  
5 ~~periods~~Pivotal Pay Periods in which the employee received payment of wages during the ~~PAGA~~  
6 ~~Period~~period from May 13, 2020, through October 31, 2021.

7           3.     Timing of Distribution. Within ten (10) calendar days after the payment of the  
8 entire Maximum Settlement Amount, the Settlement Administrator will issue payments to: (a)  
9 Aggrieved Employees; (b) the California Labor and Workforce Development Agency; (c)  
10 Plaintiff; and (d) Plaintiff's Counsel. The Settlement Administrator will issue the appropriate  
11 tax forms for all payments issued under this Settlement by the due date to provide such tax  
12 forms for the ~~2021~~2023 calendar year.

13           4.     Mailing of Individual Settlement Payments to Aggrieved Employees: The  
14 Settlement Administrator will issue each Aggrieved Employee a check for his or her share of  
15 the PAGA Penalties Fund, along with an explanatory letter attached hereto as Exhibit A. Checks  
16 will remain negotiable for 180 days. Any checks returned as non-deliverable on or before the  
17 check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding  
18 address affixed thereto. Funds represented by settlement checks that remained un-cashed for  
19 more than 180 days after issuance shall be paid out pursuant to California Code of Civil  
20 Procedure section 384 to the following *cy pres* recipient: Legal Aid at Work. Neither the Parties  
21 nor their respective counsel have a relationship with the designated *cy pres*.

22                               **F. RELEASE OF CLAIMS**

23           5.     Release of Claims by Aggrieved Employees. Upon the payment of the Maximum  
24 Settlement Amount by Defendant, Plaintiff and all Aggrieved Employees, hereby do and shall  
25 be deemed to have fully, finally and forever released, settled, compromised, relinquished and  
26 discharged, to the fullest extent possible, any and all of the Released Parties of and from any  
27 and all Released Claims. With respect to the Released Claims only, the Aggrieved Employees  
28 waive any and all rights and benefits under California Civil Code Section 1542, which reads:

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

5 6. No Right to Opt-Out. The Parties agree there is no statutory right for any  
6 Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement.  
7 As such, no notice of the settlement, providing the opportunity to opt out or object, is required.

8 7. General Release and Waiver of Claims by Plaintiff. As a condition to obtaining  
9 the Enhancement Payment provided for herein, and as part of the consideration for that  
10 payment, Plaintiff (on behalf of himself and his spouse, heirs, executors, administrators,  
11 trustees, and/or permitted assigns) also agrees to a general release of any and all claims or causes  
12 of action against Defendant and Released Parties—which shall include without limitation any  
13 and all claims which in any way relate to his employment with Defendant, as well as his  
14 termination from that employment (if any), under California or federal law, in tort, common  
15 law, statute, contract, or equity, whether pled in the Complaint or not, including, but not limited  
16 to any claims under the Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991,  
17 the Americans With Disabilities Act, the Genetic Information Nondiscrimination Act, the Age  
18 Discrimination in Employment Act, the Families First Coronavirus Response Act, the Fair  
19 Labor Standards Act, the California Fair Employment and Housing Act, the California Labor  
20 Code, the California Fair Employment and Housing Act, or any California Industrial Welfare  
21 Commission wage order, based on any act, omission, event, occurrence, or nonoccurrence by  
22 Defendant or Released Parties to the date of Plaintiff’s execution of the Agreement, except for  
23 any law that prohibit waiver or release of such claims without Court or agency approval.  
24 Plaintiff further expressly waives and relinquishes, to the fullest extent permitted by law, the  
25 provisions, rights and benefits of Section 1542 of the California Civil Code, which provides:  
26 **“A general release does not extend to claims that the creditor or releasing party does not**  
27 **know or suspect to exist in his or her favor at the time of executing the release and that, if**  
28 **known by him or her, would have materially affected his or her settlement with the debtor**

1 or released party.” Having been informed of this provision and his rights under it, Plaintiff  
2 waives and relinquishes the provisions of California Civil Code section 1542 with respect to  
3 this Agreement and his release of any and all of his individual claims and causes of action as  
4 provided herein.<sup>2</sup>

5 **G. MISCELLANEOUS**

6 1. Tax Liability. Defendant, Defendant’s counsel, the Settlement Administrator, and  
7 Plaintiff’s Counsel make no representation as to the tax treatment or legal effect of the payments  
8 called for hereunder, and Plaintiff and Aggrieved Employees are not relying on any statement,  
9 representation, or calculation by Defendant, Defendant’s counsel, Plaintiff’s Counsel, or by the  
10 Settlement Administrator in this regard. Plaintiff and Aggrieved Employees understand and  
11 agree that they will be solely responsible for the payment of any and all taxes and penalties  
12 assessed on their respective payments described herein and will defend, indemnify, and hold  
13 Defendant, Defendant’s counsel, Plaintiff’s Counsel and the Settlement Administrator free and  
14 harmless from and against any claims resulting from treatment of such payments as non-taxable  
15 penalties/damages.

16 2. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR  
17 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH  
18 PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN  
19 “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF  
20 THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE

21 <sup>2</sup> By entering into this Agreement, Plaintiff further understands and agrees that he: (a)  
22 has read this Agreement carefully and completely; (b) understands and knowingly and  
23 voluntarily agrees to the terms, conditions, and waivers set forth in this Agreement;  
24 (c) is hereby advised in writing to consult with an attorney of his/her choice prior to  
25 executing this Agreement and has had ample opportunity and sufficient time to seek  
26 such advice; (d) agrees that the Payment provided in this Agreement is in addition to  
27 any consideration to which he/she may already be entitled; (e) agrees that claims for age  
discrimination that arise after the executive of this Agreement are not waived by this  
Agreement; (f) may take up to twenty-one (21) days to consider whether he/she desires  
to execute this Agreement; and (g) has a period of seven (7) days after executing this  
Agreement to revoke this Agreement. Any such revocation must be in writing and  
delivered to (and received by) counsel for Defendant on or before the seventh day.

1 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER  
2 ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH  
3 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE  
4 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES  
5 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED);  
6 (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS OR  
7 ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING  
8 TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED  
9 INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER  
10 PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT  
11 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY  
12 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY  
13 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO  
14 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION  
15 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR  
16 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS  
17 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF  
18 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING  
19 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

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

24 4. Nullification of Settlement Agreement. In the event that: (i) the Court does not  
25 approve the Settlement as provided herein; or (ii) the Settlement does not become final for any  
26 other reason, then this Settlement Agreement, and any documents generated to bring it into  
27 effect, will be null and void, and the Parties will be returned to their original respective  
28 positions. Notwithstanding the above, in such event, the Parties will meet and confer to address

1 any concerns raised by the Court to determine whether and to what extent the Action may be  
2 resolved in a manner consistent with the Parties' intent and consistent with the Court's  
3 concerns.

4 5. Continued Jurisdiction. After entry of the judgment, the Court will have  
5 continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement  
6 of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Court  
7 Approval matters as may be appropriate under court rules or as set forth in this Settlement.

8 6. Entire Agreement. This Settlement Agreement constitutes the entirety of the  
9 Parties' settlement terms. No other prior or contemporaneous written or oral agreements may  
10 be deemed binding on the Parties.

11 7. Amendment or Modification. This Settlement Agreement may be amended or  
12 modified only by a written instrument, signed by either the Parties or their successors-in-interest  
13 or counsel for all Parties.

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

24 9. Binding on Successors and Assigns. This Settlement Agreement will be binding  
25 upon, and inure to the benefit of, the successors or assigns of the Parties hereto.

26 10. California Law Governs. All terms of this Settlement Agreement and Exhibit A  
27 will be governed by and interpreted according to the laws of the State of California.

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

6 12. Acknowledgement that the Settlement is Fair and Reasonable. The Parties  
7 believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action  
8 and have arrived at this Settlement after arm's-length negotiations. The Parties further  
9 acknowledge that they are each represented by competent counsel and that they have had an  
10 opportunity to consult with their counsel regarding the fairness and reasonableness of this  
11 Settlement.

12 13. Invalidity of Any Provision. Before declaring any provision of this Settlement  
13 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest  
14 extent possible consistent with applicable precedents so as to define all provisions of this  
15 Settlement Agreement valid and enforceable. If any provision of this Settlement Agreement is  
16 or becomes invalid or unenforceable in any respect, the validity and enforceability of the  
17 remaining provisions contained herein shall not be affected.

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

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

25 16. Enforcement Action. In the event that one or more of the Parties institutes any  
26 legal action or other proceeding against any other Party or Parties to enforce the provisions of  
27 this Settlement or to declare rights and/or obligations under this Settlement, the successful Party  
28 or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys'

1 fees and costs, including expert witness fees incurred in connection with any enforcement  
2 actions.

3 17. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
4 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not  
5 be construed more strictly against one party than another merely by virtue of the fact that it may  
6 have been prepared by counsel for one of the Parties. The Parties further acknowledge and  
7 agree that, because of the arms-length negotiations between the Parties, all Parties have  
8 contributed to the preparation of this Settlement Agreement.

9 18. Representation by Counsel. The Parties acknowledge that they have been  
10 represented by counsel throughout all negotiations that preceded the execution of this  
11 Settlement Agreement, and that this Settlement Agreement has been executed with the consent  
12 and advice of counsel, and reviewed in full.

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

18 20. Denial of Liability. The Parties expressly recognize that the making of this  
19 agreement does not in any way constitute an admission or concession of wrongdoing on the  
20 part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof,  
21 nor any statements, discussions or communications, nor any materials prepared, exchanged,  
22 issued or used during the course of this Action, is intended by the Parties to, nor will any of the  
23 foregoing constitute, be introduced, be used or be admissible in any way in any other judicial,  
24 arbitral, administrative, investigative, or other forum or proceeding, as evidence of any violation  
25 of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any  
26 obligation or duty at law or in equity. Notwithstanding the foregoing, this agreement may be  
27 used in any proceeding in the Court that has as its purpose the interpretation, implementation,

1 or enforcement of the Settlement or any orders or judgments of the Court entered into in  
2 connection therewith.

3 **IN WITNESS WHEREOF**, the undersigned Settling Parties and their duly authorized  
4 representatives accept and agree to the terms of this Agreement and hereby execute it  
5 voluntarily and with a full understanding of its consequences.

6  
7 DATED: \_\_\_\_\_ **PLAINTIFF ADEWUNMI OJO**

8  
9  
10 \_\_\_\_\_  
Plaintiff Adewunmi Ojo

11 DATED: \_\_\_\_\_ **DEFENDANT PINNACLE LIGHT**  
12 **INDUSTRIAL, LLC**

13  
14 \_\_\_\_\_  
By: Erin Stewart

15 **APPROVED AS TO FORM:**

16  
17 DATED: \_\_\_\_\_ **DIVERSITY LAW GROUP, P.C.**

18  
19 \_\_\_\_\_  
Kristen M. Agnew  
Attorneys for Plaintiff and the Aggrieved  
20 Employees

21 DATED: \_\_\_\_\_ **WICK PHILLIPS GOULD & MARTIN LLP**

22  
23 \_\_\_\_\_  
Marcia Jackson  
Attorneys for Defendant  
24 Pinnacle Light Industrial, LLC  
25  
26  
27  
28

**EXHIBIT A**

<<DATE>>

<<FIRST NAME>> <<LAST NAME>>  
<<ADDRESS>>

Re: *Adewunmi Ojo v. Pinnacle Light Industrial, LLC*,  
Orange County Superior Court Case No. 30-2021-01201515-CU-OE-CXC

Dear <<FIRST NAME>> <<LAST NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Adewunmi Ojo v. Pinnacle Light Industrial, LLC*, Case No. 30-2021-01201515-CU-OE-CXC (Orange County Superior Court) (the "Action").

Adewunmi Ojo ("Named Plaintiff") filed the Action against Pinnacle Light Industrial, LLC, ("Defendant" or the "Company") pursuant to the California Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.* ("PAGA"). Named Plaintiff brought the Action on behalf of the State of California and all employees who received the payment of wages and/or mileage reimbursement under one or more former Company policies during the period of May 13, 2020-~~onward~~ through October 31, 2021. You have been identified as one of the individuals on whose behalf the case was brought.

The Named Plaintiff in the Action claimed that Defendant owed penalties under PAGA for alleged violations of the California Labor Code. More specifically, the Named Plaintiff alleged that Defendant failed to pay wages within seven days of the close of the pay period, in violation of Labor Code section 204. The Named Plaintiff further alleged that Defendant failed to reimburse employees for all or part of their mileage-related expenses, in violation of Labor Code section 2802. Defendant maintains that all employees were timely paid wages and reimbursements, and Defendant further denies that it owes any penalties.

The Court has not ruled on the merits of the lawsuit, but it has approved the settlement amount the parties agreed to. That settlement provides for a cash payment by Defendant in the amount of \$60,000 ("Maximum Settlement Amount"). After deducting the service award to Plaintiff (\$32,000), attorneys' fees (\$20,000), actual litigation costs (up to \$5,000) and the Settlement Administrator's costs (\$1,750) from the Maximum Settlement Amount, the remaining balance represents the PAGA Penalties Fund.

The Court has approved a PAGA Penalties Fund in the amount of \$ TBD. By statute, seventy-five percent of the PAGA Penalties Fund (\$ TBD) goes to the State of California's Labor and Workforce Development Agency. The remaining twenty-five percent (\$ TBD) will be paid to the individuals who were allegedly affected by the Labor Code violations at issue in the case.

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1 Pursuant to the settlement, enclosed is a check for your share of a portion of the civil  
2 penalties. Your portion was calculated based on the number of pay ~~periods~~“Pivotal Pay  
3 Periods” you worked during the relevant time period. As defined by the Settlement, “Pivotal  
4 Pay Periods” means any pay period in which you received the payment of wages and/or  
5 expense reimbursements (including for mileage, some of which were paid at a rate lower than  
6 the applicable IRS standard rate) during the period from May 13, 2020, through October 31,  
7 2021.

8 You are not a party to this lawsuit, but you and the government are bound by the judgment in  
9 this matter as to civil penalties. As such, you will be giving up or “releasing” Defendant from  
10 all PAGA claims predicated on the alleged violation of Labor Code sections 204 and 2802  
11 that accrued during the period of May 13, 2020, through July 31, 2022.

12 As set forth above, in agreeing to this settlement, Defendant does not admit that it is liable in  
13 any way to its current or former employees.

14 Should you have any questions regarding the settlement, the contact information for the  
15 Settlement Administrator is included below:

16  
17 Contact information for Settlement Administrator:

18 Sincerely,

19 [NAME AND TITLE OF SIGNATORY]

20  
21 ss

# EXHIBIT 3

**From:** [DIR PAGA Unit](#)  
**To:** [Olympia Pena](#)  
**Subject:** Thank you for your Court Order or Judgment Submission  
**Date:** Friday, June 16, 2023 12:22:42 PM

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06/16/2023 12:22:27 PM

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

Item submitted: Court Order or Judgment

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

# EXHIBIT 4